CASE NO.
130

SOUTHERN DISTRICT

EL NIGUEL GRANT

JUAN ABILA, ET AL

CLAIMANT

LAND CASE 130 SD 88 pgs.

399

Southern District

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 399

Juan Abila et al CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED
"El Niguel"

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, *that on this* nineteenth *day of* October, *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 Juan Abila et al. *for the Place named* "El Nigual," *was presented, and ordered to be filed and docketed with No.* 399, *and is as follows, to wit;*

(Vide page 3 *of this Transcript.)*

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

Los Angeles, October 29th 1852.

In Case No. 399, Juan Abila et al: for the place named "Nigual" the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Ireland Hall with documents marked A.A. Nos. 1, 2 & 3, and the translations thereof annexed thereto, was filed,

(Vide page 4 of this Transcript)

Los Angeles, Nov. 6th 1852.

In the same Case the deposition of Agustin Olvera, a witness in behalf of the claimants, taken before Commissioner Ireland Hall, was filed,

(Vide page 6 of this Transcript)

San Francisco, November 28 1853.

In the same Case the deposition of Juan Ballardo, a witness on behalf of the Claimants, taken before Commissioner Alpheus Felch, was filed;

(vide page 7 of this Transcript)

San Francisco April 18th 1854.

Case no. 399 was submitted on briefs on both sides and taken under advisement by the Board.

San Francisco, April 25. 1854.

In the same Case Commissioner Alpheus Felch delivered the opinion of the Board confirming the claim;

(vide page 53 of this Transcript)

San Francisco, Aug. 15. 1854.

In the same Case, on motion of the U. S. Law Agent, the following order was made, to wit;

(vide page 38 of this Transcript)

3

Petition.

130 SD
PAGE 3

To the Hon. Board of Commissioners for ascertaining & settling private land claims in the State of California.

The petition of Juan Abila & of Tomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez, & Felipe Sanchez, all of the County of Los Angeles, respectfully shows, that they are claimants in fee, the first named petitioner of one undivided half, the others, each of one undivided twelfth of a certain tract of land called El Nigual, situate in said County.

Your petitioners further show to your Hon. Board that they claim in fee simple as co tenants in common as aforesaid, in virtue of a grant of the same to the said Juan Abila & to Concepcion Abila, bearing date 21st June 1842, by Juan B. Alvarado, Constitutional Governor of the Department of the Californias, in pursuance & virtue of authority vested in him by law.

They further represent that the Departmental Assembly approved of said grant on 13th August 1845, & that in February 1843, Judicial possession of the same tract of land was given to the said grantee and the boundaries thereof accurately defined & marked off, & that since that date the original grantee & those who claim under them have been in quiet & peaceable possession of the said premises & still so continue.

They know of no conflicting claim, & that said tract of land contains three leagues more or less, as is explained by the map that was presented to the Governor at the time of the grant.

Your petitioners would further represent that Concepcion Abila, at the date of the said grant, was the widow of Sanchez, that she departed this life in 1849 intestate, leaving the following children issue of her marriage with the said Sanchez, to wit; Tomas A. Louisa, Josefa, Juana,

Guadalupe & Felipe, & therefore they aver that your petitioners, with the exception of the said Juan Abila, have succeeded to all the rights of the said Concepcion Avila, their mother.

They further aver that all the conditions, precedent & subsequent of said grant have been fulfilled.

They herewith present to the Hon. Board, copies & translations of the original grant; approbation of the Assembly & act of Judicial possession, & they rely on the originals thereof, & on such other documentary & verbal testimony as they may be advised may be necessary.

Wherefore they pray the Hon. Board to take their petition under consideration & to decree their title to the said tract of land to be valid & to confirm the same.

And as in duty bound &c

By their Attorney,
J. Lancaster Brent.

Filed in Office Oct 19th 1852.
Geo: Fisher.
Secy.

Deposition of Abel Stearns.

Los Angeles Oct 29th 1852.

On this day before Comr Heland Hall, came Abel Stearns, a witness in behalf of the claimants — Juan Abila, et al, petition No 399, & was duly sworn his evidence being given in English.

The U. S. Associate Law Agent was present.

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

My name is Abel Stearns, my age is fifty four years, I reside in Los Angeles & have been a resident of California for over twenty three years.

I am acquainted with the hand writing and signatures of Juan B. Alvarado, Manuel Jimeno, and Santiago Argüello.

A paper is now shown me purporting to be a grant to Juan & Concepcion Avila of a tract of land called Niguel, dated 21 June 1842.

The signatures of the said several persons appearing on said paper I believe to be genuine. Said paper is hereto annexed & marked H. H. No 1.

I am also acquainted with the hand writing & signature of Pio Pico & José Matias Moreno.

A paper is now shown me purporting to be a certificate showing the approval of the before named grant by the Departmental Assembly, dated May 1 1846. The signatures of said Pico, Moreno to said paper I believe to be genuine. It is hereto annexed & marked H. H. No 2.

I am also acquainted with the hand writing and signatures of Agustin Olvera & Juan Gallardo.

A paper is now shown me purporting to be a testimonial of judicial possession of said land dated in February 1843.

The signatures of said Olvera & Juan Gallardo, which appear on said paper I believe to be genuine. Olvera at the time of the giving of said possession, was acting as a Justice of the Peace & authorized to give it. Said paper is hereto annexed & marked H. H. No 3.

I know the land described in the foregoing papers. I think Juan Abila was in possession of the land soon after the grant & has continued in possession to the present time. He has had a house there in which his family have resided for a number of years.

I think he has four or five thousand head of

cattle & perhaps more. I know Concepcion Abila one of the grantees. She was the wife of the deceased Pedro Sanchez. I think he died in 1837. He left three sons Tomas Sanchez, & two other sons whose names I do not now certainly recollect; I think the name of one of them is Guadalupe & the other Felipe. Also three daughters, whose names I do not remember. They were all children of the said Concepcion Abila.

Abel Stearns.

Sworn & subscribed
Before me
Hiland Hall.
Comr.

Filed in Office Oct 29 1852.
Geo: Fisher. Secy.

Deposition of Agustin Olvera.

Los Angeles Nov 6th 1852

On this day before Comr Hiland Hall, came Agustin Olvera, a witness in behalf of the claimants Juan Abila, et. al. petition No 399 & was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

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

My name is Agustin Olvera, my age is thirty two years, & I reside in the city of Los Angeles.

I am acquainted with the children of Pedro Sanchez by his wife Concepcion Abila. They are Tomas, Guadalupe, Felipe, Josefa, Juana, & Luisa. Concepcion Abila, I think died in 1847 Pedro Sanchez died previous to 1836.

Aguelin Olvera.

Sworn & subscribed
Before me
Leland Hall. Comr.
Filed in Office Nov 6th 1852.
Geo: Fisher. Secy.

Deposition of
Juan Gallardo.

Office of the Board of U. S.
Land Commissioners &c &c.
San Francisco Nov 28 1853.

This day before Comr Alpheus Felch, came Juan Gallardo & witness in behalf of the claimants Juan Abila et al. petition No 399. & being duly sworn, his evidence being in Spanish was interpreted by the Secretary as follows.

Questions by Mr Hancock, Attorney for Claimants

1 Question. What are your name, age & place of residence.
Answer. My name is Juan Gallardo, my age is fifty nine years, & I reside at Los Angeles in California.
2 Question. Do you know the Rancho called El Nigue, belonging to Juan Avila, if you, had said Avila a house there in 1842.
Answer. I know the Rancho. said Avila had a house on the Rancho in 1842 & lived in it with his family and has continued to live there until the present day.

Juan C. Gallardo.

Subscribed & sworn to before me
this 28th day of November 1853 –
Mr Gunnison, the Associate Law
Agent was present but propounded
no questions to the witness.

Alpheus Felch.
Commissioner.

Filed in Office Nov 28 1853. Geo: Fisher. Secy.

9

Expediente

[1]

Espediente promovido por Dn Juan, y Da Concepcion Arila en pretencion del parage nombrado, Nigüel —

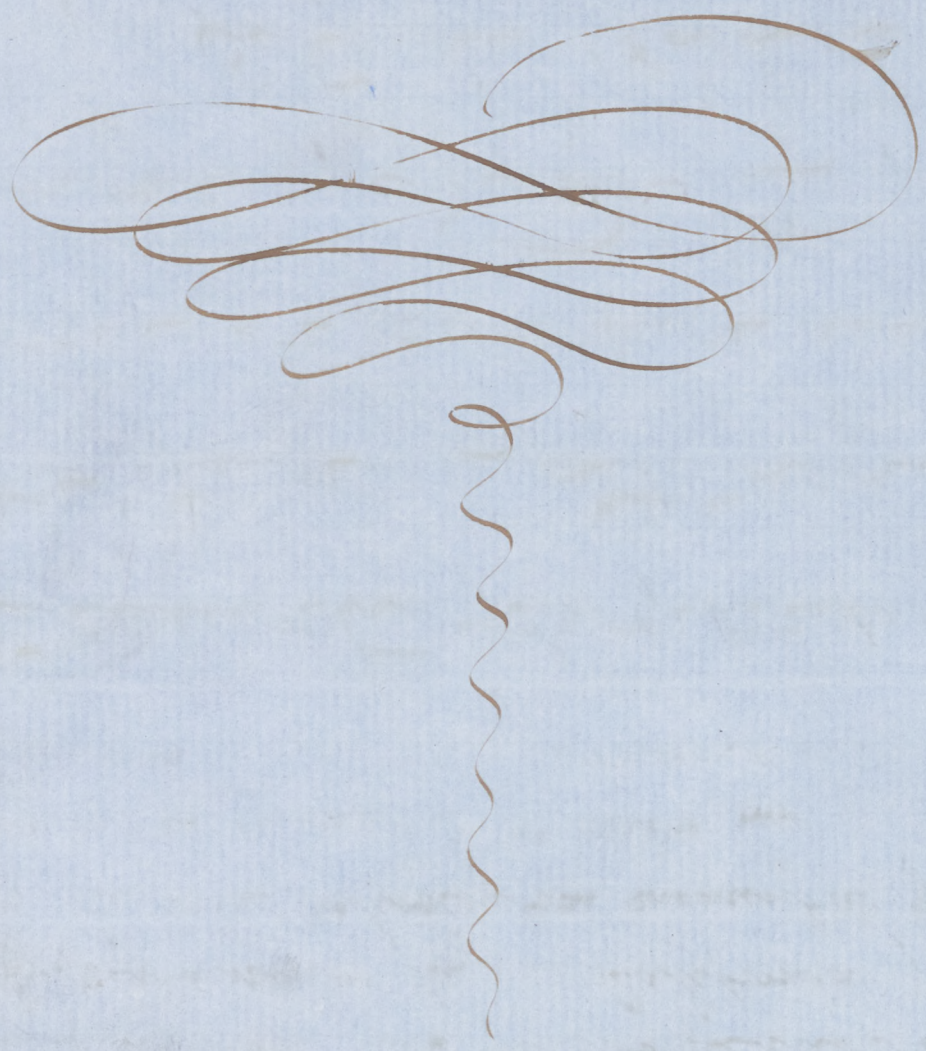
Año de 1842 —

285

10

[2 S.D.K.]

Expediente
promovido por Dr Juan y Dª
Concepcion Avila en solicitud
del parage nombrado Nigüil
Año de 1821



[3 S.D.K.]

Sello Tercero Dos Reales
Habilitado provisionalmente por la Adua-
na marítima del puerto de Monterrey, en
el Departamento de las Californias, para los
años de mil ochocientos cuarenta y mil
ochocientos cuarenta y uno —
Vimeno — Antonio Maria Osio

ADT. MARITT. DE MONTY.
Blue of Eagle

Exmo Sor Gobernador

Juan y Asencion Avila me-
xicanos por naturaleza ante
V.E con el mas sumiso
respecto y como mas haya lugar en dro
decimos: Que por superior orden que se nos
notificó en dos del presente se nos previ-
ene, que queda reservada nuestra instan-
cia de la solicitud del parage de Nigüil,
hasta las medidas de egidos del nuevo
pueblo de San Juan Cap.o: esta me-
dida la respectamos como dictada de la
superioridad, pero temerosos no se nos
haga sacar con violencia nuestros bienes
sin tener donde situarlos por tanto —
A.V.E. suplicamos se nos conceda pro-
visionalmente aunque no sea toda la
— — — — — — — — — — — — [4 S.D.K.]
estencion que solicito si su mayor parte
del citado Nigüil, y se nos tenga por
presentado en tiempo y forma en res-
pecto á la propiedad efectiva, lo que
esperamos de la publica beneficencia
de V.E. y juramos no ser de
malicia

12

lo necesario tto
Angeles Septiembre 3 / 1846
Juan Avila
Asension Avila

[J. D. K.]

Sello Tercero Dos Reales
Habilitado provisionalmente por la Adua-
na maritima del puerto de Monterrey, en el
Departamento de las Californias, para los
años de mil ochocientos cuarenta y mil
ochocientos cuarenta y uno —
Heimen — Antonio Maria Osio —

Exmo Sr Gobor.

Juan Avila y Asencion Avila el primero casado y Asencion viuda Mejicanos por nacimiento ante V.E. con el mas sumiso respeto y como mas haya lugar en derecho nos presentamos y decimos, que separados del resto de la casa de mi Padre y tener una numerosa familia, como tambien mas de mil y tantas vezes y toda clase de bienes de campo sin tener donde situarlos: nos vemos el caso de ocurrir á la benignidad de V.E. rogandole encarecidamente nos conceda

Monterey Julio 27 de 1841 —
Pase esta instancia á la Prefectura del 2o Distrito pa que se practiquen los informes de estilo deviendo las partes interesadas formar el diseño del terreno que pretenden
Alvarado

13 el parage nombrado Niguil situado en la demarcacion de San Juan Capistrano, cuyo terreno se halla ocupado por nuestros bienes con permiso del Ministro y encargado de esa Mision y como tenemos incertidumbre de perderlos por falta de parage = por tanto

A V.E. suplicamos nos tenga por presentados en tiempo y forma, pues aunque faltan los informes respectivos, nos hemos anticipado — — —

[6 A.D.K.]

porque observamos distinto numero de aspirantes al mencionado parage en lo que recibiré gracia - juro no ser de malicia - &ª Angeles Julio 1º de 1841 -

á ruego de Acencion y
Juan Avila
Francisco Sepulveda

Angeles Agto 5. / 841 —

De conformidad con el superior decreto que antecede informe el Juez 2º de Paz del contenido de esta instancia, si los interesados tienen los requesitos necesarios pª ser atendidos, si el terreno que solicitan pertenece algª corporacion Comunidad, ó particular, con todo lo demas qᵉ le paresca conducente á ilustrar la materia, y evacuado este infᵉ pase al S. Mntro 1º Mayordomo de la Mision de S. Juan Capº pª qᵉ reprodusca el suyo en cuanto á aquella poblacion y vuelva á esta Prefª pª los demas fines qᵉ sean convenientes —

Argüello

[7 A.D.K.]

Sello Tercero Dos Reales
Habilitado provisionalmente por la aduana marítima del puerto de Monterey en el Departamento de las California, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno —

Olmeni — Antonio María Dios

ADA. MARITA. DE MONTY. Plaza de Yglia

Sor Prefecto

El parage que se menciona pertenece á S. Juan Capistrano y se están allí los bienes del interesado tambien sé que los solicitantes tienen los requisitos necesarios; pero igual informe dí á una solicitud de este mismo parage echa por D. Juan Torres y D. Santiago Jonson —

Angl Agosto 5 de 1841 —
Ygno. Mta Alvarado

Sor Prefecto —

Por hallarse fuera de esta Mision el Ministro y contestando al informe que se me pide digo: que el parage que solicita los interesados está baldio ocupado unicamente por mas de dos mil reces de los solicitantes —

Sn Juan Capistrano 5 de Agto de 1841 —
Agustin Ganspey

[8 A.D.K.]

Excelentisimo Señor

Ya por conducto de esta Prefectura elevaron los nuevos pobladores de San Juan Capistrano una mta al Superior Gobierno

Departamental p.ª q.e se le dejase por ejidos el terreno ó parage que p.r la presente se diseña, y creyendo de justicia la primera, el infrme solo puede renovarlo esta Prefectura en apoyo de la anterior que fue dirigida con fha 15 de Julio pp.do, y ademas se acompaña original, un oficio del Comisionado actual nombrado p.r el Superior Gobierno para el arreglo de la espresada poblacion; agregando solamente que á mas de comprender la solicitud ultima diez y seis leguas de aire segun diseño que es fuera del maximo de la Ley, que solo concede once de superficie, comprende hasta lindar con las tierras de labor concedidas á los nuevos fundadores en el pueblo dicho; en tal concepto esta Prefectura

[9 t. D.R.]

[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 ochocientos cuarenta y mil ochocientos cuarenta y uno —
Olimeno — Antonio Maria Rios]

ADA. MARITA. DE MONTY. Plaza de Vagle

= creé no poderse acceder á la presente solicitud, tanto p.r q.e el parage resulta en beneficio de una poblacion, cuanto p.r la preferencia q.e ecsigen la anterior por su primacia, mas en su vista V.E. se servirá determinar lo que fuere de su superior agrado —

Angeles Agosto 10 de 1841 —
S. Arvizello
Narciso Botello
Sno

Monterey 23 de Agosto de 1841 —

Reservese este expediente hasta que se haga el arreglo de límites de los terrenos de egidos que debe tener el Pueblo de San Juan Capistrano.

Mon= — — — — — — — [10 S.D.K.]

terey 21 de Junio de 1842 —

Vista la peticion con que dá principio este expedte los informes que preceden con todo lo demas que se tubo presente y ser conforme de conformidad con las leyes y reglamentos de la materia declaro á D. Juan y Da Concepcion Avila dueños en propiedad del parage conocido con el nombre de Nieil colindante ál Nte con la Laguna que mira á la punta de la Cuchilla ál Sur con el Mar á Oeste con la Cañada de las Lagunas y al Este con el punto que mide una legua distante de San Juan Capistrano — librese el correspondte Despacho tomese razon en el libro respectivo y dirijase este expedte á la Ilma Junta — El Ilmo Señor Gobernador asi lo mandó y decretó —

— — — — — — — — — — — [11 S.D.K.]

Juan B. Alvarado Gobernador Constitucional del Departamto de las Californias —

Por cuanto Dn Juan y Da Concepcion Avila han pretendido para sus beneficios personales y el de sus familias el parage conocido con el nombre de Nigüil colindante al Norte con la Laguna que mira rectamente con la Punta

de la Cuchilla al Sur con el Mar al Oeste con la Cañada de las Lagunas y al Este con el Punto que mida una legua distante de la Casa del Establecimiento de Sn. Juan Capistrano: practicadas previamte las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la Nacion Mejicana he venido en concederles el terreno mencionado declarandoles la propiedad de él por las presentes letras sugetandose á la aprobacion de la Escma Junta Depar- — — — — — — — — — — — — — — — — [12 PDK]

tamental y á las condiciones siguientes —

1a Podrán cercarlo sin perjudicar las travecias caminos y servidumbres lo disfrutará libre y exclusivamente destinandolo al uso ó cultivo que mas les acomode —

2a Solicitará del Juez respectivo que les de posesion juridica en virtud de este Despacho por el cual se demarcaran los linderos en cuyos limites pondrán á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad. —

3a El terreno de que se hace mension es de tres sitios de ganado mayor segun esplica el diseño que corre agregado al espediente respectivo. El Juez que les diere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes —

4a Si contravenere á estas condiciones — — — — — — — — — — — — — — — — [13 PDK]

perderá su derecho al terreno y será denunciable por otro —

En consecuencia mando que teniendose por firme y validero el presente titulo se tome razon de él en el libro á que corresponde y se entregue á los interesados para sus resguardos y demas fines. —
Dado en Monterrey á veinte y uno de Junio de mil ochocientos cuarenta y dos.

—

Here follows a rough map or diagram marked. } [14 A.D.K.]

[15 A.D.K.]

Exma Asamblea Departamental

Juan Avila por si y a nombre de su hermana Asencion Avila — compareseo y digo: q. estando poseyendo por justo titulo q. a nuestro favor tuve á bien librar el Superior Got.o del Departam.to el parage nombrado Nigüil y no teniendo la aprobacion de dicha concesion por la Exma Asamblea, requisito indispensable para q. se confiere me la propiedad — Ocurro á V.E. suplicandole se digne con vista del — — — — — — — —

— — — — — — — — — — — — [16 A.D.K.]

expedte q. debera existir en el archivo del Got.o aprobar si lo tuviere á bien la legal ocupacion q. de dho parage hacemos, y en lo q. recibiremos gracia Jurando Nr.o

Sirviendose dispensarme el uso de papel comun por falta de sellado —

19

Ciudad de los Angeles Junio 27 de 1845 —
Juan Abila

An — — — — — — — — — [17. SD.]
geles Junio 27. de 1845 —
Dada cuenta á la Exma Asam-
blea Departamental en sesion de hoy con
esta instancia se mandó que en union
del expediente respectivo pase á la Co-
mision de terrenos baldios —
Pio Pico
Presidte
Agustin Olvera
Secretario

[18. SD.]

Exmo Sor —
La Comision de terrenos baldios se
ha hecho cargo del espediente promovido por
Dn Juan y Dª Concepcion Avila, en
solicitud del parage conocido con el nombre de
Niguil, que les fue concedido por el Superior
Gobierno de este Departamento, en titulo librado
con fha 21 de Junio de 1842, y satisfecha
la Comision de que la espresada concesion
fue echa con arreglo á lo que sobre el parti-
cular disponen las leyes de la materia su-
geta á la deliberacion de V.E. la siguiente
proposicion —
Se aprueba la concesion echa p.r el
superior Gobierno de este Departamento en
favor de Dn Juan y Dª Concepcion Abila
de tres sitios de ganado mayor en el parage
conocido con el nombre de Niguil de con-
formidad con la ley de 18 de Agosto de 1824,
y el articulo 5º del reglamento de 21 de

Noviembre de 1828 —

Sala de Comisiones en la Ciudad de los Angeles á 11 de Agosto de 1845. —

Franco de la Guerra

An — — — — — — — —

— — — — — — [19 S.D.V.]

geles Agosto 13 de 1845 —

En sesion de este dia se aprobó por la Exma Asamblea Departamental la proposicion del dictamen antecedente mandando se devuelva el expediente original al Exmo Señor Gobernador para los fines que sean convenientes —

Pio Pico
Presidte

Agustin Olvera
Srio

En primero de Mayo de mil ochocientos cuarenta y seis, quedó librado á las partes el testimonio respectivo —

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 control a portion of the Archives of the former Spanish and Mexican Territory or

Department of Upper California do hereby certify that the nineteen preceding and hereunto annexed pages of tracing paper numbered from one to nineteen 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 Francisco Cal. the seventh day of October 1852

L.S

(signed) Saml D King
Surv Genl Cal

Filed in Office October 21st 1853
(signed) Geo: Fisher
Secy

Third Stamp, Two Eighths of One Dollar.
Issued provisionally by the Maritime Customs of the Port of Monterey, in the Department of California for the years 1840 & 1841.
Firmo. Antonio Mª Osio.

Translation of Petition, Grant & Approval of Depart Assembly.

L.S.
Most Excellent Sir Governor.

Juan & Ascension Avila, Mexicans by birth before your Excellency with the most due respect & in the most legal form, say. That by superior order, notified to us on the 2d Inst, we are informed that the instance of our petition of the tract of N. gual is received until the limits of the corporation of the new town of San Juan Capo are laid out, we respect this measure as a decision of the Superiority, but under the fear that our stock will be driven out by force & that we shall have no place, where to take them, we solicit your Excellency to grant to us provisionally if not the whole we petitioned for, the major portion of the aforesaid N. gual & that the ownership thereof may be granted to us some future day, this is what we expect from the well known benevolence of your Excellency, making oath not to proceed through malice and the necessary.
Angeles Septbr 3. 1841.

Juan Avila.
Ascencion Avila.

Third Stamp, Two Eighths of One Dollar.
Issued provisionally by the Maritime Customs of the Port of Monterey, Department of California, for the years 1840 & 1841.
Firmo Anto Mª Osio.

L.S.
Most Excellent Sir Governor.

Juan Avila & Ascencion Avila, the former married & the latter a widow, Mexicans by birth, before

Your Excellency with the most submissive respect & in the most legal manner, present ourselves & say; That separated from the rest of my father's house & having a large family, as likewise more than a thousand head of cattle, & all kind of stock, without possessing a place for them, we feel ourselves obliged to appeal to the kindness of your Excellency, we humbly implore you, to grant to us the tract called Nigual, situated in the demarcation of San Juan Bautista, which tract is occupied by our stock with the permission of the Minister in charge of said Mission, & as we are not seen against loose, we solicit your Excellency to consider us to have represented ourselves in due time & form, as although the respective reports are missing, we have anticipated ourselves, distinctly observing that there are many aspiring for the tract, making oath not to proceed through malice &c &c.

Angeles July 1st 1841.

for Ascension & Juan Avila.
Francisco Sepulbeda.

Monterey July 27 1841.

Let this Instance pass to the Prefecture of the 2d District, that the customary reports may be made & let the parties interested furnish a map of the tract they claim.

Alvarado.

Angeles 5th August 1841.

Your Excellency.

In accordance with the foregoing superior decree, let the 2d Justice of the Peace report on the contents of this Instance, whether the parties possess the necessary requisites to entitle them to a hearing, whether the tract petitioned for belongs to any corporation, community or individual, with all that he may deem

expedient for the purpose of explaining the subject & when commented upon let the report pass to the Rev. Minister or Mayor domo of the Mission of San Juan Capt.: in order to see what effect it may have on that population & let it then be returned to this Prefecture for the ends that may be deemed convenient.

Argüello.

Third Stamp, Ten Eighths of One Dollar.
Issued provisionally by the Maritime Customs of the Port of Monterey in the Department of California for the year 1840 & 1841.
Hermo. Antt.o Mª Osio.

L.S.

Mr Prefect.

The tract mentioned belongs to San Juan Capistrano & is occupied by the stock of the party interested, I likewise know that the petitioner possess the necessary requisites, but I made a like report on the same tract by request of Don Juan Forster & Don Santiago Foster. Angeles 5th August 1841.

Ygno Mª Alvarado.

Mr Prefect.

The Minister of the Mission being absent & making the report you request of me, I state, that the tract petitioned for by the parties interested is vacant, solely occupied by about two thousand head of cattle of the petitioners.
San Juan Capistrano 6th Aug. 1841.

Agustin Tonsen.

Most Excellent Sir.

Through the medium of this Prefecture the colonists of San Juan Capistrano have already elevated to the Superior Departmental Government

an instance, that the tract mentioned in the present might be served to them as ejidos (common land belonging to a corporation) & considering the former as just, the report can only prompt this Prefecture to protect the prior one, which was decided on the 15th of last July, the original of which is annexed, an official of the Commissioners appointed by the Supreme Government for the regulation of the aforesaid population, to which I merely add, that the last petition comprises not only sixteen leagues in area, according to the map, which exceed the maximum allowed by law, which only grants eleven superficial, but comprises as far as to join the farming lands, granted to the colonists of the aforesaid town,

(Stamps as above)

& it is therefore the opinion of this Prefecture that the present petition cannot be granted, the tract resulting to be a benefit to a community, as otherwise because the anterior enjoys its preference of priority; Your Excellency will however in your view, be pleased to determine whatever may be your superior will.

Angeles, August 10 1841.

J. Arguello,
Narciso Botello. Secty.

Monterey 23d August 1841.

Let this expediente be served until the limits of the lands of ejidos, the Town of San Juan Capistrano, is entitled to, are regulated.

Monterey 21st June 1842.

Seen the petition with which this Expediente originates, the foregoing reports with all that was presented besides & deemed convenient to see, in conformity with the laws & regulations on the subject, I declare to Don Juan & to Doña Concepcion Avila the ownership of the tract known as Niguel, bounded on the

North by the swamp at the entrance to La Cuchilla, on the South by the sea, on the West by the Cañada de las Lagunas, & on the East by the point, from which the distance to San Juan is one league, let the corresponding patent be issued & recorded in the appropriate book & let this Expediente be decided to the Most Excellent Board. The Most Excellent Governor has thus ordered & decreed.

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

Whereas Don Juan & Doña Concepcion Abila have claimed for their personal benefit & that of their families the tract known as Nigue, bounded on the North by the swamp at the entrance of La Puerta de la Cuchilla, on the South by the sea, on the West by the Cañada de las Lagunas & on the East by the point, from which the distance to the building of the Establishment of San Juan Capistrano is one league, the necessary steps having been previously taken, according to the dispositions of laws & regulations, using the faculties on me conferred in the name of the Mexican Nation, I have come to grant to them the tract in question, declaring to them the ownership thereof by these present letters, subject to the approval of the Most Excellent the Departmental Board & under the following conditions.

1st They may fence the same without prejudice to the cross roads, high ways, & rights of way, they shall enjoy the same freely & exclusively, devoting it to the use or cultivation that may best suit them.

2d They shall solicit the respective Judge to give them the juridical possession in virtue of this patent, by whom the boundaries shall be marked out, in the limits of which they shall plant, besides placing the land marks, some fruit or other trees of some utility.

3d. The land granted comprises three seats for large cattle, according to the map, which is annexed to the respective Expediente. The Judge who gives possession shall cause the same to be measured according to ordinance the surplus resulting remaining to the benefit of the Nation for its convenient uses.

4th. If he violates these conditions he shall lose his right to the tract & it may be denounced by another.

Therefore order that this title being held as form & valid, a record be taken of the same in the appropriate book & delivered to the parties interested for their security & further ends.

Given at Monterey 21st June 1842.

Most Excellent Departl. Assembly.

Juan Abila for himself & in the name of his sister Asuncion Abila appears & says: That possessing by just title, which the Superior Departmental Government deemed proper to issue in our favor, the tract called Nigirel, & not having the approval of the Most Excellent the Departmental Assembly of this grant, which is requisite & indispensable for the confirmation of ownership, I appeal to your Excellency soliciting you, that on right of the Expediente, which must exist in the archives of the Government, you will be pleased to approve the legal occupation which we hold of said tract, if you should thus deem it proper, by which we shall receive grace, making oath &c. &c. Be pleased to excuse the use of common paper for want of stamped.

City of Los Angeles June 27 1845.

Juan Abila.

Angeles June 27 1845.

Referred to the Most Excellent the Departmental Assembly in session of to day

29

this Instance; ordered that the same should be referred to the Committee on vacant lands together with the respective Expediente.

Pio Pico.
President.

Agustin Olvera.
Secty

Most Excellent Sir.

The Committee on vacant lands has taken under examination the Expediente, promoted by Don Juan & Dona Concepcion Abila, soliciting the tract known by the name of Nigual, which was granted to them by the Superior Government of this Department by title issued on the 21st of June 1842, & whereas the Committee is satisfied that the grant in question was made in accordance with the disposition of laws on the subject; they submit to the deliberation of your Excellency the following proposition.

Approved the grant, made by the Supr Government of this Department in favor of Don Juan & Dna Concepcion Abila of three sitios for large cattle of the tract known by the name of Nigual, in conformity with the law of 18th August 1824 & Art 5th of the Regulation of the 21st November 1828.

Chamber of the Committee in the City of Los Angeles 11th August 1845.

Fco de la Guerra.

Angeles August 13 1845.

In session of to day the Most Excellent the Departmental Assembly approved the proposition of the foregoing decision, ordering that the original Expediente be returned to the Most Excellent Governor for the convenient ends.

Pio Pico.

30

8/399

President

Agustin Olvera.
Secretary.

On the 1st of May 1846 the respective testimony was issued to the parties.

Filed in Office Oct 4 1853.
Geo: Fisher.
Secy.

31

(Lig.) H H N° 1

Document "H H N° 1" annexed to the deposition of Abel Stearns

Sello primero Seis Pesos

Habilitado provisionalmente por la Aduana Maritima del Puerto de Monterey de la alta California para los años de 1842 y 1843.

Alvarado Antonio Mª Osio

130 SD
PAGE 29

ADA. MARITA. DE MONTEY. Place of Sale

Juan B. Alvarado
Gobernador Constitucional del Departamento de las Californias

Por cuanto Don Juan y Da Concepcion Arita han pretendido p.a sus beneficios personales y el de sus familias el parage conocido con el nombre de Nigüil colindante al Norte con la Laguna que mira rectamente con la Punta de la Cuchilla; al Sur con el Mar, al O. E. con las Cañadas de las Lagunas, y al E. con el punto que mida una legua distante de la Casa del Establecimto de San Juan Capistrano: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamtos usando de las facultades que me son conferidas; á nombre de la Nacion Mejicana he venido en concederles el terreno mencionado declarandoles la propiedad de él por las presentes letras sugetandose á la aprobacion de la Exma Junta Departamental y á las condiciones sigtes

1a Podrán cercarlo sin perjudicar las travesias, caminos y servidumbres,

lo disfrutarán libre y esclusivamte destinandolos al uso ó cultivo que mas les acomode —

2a Solicitarán del Juez respectivo que les dé posesion jurídica en virtud de este despacho, por el cual se demarcarán los linderos en cuyos limites pondran á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad —

3a El terreno de que se hace donacion es de tres sitios de ganado mayor segun esplica el diseño que corre en el espediente — El Juez que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á beneficio de la Nacion p.r los usos convenientes —

4a Si contravinieren á estas condiciones perdirán sus derechos al terreno y será denunciable por otro —

En consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon en el libro respectivo y se entregue á los interesados p.r sus resguardos y demas fines — Dado en Monterey á veinte y nueve de Junio de mil ochocientos cuarenta y dos —

(Signed) Juan B. Alvarado

(do) Manl Jimeno

Srio

Queda tomada razon de este despacho en el libro de asientos sobre adjudicacion de terrenos valdios á foja 130 v.

(Signed) Jimeno

El Excmo Sor Gobernador ha dispuesto se tome razon de este titulo en la Prefectura del segundo Distrito

(Signed) Jimeno

Mtrey Julio 25 de 1842

Queda tomada razon de este titulo en el libro respectivo llevado en esta Prefectura af. 4 vuelta

(Signed) Arcadio

Filed in Office October 29th 1852

(Signed) Geo. Fisher
Secy

Translation of Exhibit No. 1 to depo. of Abel Stearns

Foot seal six dollars. Provisionally legalized by the marine custom house of the Port of Monterey of Upper California for the years 1842 and 1843, (sgd) Alvarado, Antonio M., Secretary. Juan B. Alvarado constitutional Governor of the departments of the Californias. Whereas, John Concepcion Avila have petitioned for their personal benefit and that of their families for the place known by the name of Nigüel, bounded on the north by the lake that runs parallel at the point of the hill (punta de la cuchilla) on the south by the ocean, on the west by the cañadas of the lakes and on the east by a point that measures a league distant from the house and establishment of San Juan Capistrano having diligently practised all the observances and relative investigations according to the dispositions and regulations of the laws, having the power conferred on me in the name of the Mexican nation, I do hereby grant to them the above mentioned land

declaring it to be their property by these present letters, subjecting it to the approbation of the departmental assembly and to the following conditions

1st They may fence it without obstructing the cruzeroads and servitudes. They shall enjoy the free and exclusive benefit of it adapting it to the use or cultivating it as they may see fit

2d He shall collect of the proper judge that he give them judicial possession in virtue of this decree, and by whom shall be marked the boundaries in which limits he shall not only put land marks, but some fruit trees or wild trees of some utility,

3d The land of which grant has been made is of the leagues of ganado mayor as is explained in the map which is annexed to the expediente. the judge who may give possession shall cause it to be measured according to the ordinance leaving that which remains for the benefit of the nation for its most convenient uses

4th If he shall violate any of these conditions he shall lose his right to the land and it may be denounced by another,

In consequence I command that being held as firm and valid the present title be recorded in the corresponding book and be delivered to the interested parties for their security and other ends, Given in Monterey on the twenty-first of June one thousand eight hundred and forty-two (Signed) Juan B. Alvarado

Manuel Jimeno

This decree is recorded in the book of entries of adjudication of vacant lands. Jimeno

His Excellency the Governor has ordered this title to be recorded in the Defector of the second district.

Jimeno,

Angel Feby. 25. 1842

This title is recorded in the proper book used (Alcalde) in the prefecture at page 4 & over

Alvarado

Filed in office Oct 19, 1852 (Signed) Geo Pen Fay

(Signed) H. H. No 2

Document "H. H. No 2" annexed to the Deposition of Abel Stearns

Pio Pico Gobernador Constitucional del Departamento de California

"La Excma Asamblea Departa-
"mental, en sesion del dia treze de
"Agosto del año proximo pasado
"decretó lo siguiente = " Se aprueba
"la concesion hecha por el Superior
"Gobierno de este Departamento en
"favor de Don Juan y Doña Concepcion
"Avila, de tres sitios de ganado mayor
"en el paraje conocido con el nombre
"de Nihuil, de conformidad con la
"ley de 18 de Agosto de 1824 y el
"artículo 5.º del reglamento de 21 de
"Noviembre de 1828 " —

Y para seguridad de las partes de Don Juan y Doña Asencion Avila lo hago asi saber — Dado en la Ciudad de los Angeles en este papel comun por falta de sellado á primero de Enero de mil ochocientos cuarenta y seis

(Signed) Pio Pico
(") José Matias Moreno
Asso Interino

Filed in Office October 24th 1852
(Signed) Geo: Fisher
Secy

37

Pio Pico, Constitutional Governor of the Department of the California.

Translation of Doc. H. H. No 2. annexed to the deposition of Abel Stearns before Comr H. Hall

The Excellent Departmental Assembly in session of the 13th day of August of the year last passed, decreed the following: that it approves the concession made by the Governor of this Department in favor of Don Juan & Doña Concepcion Avila, of three square leagues in the tract known by the name of Nigual, in conformity to the law of the 18th of August 1824 & the 5th Article of the regulation of 21st of Nov 1828.

And for the security of the parties, Don Juan & Doña Ascencion Avila - I thus make the same known.

Given at the City of Los Angeles on this common paper for want of the stamped, this first of May one thousand, eight hundred & forty six.

Pio Pico.

José Matias Moreno.
Secy - ad interim -

Filed in Office Oct 29/1852.
Geo: Fisher.
Secy.

39

Document "H H. No 3" annexed to the deposition of Abel Stearns

Espediente

de posesion del parage nombrado de Nigüel dada en favor de Dn Juan y Da Asension Avila por el Gobierno Departamental

Año de 1843

(Lig.º H. H. Nº 3)

[1]

En el pueblo de Sn. Juan Capistrano del Departamento de las Californias á los veinte dias del mes de Febrero de mil ochocientos cuarenta y tres á virtud de una solicitud verbal del Ciudadano Juan Avila a fin de que se les dé a él y su hermana Dª Concepcion (Ascension) Avila la correspondiente posesion del sitio y rancho llamado de Nigüel concedido por el Gobierno Departamental cuyo titulo presentó en mis manos: no hallandose á este la claridad suficiente en lo que respecta á la legua que debe medirse y deseando obrar con acierto. Consultese á la Prefectura de este Distrito la duda que ocurre pr. que se satisfaga y poder proceder á la practica de las diligencias tan luego como sea conveniente. = El Ciudadano Agustin Olvera Juez de Paz Propietario de este Pueblo y su Jurisdiccion así lo dispuse mandé y firmé por ante los testigos de mi asistencia con quienes actuo por receptoria á falta de escribano publico en este papel comun por falta de sellado respectivo segun Dro. = Doy fé = Agustin Olvera = asta = Blas Aguilar = asta = Teloverio Rios = Prefectura Politica de los Angeles = Hecho cargo del oficio de V. fha de hoy, consulté al efecto con el C. S. Gobernador las dudas que á V. le han ocurrido y manifiesta en su citado oficio, y como en efecto se presentan al saber que el terreno de Nigüel queda ese establecmto á la parte Sur en este concepto, deberá V. medir la legua linea recta para el rumbo

de Nigüil entendiendose que debe comenzar desde donde rematen las tierras reconocidas para siembras del establecimiento ó de su vecindario, formando en su remate la linea que parece recuerá de E. á O. E. para que sirva de lindes á las demas mediciones que debe Sd tomar, y por punto centrico el expresado Nigüil que es el parage o terreno conocido = Lo dejo á Vd. en contestacion p.a su conocimiento. Dios y Libertad Angeles Feb.o 20 de 1843 = S. Argüello = Sor Juez de Paz de San Juan Capistrano = al margen = San Juan Febrero 27 de 1843 agreguese á las diligencias q. corresponde = Olvera = En el pueblo de S.n Juan Capistrano á los veintisiete dias del mes de Febrero de mil ochocientos cuarenta y tres habiendose medido hoy por los oficiales cordeleros ante mi y los testigos de asistencia la legua q se refiere en la comunicacion oficial q. recayó á la consulta q p.r el Juez de este conocimiento se pasó á la Prefectura q. corre agregada la cual remató en una cañada donde se mandó fixar una mojonera por ignorarse su nombre: y debiendo continuar á practicar lo demas correspondiente. Pasese por mi y testigos de asistencia al sitio de Nigüil y procedase á dar la posesion respectiva previa citacion de colindantes arreglandose á la predicha comunicacion y con vista del titulo ó despacho q. se les ha conferido á los interesados por el Exmo Señor Gobernador con fha veintiuno de Junio ultimo de mil ochocientos cuarenta y dos = Asi yo Agustin Olvera, Juez de Paz, por este auto lo provey mandé y formé con los testigos de mi asistencia segun dro = - - - - - - -

[3]

Doy fé = Agustin Olvera = assa = Blas A-
guilar = assa = Silverio Rios = En veintesiete
de dicho mes y año yo el presente Juez, pasé
el aviso ó citacion correspondiente álos Señores
Dn José Sepulveda y Dn Santiago Emigdio
Arguello en quien paran los documentos
relativos al rancho delos Alisos por traspaso
autentico que le hizo de este parage su antiguo
poseedor Dn José Serrano; á cuyas personas
manifesté el objeto á que me dirigia al
punto de Nigüel, pues iba á remedirlo
y poner en posesion de él á los dueños Dn Juan
y Dn Asunsion Avila quienes no habiendo ma-
nifestado escepciones ninguna les dije que
procedia á ellas. Lo que pongo p diligencia
que autorizo y firmo con los testigos de mi asis-
tencia segun dro. Doy fé = Agustin Olvera =
assa Blas Aguilar = assa Silverio Rios = En
el rancho de Nigüel á los veintiocho dias del
mes de Febrero de mil ochocientos cuarenta y
tres yo el propio Juez para la practica de
estas diligencias nombré dos oficiales cordeleros
que fueron los Ciudadanos Feliciano Rojas
y Ramon Silvas, que no saben escribir á
quienes les hice saber su nombramiento q.
aceptaron bajo de juramento q. otorgaron
ofreciendo desempeñar fielmente su encargo,
Lo que autorizo y firmo con los testigos de
asistencia segun dro = Agustin Olvera =
assa = Blas Aguilar = assa = Silverio Rios =
En el mismo — — — — — [4.]
dia mes y año estando en el parage lla-
mado camino de Dn Joaquin á efecto de

verificar las remedidas y posesion q. corresponde á D.n Juan y D.a Asension Avila del sitio y rancho nombrado de Vigiil - previas todos los requisitos de ley y estando ante mi los testigos de asistencia y oficiales cordeleros hice medir un cordel que contenia cien varas y acidos á sus extremos unos sancos de madera previa observacion y calculo por mi disposicion se tiró el cordel desde los linderos del Rancho de S.n Joaquin y el de los Alisos adonde estubieron presentes los colindantes dueños de estos Ranchos que ya se dejan mencionados y fueron conformes con lo que veian poniendo por mohonera provisionalmente una piedra grande rumbo Norte Sur se midieron y contaron pasando por toda una cañada nominada de las lagunas doce mil tres cientas varas que remataron en la orilla de la playa distante ocho varas del lindero q.e á este rumbo tiene D.n Jose Sepulveda q. es un picacho del paredon q. cae al mar en donde se fijó por mojonera la misma señal en cuyo lugar asistio el referido Sr Sepulveda quien no habiendo manifestado ninguna cosa q. entorpeciese el acto le dije que continuaba. De alli se tiró la cuerda rumbo oeste á Este se midieron y contaron por toda la orilla de la playa nueve mil novecientas varas las que remataron á la orilla de un sanjon en la voca de la cañada de Vigiil (linea recta de donde concluyó la legua medida desde San Juan) la misma que quedó por mojonera. En seguida se tiró el cordel rumbo Sur á Norte se midieron y contaron tomando una cuchilla catorze mil y dos cientas varas q. remataron en el

camino real q vá para la ciudad de los
angeles en frente á un picacho q se des-
cubre en las lomas opuestas. De alli vol-
viendo á tirar el cordel rumbo Este á Oeste
se midieron y contaron tomando todo el
camino real q va p.a San Joaquin trece mil
varas q remataron en los linderos q se dejan
referidos de este rancho y el de los Alisos: —
con lo que se concluyeron las remedidas
de este sitio á satisfacion de los interesados
habiendole ordenado á D.n Juan Avila q se
hallaba presente pusiese las correspondientes
mojoneras en los puntos respectivos y quedó
entendido habiendo marcado dichos puntos en
señal — — — — — — — — — — — — — — — [o]
de posesion. Lo que autorizo y firmo con los
testigos de asistencia segun dr.o — Doy fé =
Agustin Olvera = asza = Blas Aguilar = asza
Silverio Rios = Fn. Juan Capistrano Marzo
21 del 843 = Dezele testimonio á las partes
de las presentes diligencias que se hallan ya
concluidas en papel comun por falta de
sellado correspondiente. Agustin Olvera =
Juez de Paz de este Pueblo asi lo decreté —
mandé y firmé por ante los testigos de mi
asistencia segun dr.o — Doy fé = Agustin Olvera
= asza = Blas Aguilar = asza = Silverio Rios = =
= Nota = En la fha se libró á los interesados
el testimonio q se refiere en el auto anterior
y para constancia lo rubrique =
= Rubrica =
Tachado á fojas 2 frente = de Fn.= no vale =

Concuerdan con las diligencias originales que

Concuerdan con las diligencias originales que existen en el archivo de este Juzgado y á las cuales me refiero: están fielmente sacadas, corregidas y confrontadas en estas seis (6) fojas de papel comun por falta de sellado respectivo. En el Pueblo de San Juan Capistrano del Departamento de las Californias á los cuatro dias del mes de Marzo de mil ocho cientos cuarenta y tres q. autorizo y firmo con los testigos de mi asistencia segun derecho - Doy fé.

En testimonio de Verdad.

(Signed) Agustin Olvera

Asza

(Sig.d) Silv.o Rios

Asza.

(Sig.d) Juan Gallardo

Filed in Office October 29th 1852

(Sig.d) Geo. Fisher

Secy

47

C.
Translation
of B.
Doc. 44 No. 3 to
depo. of Abel
Stearnes.

Pio Pico Constitutional Governor of the Depart-
-ment of the Californias.
(seal)

The Hon. Departmental Assembly in session on the thirteenth day of August of the year last past made the following decree. It approves of the concession made by the superior government of this department in favor of John & Concepcion Avila of three leagues (de ganado mayor) in the place known by the name of Nigual in conformity with the law of 18 of August of 1824 & article 5th of the regulations of the 21 of November 1828.

And for the security of these parties John and Concepcion Avila I now make it known.

Given in the city of Los Angeles in this common paper for want of stamped paper, the first of May of one thousand eight hundred & forty six.

(signed) Pio Pico.

Jose Matias Moreno.

Sec.

Expediente of possession of the place known as Nigual given in favor of John & Concepcion Avila by the Departmental government year 1843.

In the town of San Juan Capistrano of the depart-
-ment of the Californias on the twentieth of the month of February one thousand eight hundred & forty three. In virtue of a verbal solicitation of the citizen John Avila to the end that there should be granted to him & his sister Concepcion (Asencion) Avila the corresponding possession of the place & ranch called Nigual granted to him by the departmental government whose title he placed in my hands, not finding in this suffi-
-cient distinctions in respect to a league that was to be measured & desiring to proceed with caution I consulted

with the Prefecture of this District upon the doubt that presented that I might be satisfied & proceed to take the necessary steps as soon as it might be convenient: Citizen Agustin Olvera Justice of the Peace presiding of this town & jurisdiction being thus I dispose, command and sign before my assistant witness with whom I act as receiving for want of a Notary Public on this common paper for want of stamped paper according to law. I certify

Agustin Olvera.

ast. Blas Aguila. ast. Silverio Ruiz.

Prefecture of Los Angeles.

Having taken up your note of this day's date I consulted with H. E. the Governor concerning the doubts you had & manifested in your note & in effect now presented viz. that the land of Nigue leaves the establishment to the south in this way; you will measure the league in a straight line in the direction of Nigue. It being understood that it ought to commence at the termination of the planting ground of the establishment or of its residents, farming at its end the line which it appears will run from the East to West that it may serve for a boundary for the other lines which you are to make, & for a central point the said Nigue itself which is the place or land granted. In continuation I transmit to your knowledge. God & Liberty. Angeles 20th Feby 1843. S. Argüello. – Justice of the Peace of San Juan Capistrano The margin. San Juan, Feby 20 1843. Let it be united to the proceedings, to which it corresponds. Olvera. In the town of San Juan Capistrano on the twenty ninth day of the month of February, one thousand eight hundred & forty three. Having this day measured the official cord bearer & assistant witnesses before me, the league of land referred to in the official communication that resulted in the consultation which was passed by

the Judge of this jurisdiction (commencing) to the Pre-
-fecture which is annexed hereto, which terminates in a
(cañada) ravine where was ordered to be placed a land-
mark, being ignorant of its name, we proceeded to take
the other corresponding steps to be taken by me & my as-
-sistant witnesses to the place of Nigui & proceeded to
give the respective possession, previous notice being given
to the neighbors being regulated according to the aforesaid
communication & in view of the title ordered which has
been confirmed upon the interested parties by H.E. the
Governor bearing the date of the twenty first of June of
one thousand eight hundred & forty two. Accordingly
I, Agustin Olvera Justice of the Peace by this order, doe
command and sign with my assistant witnesses ac-
-cording to the law. I certify.

Agustin Olvera.

ast. Blas Aguilar. ast. Silverio Rios. on the twenty
sixth of said month & year. I, the present Judge passed
the corresponding notice to José Serrano, Santiago
Emigdio Arguello - with whom are deposited the docu-
-ments relative to the ranch of Avila by legal transfer
which was made to him of this place by its ancient owner
José Serano to which person I manifested the object
that took me to this place Nigui viz, to measure & put
into possession its owner John & Acacain Avila, who
not having manifested any objection, I said I was about
to proceed to do so which I record, authorize & sign with
my assistant witnesses according to law.

Agustin Olvera.

ast. Blas Aguilar. ast. Silverio Rios. –
In the Ranch of Nigui on the twenty eighth day of the
month of Feby, one thousand eight hundred & forty
three. I the proper Judge for the decision of this business
named two cord bearers viz, citizen Feliciano Rosas &
Ramon Silvas, who do not know how to write, I made
known to them their nominations who accepted it under

oath which they took to fulfil the duties of their employment faithfully, which I authorized & signed with my assistant witness.

Agustin Olvera.

Ast. Blas Aguilar. Ast. Silveri Ruiz.

On the same day, month & year, being in the place called the road to San Joaquin in order to effect the measurement & possession corresponding to John & Alexander Avila of the place & ranch called Nigüel, having previously fulfilled all the requisites of the law & being before me the assistant witness & cord bearers. I measured a cord of one hundred varas, giving to each one two Elder bushes & by previous observation & reckoning by my calculation run the line from the line of the ranch of San Joaquin & that of the Alisal where now present the neighbors, owners of said ranches, already spoken of who conformed to what they saw the placing for a limpiar land mark a large stone in a north & south direction, they measured & counted, passing over a ravine called the lake ravine (cañada de la laguna) twelve thousand three hundred varas, which terminated at the beach, eight varas distant from the line of Don Sepulveda, in this same direction which is the summit of a wall which falls to the ocean, & they fixed for a land mark the same sign in which said Sepulveda assisted, & who not having made any objection that he would disturb the act. From thence they run the line in the direction of West to East measured & counted along the beach nine thousand nine hundred varas which terminated at the edge of a deleb at the mouth of the ravine (cañada) of Nigüel (in a direct line from whence terminates the league measured from San Juan) the same being left as a land mark, continuing the cord was run in a north & south direction & they measured & counted (taking a ridge) fourteen thousand two

hundred varas which terminated in the main road that

hundred varas which terminated in the main road that goes to the city of Los Angeles in front of a jointed hill which is seen in the opposite hills, from there running in an East & West direction they measured & counted taking the main road that goes to San Joaquin thirteen thousand varas which terminated in the line of this ranch already referred to & that of the Alvis. with which was concluded the measurement of the place to the satisfaction of the interested parties. Having ordered John Avila who was present that he should post the corresponding land marks in their respective points & so he understood having marked said points in sign of possession, which I authorize & sign with the assistant witnesses, according to law. I certify.

Agustin Olvera.

ast. Blas Aguilar. ast. Silverio Rios.

San Juan Capistrano, March 4 1843. Let a copy be given to the parties of these proceedings which are now concluded in common paper for want of stamped paper. Agustin Olvera, Justice of the Peace of this town — Accordingly I decree, command & sign, with my assistant witnesses according to law. I certify.

Agustin Olvera.

ast. Blas Aguilar. ast. Silverio Rios.

Note. On this day there was delivered to the interested parties the testimony to which reference was made in the anterior decree which for security I place my rubric — Rubric — blotted at page second in front. de Sn — no account — In accordance with the original documents that exist in the archives of this court & to which I refer they are faithfully copied, corrected & compared on this six (6) pages of common paper for want of stamped paper. In the town of San Juan Capistrano, of the Department of the Californias on the fourth day of the month of March one thousand eight hundred &

8/399

forty three, which I authorize & sign with the accustomed witnesses according to law. I certify in testimony of the truth.

Signed/ Agustin Olvera.

ast. Silvoni Ruiz.
ast. Juan Gallardo.

Filed in Office Oct 19th 1852.
Geo: Fisher.
Secy.

B2 399. Juan Abila et al.
vs
The United States } For the place called El Nigual situated in Los Angeles County, containing three square leagues of land more or less according to a map.

Opinion of the Board by Comr Alpheus Felch.

In proof of this claim a grant is given in evidence duly authenticated, executed & delivered to Juan Abila & Concepcion Abila by Governor Juan B. Alvarado, bearing date June 21 1842. The concession was approved by the Departmental Assembly on the 13th August 1845. A testimonial of the act of judicial possession, claimed by the petitioners in this case, to have been given under & by virtue of the grant above mentioned in February 1843, is also made part of the proofs. A full compliance with the conditions of the grant & the colonization laws, as to inhabitancy & cultivation is established by the testimony.

It is strongly objected to this grant that it is a concession of more than eleven leagues of land, & therefore under the restriction contained in the Colonization law of 1824 limiting grants to that quantity, void. The case however does not show that it was grant of more than eleven leagues. On the contrary the grant itself contains the specification that it is a grant of three square leagues only, & provides for a judicial measurement to fix its limits. It is treated however in the argument as though it was a grant by metes & bounds conceding all within the limits defined in the grant which it is alleged is shown to contain sixteen square leagues of land & it is contended that, notwithstanding the Governor may have declared the contents to be only three leagues yet, it being shown to contain more than eleven, the grant is void. The proofs in the case do not establish the fact on which this argument is based. It is not shown

that the land described in the grant, from which the conceded quantity of three leagues was to be satisfied by judicial measurement, contained more than the quantity mentioned as the maximum in the law of 1824. It is true that the map which was filed with the Governor with the original application for the grant has upon it a note stating the latitude to be four leagues & the longitude four leagues. - Whether this refers to, or is intended to indicate the extent of the land solicited, which appears to be marked so as to define it on the map or the entire premises which are represented on the map does not appear. There is no scale on the map by which it may be tested. One of the officials who reported to the Governor before the grant was made, mentions this as an objection to making the grant. He refers to this note as showing that the quantity of land solicited exceeded the maximum of eleven leagues; but he does not claim in his report to have any knowledge of the actual contents of the premises described, nor does he state what in fact they are. We have however in the proceeding in the case the means of approximating the quantity contained in the premises represented on the map. In giving the juridical possession some of the lines of the premises were actually measured, & their length & direction are given. This measurement not only shows the length of these particular lines, but gives a scale of distances by which others can be measured, & the quantity of land be estimated. Applying this means of calculation the whole premises represented on the map are found to contain much less than eleven square leagues of land, the portion marked for the land solicited, still less than this; & the latter was still further reduced by the Governor who in the grant curtailed the limits by defining the eastern line of the premises as drawn about one league further west than that designated in the original solicitation. The facts then do not, in any aspect, present the case of

a grant for more than eleven leagues of land. We have nothing therefore to decide as to the effect of such a grant.

This grant describes with more than ordinary particularity the boundaries of the premises solicited, and concedes three square leagues of the land which the grantees which the grantees are required to have measured to them in the usual official manner & to put up the necessary monuments to perpetuate their boundaries. This judicial measurement was procured, & it only remains to inquire whether it was of a character to constitute a segregation of the land, & to define its limits that it can now be described in absence of confirmation, & a re-survey be made by the calls of the description.

The land described in the grant is bounded by the sea shore on the south; the western line is the Cañada de Los Lagunas, the east a line drawn at the distance of one league from the building of the Establishment of San Juan Capistrano, & on the north the swamp at the entrance of La Puerta de la Cuchilla, - The object mentioned as the limit on the north is not clearly laid down on the map but a line is drawn thereon sufficiently designated to show that it was intended to represent the northern limits of the land. The act of judicial possession was commenced by measuring a line in order to obtain the distance of one league from the Mission as required by the grant. And under the advice of the Prefect & the Governor this point was established by measuring not from the Mission buildings, but from the termination of the cultivated grounds connected with the establishment. This point being fixed as the limits of the land on the east, the judicial measurement was then commenced at the highway & followed down the west line as above described thence eastwardly along the sea shore; thence northwardly through the point established by measurement of one league from the Mission's lands, to the

road, & thence northwardly by the road to the place of beginning. The land embraced within the limits, according to the measurements given in the testimonial of juridical possession, comprises not far from five square leagues. It is found also on examination that this area embraces on the north side a portion of land not included within the limits described in the grant. Instead of extending the land back from the shore to the road which he makes the northern boundary he should have run that line so as to include within the measurement only three square leagues of land. If he had stopped at the limits set in the grant as the extent to which he was authorized to go in make the location he would have measured not far from the requisite quantity of three square leagues; probably a little more. He should have stopped at the point which would have given precisely that quantity.

The question now arises whether this error of the officer will undervoid all his acts & defeat the grant. I think not. He surveyed & established as boundaries the southern, the eastern & western line of the premises according to the grant but in extending the premises back from the sea shore he went beyond the limits assigned to his jurisdiction & included in his survey land which he had no authority to measure & excluding in quantity that which he was authorized to deliver to the grantee. But with the three lines which were legitimately established by him we have no difficulty in establishing the fourth with sufficient certainty. Extending the premises back from the shore within the established eastern & western limits until the given quantity of three square leagues is measured, establishes the limits of the land in precise accordance with the grant. In such a case quantity is as certain a designation of limits as a line defined by monuments & land marks. Indeed this method of describing lands by the early French & Spanish inhabitants of the

eastern section of the United States is almost universal. The length of the front on the ocean or the river is given and the real line, parallel with the front, was determined by the quantity of land contained in the premises. The descriptions of locations of Military warrants in Ohio & Kentucky were almost all of this character. I see no difficulty in giving this effect in the location under consideration & in thus confirming the precise land granted, & so describing it in a decree of confirmation.

Juan Abila one of the petitioners in this case was one of the original grantees, & as such is entitled to one equal undivided half of the premises. The other grantee, Concepcion Abila is proved to have been at the time of the grant the widow of Pedro Sanchez, who died previous to 1837. They had six children who are the claimants in this case of the undivided half of the property which was granted to their mother. She died in 1847 leaving them her heirs at law, & entitled to her interest in said premises.

Confirmed.

Filed in Office April 25th 1854.

Geo: Fisher.
Secy.

Decree of Confirmation

399.

Juan Abila & al
vs
The United States.

In this case on hearing the proofs & allegations it is adjudged by the Commission that the claim of the said petitioners is valid, & it is therefore decreed that the same be confirmed; one undivided half of the premises hereinafter described being confirmed

to said Juan Abila, & the remaining undivided moity to Tomas Sanchez, & the other heirs at Law of Concepcion Abila, deceased.

The land of which confirmation is hereby made is situated in Los Angeles County & known by the name of El Niguel & is that now occupied by said claimants, & is bounded & described as follows, to wit: Bounded on the East by a line drawn north from the sea shore through a point west of the Mission of San Juan Capistrano & at the distance in a straight line of one league from the western termination of the planting ground of the establishment or of its residents as the same existed in February 1843: on the west by a line run through the Cañada de la Laguna as being the eastern line of the Rancho called San Joaquin: on the south by the sea beach, & on the north by a line parallel to the point on said beach & at such a distance from it as to embrace with the lines above mentioned an area of three square leagues of land & no more.

Alpheus Felch.
Thompson Campbell.
R. Aug. Thompson. } Commissioners.

Filed in Office April 25th 1854.

Geo: Fisher
Secy.

And it 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 other be transmitted to the Attorney General of the United States.

59

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 — fifty nine — pages, numbered from 1 to 59, 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. 59 on the Docket of the said Board, wherein

Juan Abila et. al

Claimants, against the United States, for the place known by the name of "El Niguel"

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.

Sec.

130

U. S. DISTRICT COURT,

Southern District of California.

No. 130. Docket

THE UNITED STATES,

vs.

Juan Abila, et al.

"El Niguel."

130

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 399.

Filed November 8th 1854.

C. S. Lane, Clerk.

130

No. 399

Office of the Attorney General of the United States,

130 SD

PAGE 56

Washington, 10th February 1855.

Juan Abila et al.
vs.
The United States.
} 399.

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 12th day of November 1854, the appeal in the district court of the United States for the Southern Judicial district of California will be prosecuted by the United States.

Cushing

Attorney General.

No. 130

U. S. District Court for
Southern District, Calo.

United States,

vs

Juan Abila, et al.

appeal notice.

Filed april 10th 1855.

C. E. Carr
Clk.

Office of the Attorney General of the United States,

Washington, 10th February 1855.

Juan Abila et al.
vs.
The United States. } 399.

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 12th day of November 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.

C.S.

No 130.

U.S.D. Court, S. Dist.

The United States
vs.
Juan Abila et al

Appeal Notice.

Filed May 11th 1855.
C. E. Carr.
Clk.

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

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.

Juan Abila, et al. appts.
vs.
The United States, appt.

Docket No. 130.

Transcript No. 399.

TO THE HON. ISAAC S. K. OGIER, JUDGE:

The Petition of **Pacificus Ord**, a resident of said City, County, and State, 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 the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the 19th day of October A. D. 1852, Juan Abila, Tomas A Sanchez, Josefa Sanchez, Guadalupe Sanchez, Luisa Sanchez, Juana Sanchez, & Felipe Sanchez, presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called El Nigual situate in the County of Los Angeles State of California, which said petition is referred to for a description of the land claimed a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 25th day of April A. D 1854, the said Commissioners confirmed, by final decision, the said claim of said petitioners. That thereafter, to wit: on or about the 8th day of November A. D. 1854, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 399; reference to which it is prayed may be had and made part of this petition. That on or about the 12th day of November A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and

evidence on which said decision was founded. That thereafter, to wit: on about the 10th day of April A. D. 1855, the said Attorney-General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the Clerk of said District Court of the United States, that the appeal in said cause from the said decision of the said Commissioners, 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 land claimed, as aforesaid, is situate in the Southern District of California, and within the jurisdiction of this Honorable Court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said Commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimants presented as aforesaid to said Commissioners. And your petitioner further denies that the said claimants ~~has~~ have any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said **Pacificus Ord,** Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and 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 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or ~~his~~ their attorneys may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the same, and decree the alleged title to be invalid: with costs and general relief.

P. Ord

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

No 130.

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

Juan Abila, et al. Appls

vs.

The United States.
appe.

Petition for Review.

Filed. Nov. 8th 1855.
J. E. Carr.
Clk.

P. Ord U.S. Atty.

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

TO The President of the United States,

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez, & Felipe Sanchez

130 SD
PAGE 64

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by

P. Ord U.S. Atty for the Southern Dist. of Cal. in behalf of the United States praying said Court to review the decision of the U.S. Land Commission of the 25th of April A.D. 1854 confirming your claim to the land called El Nigual situate in the County of Los Angeles and appealed by the Attorney General of the United States

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

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

C. E. Ian
Clerk.

130

Marshals Cost
Copying Summons .50
Serving Summons 3,00
Serving Petition 3,00
$6.50

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila, et al, appee's,

vs. } No 130.

The United States, appelt.

130 SD

PAGE 65

SUMMONS.

Recd November 13th 1855.
Edward Fenton
U. S. Marshal

I served this summons along with the proper copy of the petition upon Juana Sanchez by delivering to her personally a copy of the within

at Los Angeles in the Southern District of California on the 20th day of November A. D. 185 5.

Sworn to and subscribed before me, Nov 21. 1855.

T. Egan, Clerk.

Edward Fenton
M. S. Marshal.

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

The President of the United States,

TO Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadelupe Sanchez, Luisa Sanchez, Juana Sanchez and Felipe Sanchez

130 SD
PAGE 66

Greeting:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against You and each of You in the District Court of the United States, in and for the Southern District of California, on the 8th day of Novbr, in the year of our Lord one thousand eight hundred and fifty-five, at the City and County of Los Angeles, in said District, by P. Ord U.S. Atty for the Southern District of California, in behalf of the United States, praying said court to review the decision of the U.S. Land Commissioners of the 25th day of April A.D. 1854 confirming your claim to Land called "El Nigual" situated in the County of Los Angeles, and appealed by the Atty General of the United States

and that You and each of You are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the ~~Petitioner~~ plaintiff 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 10th day of Novbr A. D. 1855. at Los Angeles aforesaid.

C. E. Lan
CLERK.

Marshals Cost
Copying Summons, 50
serving do 3,00
" Petition 3,00
6,50

No. 180.

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Juan Avila et al Appellees

vs

The United States Appellts

SUMMONS.

Received Nov 13 1855

Edward Hunter

U. S. MARSHAL.

130 SD

PAGE 57

I served this Summons, together with a certified copy of the Petition, upon Antonio F. Coronel Agent and Owner of the Interest of Guadelupe Sanchez, in the Rancho of El Nigual by delivering to him personally a true Copy of the same

at Los Angeles in the Southern District of California, on the 27th day of November A. D. 1855.

Sworn to and subscribed before me, Nov 28th 1855.

E. S. Carr. CLERK.

Edward Hunter

U. S. MARSHAL.

by M L Goodman

" Deputy

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

TO The President of the United States,

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez & Felipe Sanchez

130 SD
PAGE 68

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by P. Ord U.S. Atty. for the Southern Dist of California in behalf of the United States praying said Court to review the decision of the U.S. Land Commissioners of the 25th day of April A.D. 1854 confirming your claim to the land called El Nigual situate in the County of Los Angeles and appealed by the Attorney General of the United States

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

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

C. E. Jan.
Clerk.

130

Marshals cost

copying summons	,50
serving summons	3,00
serving Petition	3,00
	$6,50

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila, etal. Appees,

vs. } No 130.

The United States, Appelt.

130 SD

PAGE 69

SUMMONS.

Recd November 13th 1855

Edward Hunter

U. S. Marshall

I served this summons along with the proper copy of the petition upon Juan Abila et al. (for Helipe Ranchero) by delivering to Fernando Ortega a true copy of the same

at Los Angeles in the Southern Distsict of Californin on the twenty eighth day of November A. D. 185 .

Edward Hunter

U. S. Marshal.

Sworn to and subscribed before me, Nov 21. 1855.

J. Egan Clerk.

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

The President of the United States,

TO

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez & Felipe Sanchez

130 SD
PAGE 70

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty- at the City and County of Los Angeles, in said District, by

P. Ord U.S. Atty. for the Southern Dist. of Cal. in behalf of the United States praying said Court to review the decision of the U.S. Land Commission of the 25th of April A.D. 1854 confirming your claim to the land called El Nigual situate in the County of Los Angeles and appealed by the Attorney General of the United States

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

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

J. E. Carr

Clerk.

130

Marshals Cost

Copying Summons	$	.60
Serving do	"	3.—
" Petition	"	3.—
	$	6.60

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila, et al. Appees.

vs. } No 130.

The United States, Applts.

SUMMONS.

Recd nov 13th 1855

Edward Hunter
U. S. marshal

130 SD
PAGE 71

I served this summons along with the proper copy of the petition upon Joseph Lancher by delivering to him personally a true copy of the same

at Los Angeles in the Southern District of California on the twentyfifth day of November A. D. 185 5.

Sworn to and subscribed before me, Nov 21. 1855.

J. Ryan. Clerk.

Edward Hunter
U. S. Marshal.

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

TO **The President of the United States,**

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez and Felipe Sanchez

130 SD
PAGE 72

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by

P. Ord. U. S. Attorney for the Southern Dist. of California, in behalf of the United States praying said Court to review the decision of the U. S. Land Commission of the 25th day of April A. D 1854 confirming your claim to the land called El Nigual situate in the County of Los Angeles, and appealed by the Attorney General of the U. S.

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

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

C. E. Carr
Clerk.

130

Marshals Cost

Copying Summons $ 60.
Serving do " 3.—
" Petition " 3.—
$ 6.60.

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila et al, appellees,

vs. } No 130.

The United States, appellants.

SUMMONS.

Recd Novr 13th 1855.
Edward, Hunter
U. S. marshal

I served this summons along with the proper copy of the petition upon Francisco Palacios personally by delivering to him a true copy of the same

at Los Angeles in the Southern District of California on the twenty fifth day of November A. D. 185 5.

Sworn to and subscribed before me, Nov 21. 1855. J. Ryan Clerk.

Edward Hunter
By, Deputy Marshal.

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

TO **The President of the United States,**

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez, Juana Sanchez & Felipe Sanchez

130 SD
PAGE 74

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by

P. Ord U.S. Attorney for the Southern Dist of California in behalf of the United States praying said Court to review the decision of the U.S. Land Commission of the 25th day of April A.D 1854 confirming your claim to the land called El Nigual situate in the county of Los Angeles and appealed by the Attorney General of the United States

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

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

C. E. Carr
Clerk.

130

Marshals cost
copying summons .60
serving do 3.00
" Petition 3.00
Mileage 6 miles on
back Petition & summons
at 9 cts per mile 1.08
7.68

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila et al. Appellees

vs. } No 130.

The United States, Applts.

130 SD

PAGE 75

SUMMONS.

Recd November 13th 1855
Edward Hunter
U. S. Marshall

I served this summons along with the proper copy of the petition upon John Abila
by delivering to him personally a true copy
of the original Summons
at Stockton this 23 d day of November in the Southern District of California on
the 23 d day of November A. D. 1855.

Sworn to and subscribed before me, Nov 28 } Edward Hunter
1855. C. H. Carr Clerk. } U. S. Marshal.
by W. S. Boardman
Deputy

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

TO **The President of the United States,**

Juan Abila, Thomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Louisa Sanchez Juana Sanchez and Felipe Sanchez

130 SD
PAGE 76

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the 8th day of November in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by

P. Ord U.S. Atty for the Southern District of California, in behalf of the United States praying said Court to review the decision of the U.S. Land Commissioners of the 25th of April A.D. 1854 confirming your claim to the land called "El. Nigual" situate in the county of Los Angeles, and appealed by the Attorney General of the United States

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

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

C. E. Carr.
Clerk.

No 130.

United States of America,

Southern District of California,

U. S. District Court.

Juan Abila, et al, appellees,

vs.

The United States Appellt.

130 SD

PAGE 77

SUMMONS.

Recd November 13th 1855.

Edward, Hunter

U. S. Marshall

Marshals cost

Copying Summons	,60
Serving do	3,00
Petition	3,00
Regarding Expenses to San	18.
~~Mileage~~	$24.60
Juan from Los Angeles	
~~Fo miles at 40 cts for~~	
~~Each summons & Petition~~	10,80
	17,40

I served this summons along with the proper copy of the petition upon Luis Sanchez, by delivering to her personally a true copy of the same

at La Ciénega, County of Los Angeles in the Southern District of California on the 27th day of November A. D. 1855.

Sworn to and subscribed before me, Nov 28th 1855

J. E. Carr, Clerk.

Edward Hunter
U. S. Marshal.
by Wm A. Goodman
Deputy

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

Juan Abila et al. Appellees, vs The United States Appellants.	Case No. 130. Transcript No. 399 "El Diguel".

And now come the Appellees in the above entitled cause, Juan Abila, Tomas A. Sanchez, Josefa Sanchez, Guadalupe Sanchez, Luisa Sanchez, Juana Sanchez, and Felipe Sanchez, by J. Lancaster Brent, their Attorney, and for answer to the Petition for Review herein filed by the Appellants, say;

That their title to the Lands claimed in this case, is good and valid.

Wherefore they pray the Judgment of this Honorable Court that the decision of the United States Board of Land Commissioners, heretofore rendered confirming the same, may be affirmed, and that their title to the said Lands may be decreed to be valid; and for costs by them in this behalf expended, and for such other or further and general relief as to Equity and good conscience belong, and the nature of their case may require

J. Lancaster Brent
Attorney for Appellees.

Case No. 130.
U. States Dist. Court, for
South'n Dist. of California

Juan Abila et al.
Appellees
vs
The United States
Appellants.

Answer.

Filed Nov 27th 1855
J. E. Carr
Clk.

J. Lancaster Brent.
Att'y for Appellees

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

Juan Abila et al. Appellees		Case No. 130
ads		Transcript 399.
The United States Appellants		"El Vigüil."

In this Case, it being suggested to the Court, by Lancaster Brent, Counsel for the Appellees, that the Transcript of the Record from the United States Board of Land Commissioners, is imperfect, in that that the Map of the Lands claimed in this Case, and referred to in page 18 of said Transcript, does not exist therein, it is by the Court,

Ordered — The District Attorney being notified and consenting thereto that the original Transcript be returned by the Clerk of this Court to the office of the Secretary of said Board of Commissioners in order that the same may be amended and that a perfect copy of the original documents may be submitted to this Court.

Case No. 130.
U.S. Dist Court South^n
Dist of California

Juan Abila et al
Appellees
vs
The United States
Appellant.

Filed Dec 4th, 1855.
B. E. Cox
Clk.

J. Lancaster Brent.

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

Juan Avila
Tomas A. Sanchez
Josefa Sanchez
Guadalupe Sanchez
Luisa Sanchez
Juana Sanchez
and Felipe Sanchez
Appellees

vs.

The United States
Appellants

Case 130

"Higuil"

Transcript 399.

This cause coming on to be heard on appeal from the final decision of the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California, under an Act of Congress approved March 3d 1851, on a Transcript of the Proceedings and Decision of said Board and of the papers and evidence upon which said Decision was founded, and it appearing to the Court that said Transcript and the Notice of Appeal have been duly filed according to law, and Counsel for the respective parties having been heard, it is ordered adjudged and decreed that the said Decision of the said Board of United States Land Commissioners be, and the same hereby is, affirmed,

And it is further adjudged and decreed that the claim of the above-named Appel-

ters is good & valid, and the same is hereby confirmed to them to the extent of three square leagues of land, & no more within the boundaries described in the grant and in the map to which the grant refers; Provided that if the quantity of land within said boundaries should be less than three square leagues, then confirmation is hereby made of such less quantity. —

Samuel H Ogden
U S Dist Judge

Case No. 130
In U. S. Dist. Court.
South ern Dist. of California

Juan Abila et al
Appellants
vs
The United States
Appellee

Filed July 25th 1856
J. C. Carr
Clerk

130 SD
PAGE 83

Recorded in Liber 2 of

L. Brent

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

Juan Abila, et al

APPELLEES,

VS.

UNITED STATES,

APPELLANT.

No. 130.

(No. 399. 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 25th day of February A. D. 1856.

P. Ord
Dist Atty.

No. 130.

U.S. Dist Court
Southern Dist of California

Juan Avila Et al
appellees
ad
The United States
appellants

Notice of Appeal &c
Filed May 7th 1856
C. E. Pope. Clk
By A. Colyar Dep

California Land Claims.
Attorney General's Office
29 Sept. 1856.

Sir:

In the case of the claim of Juan Abila et al: confirmed to the claimants by the Commissioners, case no. three hundred and ninety-nine (399), 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

Jacinto Ord Esq.
U. S. Attorney
Los Angeles.

VV

130

Juan Abila et al.

399

Filed 24th February 1857

Ec Shiras Clk

J. H. Lapelman

Dep

130 SD

PAGE 87

Rec'd Nov 4 1836

The United States, appellants
vs
Juan Abila et al. appellees.

The claim in this case is founded upon a grant from Guerra Alvarado, to Juan Abila and Concepcion Abila, bearing date 21st June 1842. and confirmed by the departmental assembly on the 18th August 1845. The genuineness of the grant is not contested. Juan Abila, one of the original grantees is one of the claimants in this case the others are the legal heirs of Concepcion Abila the other grantee. There is no evidence as to their existence as the heirs of Concepcion. The grant is for three leagues square of land with certain extern boundaries described in the grant, judicial possession was given of a much larger quantity than that called for in the grant and in some respect does not follow the calls of the grant, it must therefore be disregarded. The calls in the grant and as designated in the map are sufficiently definite to enable the premises to be located.

The claim will therefore be confirmed to the extent of three

Square leagues within the boundaries as described in the Spanish Cadenas will be entered accordingly

88-A

#130