

CASE No.

142

SOUTHERN DISTRICT

LOS PENASQUITOS GRANT

FRANCISCO MARIA ALVARADO

CLAIMANT

SD

SD

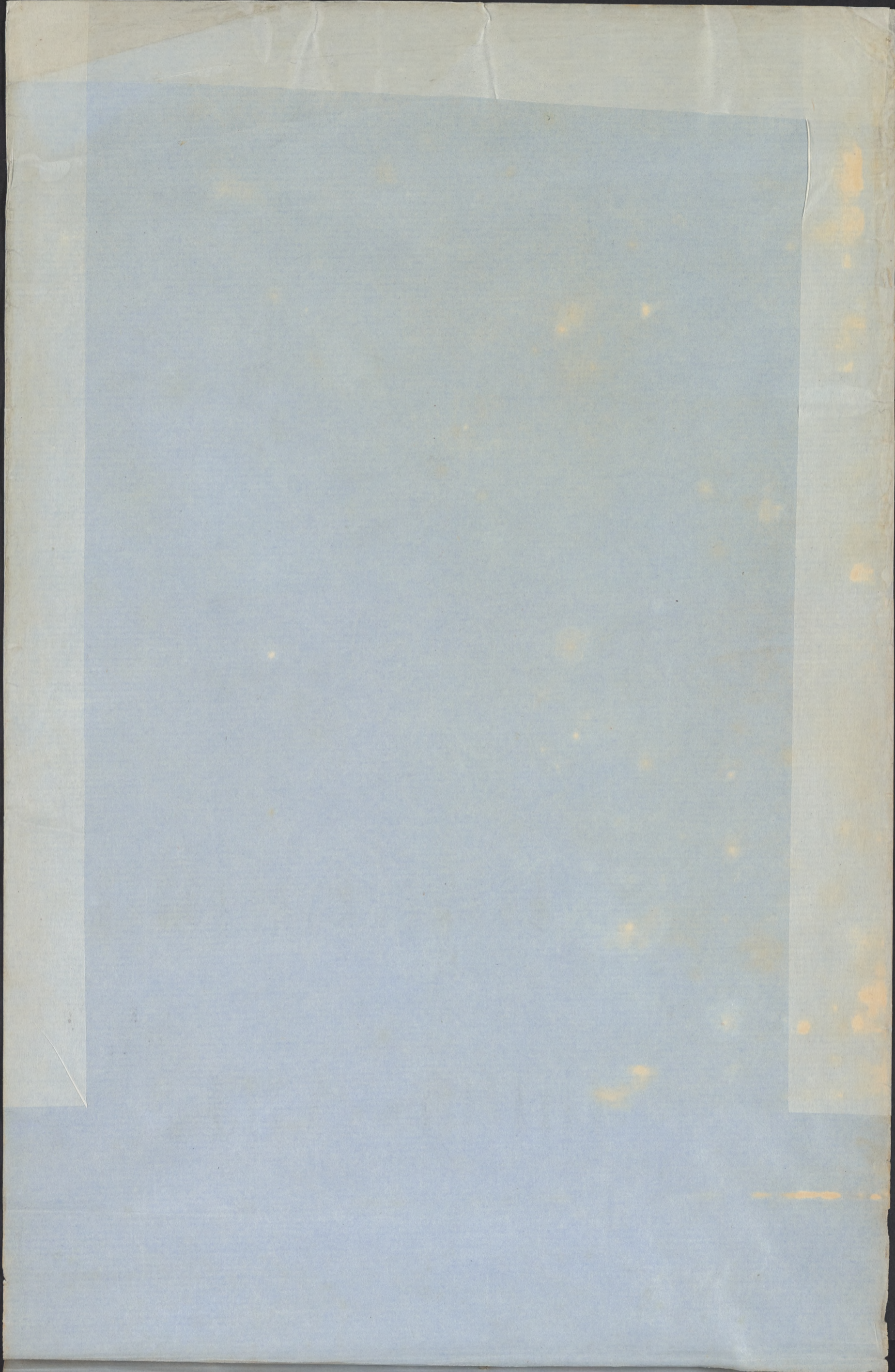
Land Case 142 SD

ALSO AVAILABLE ON MICROFILM



435

Stubbins



TRANSCRIPT

142 SD.
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. *452*

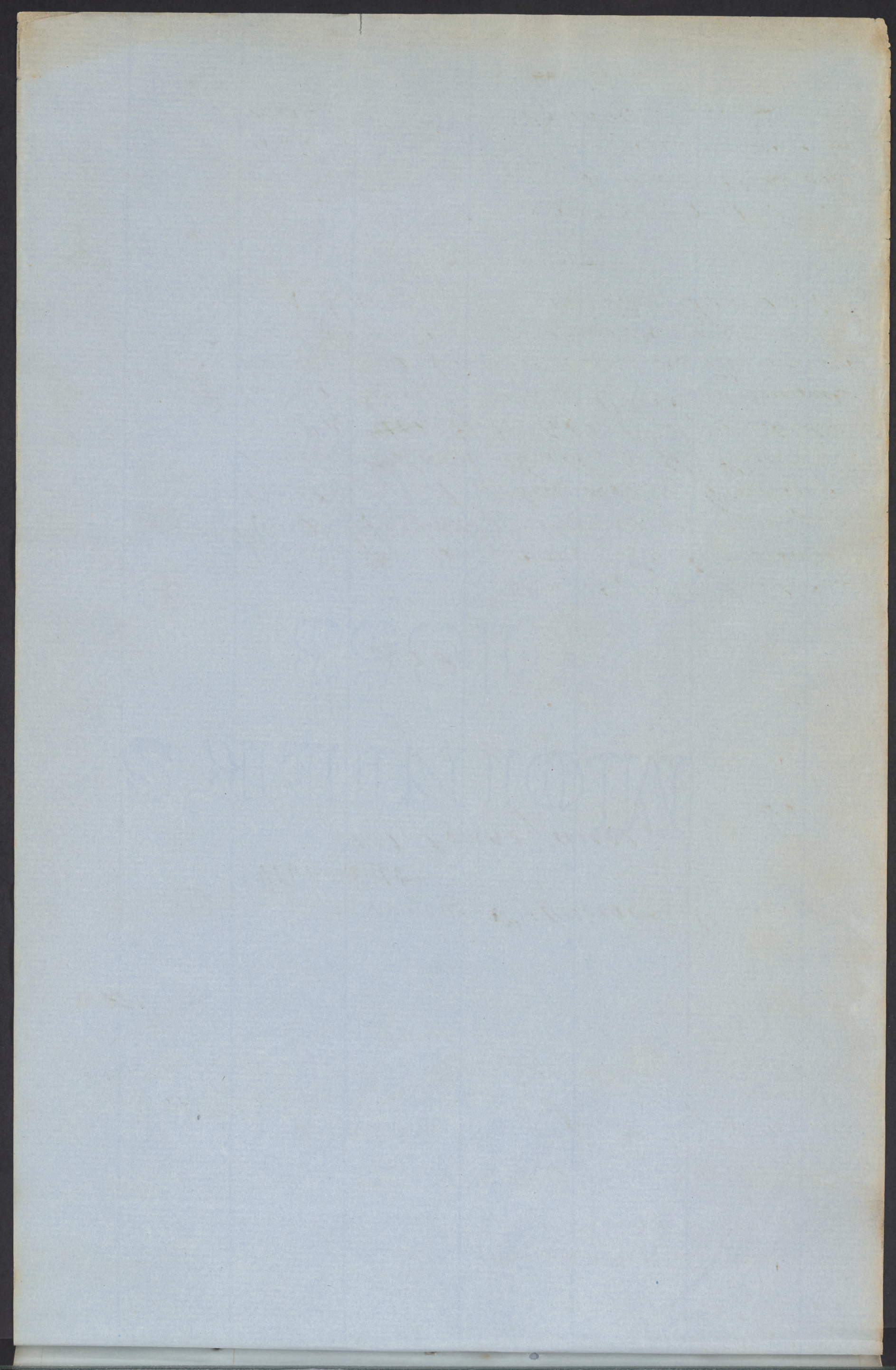
Francisco Maria Alvarado CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Los Peñajutos"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

142 SD
PAGE 2

Be it Remembered, that on this fourth day of November, Anno Domini One Thousand Eight Hundred and Fifty-Two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of Francisco Maria Alvarado for the Place named "Los Penasquitos," was presented, and ordered to be filed and docketed with No. 452 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco, Nov. 10. 1852
In the same case, the Deposition of S. Argüello, a witness in behalf of the Claimant, taken before Commissioner, Hiland Hall, with Documents marked ~~H. H.~~ H. H. Nos. 142, and Translations thereof, marked C & G, annexed thereto, was filed, and is in the words and figures as follows, to wit—
(Vide page 3 of this Transcript.)

San Francisco Oct. 5, 1853.
Case N. 452 was submitted on briefs and taken under advisement by the Board

2

San Francisco, July 21, 1854.

In the same case, Commissioner
Thompson Campbell, delivered the Opinion
of the Board, rejecting the claim.
(Vide page 31 of this Transcript.)

142 SD
PAGE 3

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 35 of this Transcript.)

3
Petition of F^{co}
M Alvarado

142 SD
PAGE 4

To the Board of Commissioners for ascertaining
and settling private land claims in the State
of California

Your petitioner Francisco Maria Alvarado of the County of San Diego in the State of California respectfully represents to your Honorable Board that he claims a certain tract of land called the Pinasquitos containing two square leagues more or less situated in the County of San Diego in the State of California, that he claims the same in fee by virtue of a grant made to Francisco Maria Ruiz by Luis Antonio Arguello Governor of the province of Alta California bearing date Monterey June 15th 1823 together with another additional tract granted and approved by the Departmental Assembly on the 12th of May 1840

Your petitioner further represents that the same granted on the 15th day of March 1837 transferred his right to said land to this present claimant

Your petitioner further represents that judicial possession of said tract of land was given to the said party on the 15th day of July 1823 and the boundaries thereof were designated and defined and that he and those claiming under him have been in the peaceable possession thereof ever since and that petitioner has no knowledge of any interfering claim

Your petitioner presents herewith the original grant of said land with the approval of Departmental Assembly for the additional tract together with the assignment made to him by said Ruiz in the Spanish Language together with a translation of the same, and will make further proof of title if required by the Board

Your petitioner prays your Honorable Board to take into consideration his claim to said tract of land and decree his title to be valid and

H

confirm the same. And your petition will we
pray

Robert
Atty for Petitioner

142 SD

PAGE 5

Filed in Office Nov. 4th 1852

Geo. Joshua Day

Deposition of
S. Arguello

Los Angeles Nov. 10th 1852

On this day before Comr Melan Hall came Santiago Arguello a witness produced in behalf of the claimant ante Rancho Maria Alvarado petition No. 452 and was duly sworn his witness being given in the Spanish Language and interpreted by the Secretary The U.S. Associate Law Agent was present

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

My name is Santiago Arguello my age is sixty years and I reside at San Diego

A paper is now shown me purporting to be title papers to Francisco Ma Ruiz, the first date upon it being 27th of April 1823. I am acquainted with the signatures of Francisco M Ruiz, Luis Antonio Arguello, Francisco de Haro, Jose Antonio Garcera, Pablo de Portilla, Jose Antonio Estrella & Francisco Pantoja. The signatures of the several persons whom they are found on said paper I believe to be genuine, said paper is here annexed & marked A.A. No. 1

I know the Rancho called Penasquitos. It is in the County of San Diego. It contains two square Leagues more or less. It is bounded on the North by a Canada called Chequeritos - to the South by the Rancho called Sutto Agues - to the East by the Canada de las Pilas and to the West by the Canada de Cordero

Francisco M Ruiz built a house on the land in 1824 and lived in it, and continued to occupy the same until his death. He had a very good cultivation some of the land and had cattle and other stock there - I cannot state the time of his death, but since his death it has been occupied by Francisco M Alvarado up to this time -

A paper is now shown me purporting to be a

142 SD

PAGE 6

6

transfer from Juan Ruiz to Juan Alvarado dated
March 15th 1837. I am acquainted with the signa-
tures of Jose A Estudillo, Francisco Maria Ruiz,
Jose M Covarrubias & Jose Maria Mery. These
then signatures on Juan paper I believe to be genuine.
Juan Paper is here annexed & marked A & B. No. 2
S. Arquello

142 SD
PAGE 7

Sworn & subscribed
Before me Iceland Hall

Filed in Office Nov. 10th 1852.
Geo. Fisher
Secy

7
Jurisdicción
de San Diego.

Año de
1834.

142 SD
PAGE 8

Expediente

sobre el paraje nombrado Santa
María de Los Peñasquitos solicitando
su ampliación el Capitán retirado D.
Francisco María Ruiz.

98.

8

Sello Tercero

Los Reales

Para los años de
y seis y ochocientos

Place of
a Stamp
in the original

mil ochocientos veinte
veinte y siete.

Revalidado p^{ra} la Receptoría del
Puerto de S. Diego p^a el año del 1833.
Figueroa. J. E. Arguello.

142 SD

PAGE 9

1828 -
Place of
a Stamp
in the
Original

Place of
a stamp in the
original for
the years 1828
& 1829.

Jr. Gral de Brigada Juez
Sup^o Político de la Alta Califa

S. Diego
Agosto 13 de
1833.

Informe el
Comandante
Militar de
este punto
Figueroa,

El Ciudadano Franco Maria
Ruiz Cap^o retirado de la Compa^ña
de Caballeria permanente del
Presidio de San Diego, del Territorio
del mando de V. S. y radicado
en el Sitio llamado Santa Maria
de las Peñasquitas con el debido
respeto que debe; hace presente
que dicho Sitio no ocupa en su
estension mas que una legua p^o
cada viento: y no siendo de
utilidad la legua que pertenece
al Sur, ni la parte que mira
a la caña de San Dieguito
por el Norte, por carecer de
pasto para la conservacion de
sus bienes; y ser en lo sumo
unos bosques de chamiso en tal
forma que no puede pastear el
ganado; y por tanto

A. V. S. suplica se sirva comederla

en su sitio de Sta Maria la estension
hasta el paraje llamado el Guerro que
remata desembocando en la Cañada de
la Soledad, por ser la misma Cañada
que forma el arroyo de mi sitio, y que
se estendera a lo mas una legua por la
parte del poniente la estension que pido
hasta el Guerro, que es paraje baldio:
gracia que se espera recibir de V.

142 SD
PAGE 10

San Diego 11 de Agosto de 1833
Francisco Ruiz

Lo que expone el interesado acerca del
sitio q. posee y de la escasez de pastos
por los rumbos q. cita, es veridico, y
siendo la misma Cañada q. forma su sitio
la q. solicita, y estar baldio me
parece no resulta un conveniente en q. se
le amplie lta. el paraje del Guerro, o
como V. tenga a bien el decretar.

San Diego A bre 15 de 1833.

Santiago Arguello

Monterrey Diciembre 7 de 1833.

Informe al R.P. Ministro de
la Misión de San Luis Rey y cuando lo
haya efectuado pasara el expediente
con igual objeto al R.P. Ministro de la
Misión de San Diego quien lo devolvera
para la resolucion que correspondiere. El Sr.
D. Jose Figueroa General de Brigada y
Jefe Superior Politico del Territorio
asi lo mandó decretar y firmó de que
 doy fe.

Figueroa.

Agustin V. Zamorano

Sello Tercero

Dos Reales

Para los años de
veinte y seis y ochos -

Place
for a seal
in the
original

mil ochocientos
cientos veinte y siete.

Figueroa.

J. E. Arguello

142 SD
PAGE 11

Place
for a Stamp
in the original
for the years
1828 + 1829

Place for
a Stamp in
the original
for the years
1830 + 1831

Mision de Sr. Luis Rey Enero 2
de 1833.

El paraje ocupado llamado el
Cuervo no pertenece a ninguna de las Misiones
de Sr. Diego, ni Sr. Luis, y si solo al
Presidio, y hasta de ahora, nadie la ha
pretendida. Por tanto puede V. S.
decretarse si gusta a favor del Pretendiente
tan benemerito por sus servicios hechos a
la Nacion.

Sr. Vicente Pasqual Oliva

Mision de Sr. Diego 4 de Enero de 1834

El paraje o' canchada, llamado el
Cuervo, no pertenece a esta Mision de
Sr. Diego, y segun he oido, pertenece
al Presidio de Sr. Diego, y hasta ahora
nadie la ha pretendida, Por tanto
puede V. S. decretar si gusta a favor del
pretendiente Capitan D. Francisco Maria
Ruiz, tan benemerito por sus servicios
echos a la Nacion.

Sr. Fernando Martin

Monteney Mayo 3 de 1844.

Visto la peticion con que da principio este expediente el informe del comandante Militar del Puerto de San Diego y el de los Padres Ministros de las Misiones de San Luis Rey y San Diego con todo lo demas que se tubo presente y ver combinado de conformidad con:

142 SD
PAGE 12

Seles cuarto de oficio

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monteney para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa.

Rafael Gonzales.

Lo dispuesto por las Leyes y Reglamentos de la materia se declara al Capitan retirado Don Francisco Maria Ruiz dueño en propiedad del Terrero que se le amplia y está comprendido desde el Rancho de Santa Maria de los Peñasquito que hay por encima la barranca del cerro inclusive y sujeto a las condiciones que se le estipularon: librese el despacho correspondiente, tomese razon en el libro respectivo y dirijese este expediente a la Excm.^a Diputacion Territorial, en cuyo caso el interesado a quien se le hará saber este decreto presentará nuevamente su titulo para que se recabide. El Sr. D. Jose Figueroa Comandante General Inspector y Jefe Superior Politico de la Alta California así lo mandó decreto y firmó de que doy fe.

Jose Figueroa.

Agustin V. Zamorano.

Seis

Monteney 12 de Mayo de 1840

Dada cuenta a la E. Junta Departamental acordó en sesion de hoy que pase a la Comision de agricultura.

Jose L. Fernandez Jefe.

En 19 del mismo lo devolvió la Comisión con el dictamen que acompaña.
Fernandez.

Monterrey 11 de Junio de 1840.

En vista de la aprobación en diez y nueve del p.º p.º por la E. Junta Departamental libré testimonio de ello a la parte de D. Francisco María Ruiz en confirmación del terreno titulado Santa María de los Pinasquitos que obtuvo en Mayo de 1834. El Sr. D. Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias así lo proveyó y firmó de p.º doi fe.
Alvarado.

Excm.º Sr.

La Comisión de Agricultura encargada de dictaminar sobre la concepción hecha en la persona del Capitán retirado D. Fran.º Ma. Ruiz, Vista todo lo actuado informes y demás q.º ver se ha podido poner a la deliberación de V.º E. los artículos siguientes:

Art. 1.º Se aprueba la ampliación concedida a la persona del Sr. Cap.º retirado D. Fran.º Ma. Ruiz por el Sr. Jefe Político y Comandante Gral. D. José Figueroa en 5 Mayo de 1834.

2.º El Gobierno Departamental tendrá a bien mandar expedir copia de esta Superior aprobación, haciendo se le dirija al interesado p.º su satisfacción y conocimiento.

Monterrey, Mayo 16 de 1840.

José Rafael González

Monterrey 19 de Mayo de 1840.

En sesion de este dia aprobó la Escma. Junta Departamental el dictamen anterior, reformado su 2º. arto. en la forma siguiente: Art. 3º. Que el presente expediente buelva al E. Gov. Gobernador para lo finq. que corresponde.

Man. Jirano
Pres.º

José J. Fernandez
Sec.º

142 SD
PAGE 14

Office of Surveyor General of the United States
for California.

I, John C. Hays, Surveyor General of the United States for the State of California and as such, having in my Office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California by virtue of the power vested in me by Law, do hereby certify, that the nine preceding, and herunto annexed pages of tracing paper, numbered from one to nine inclusive, exhibit a true and accurate copy of a certain document now on file and forming part of the said Archives in this Office.

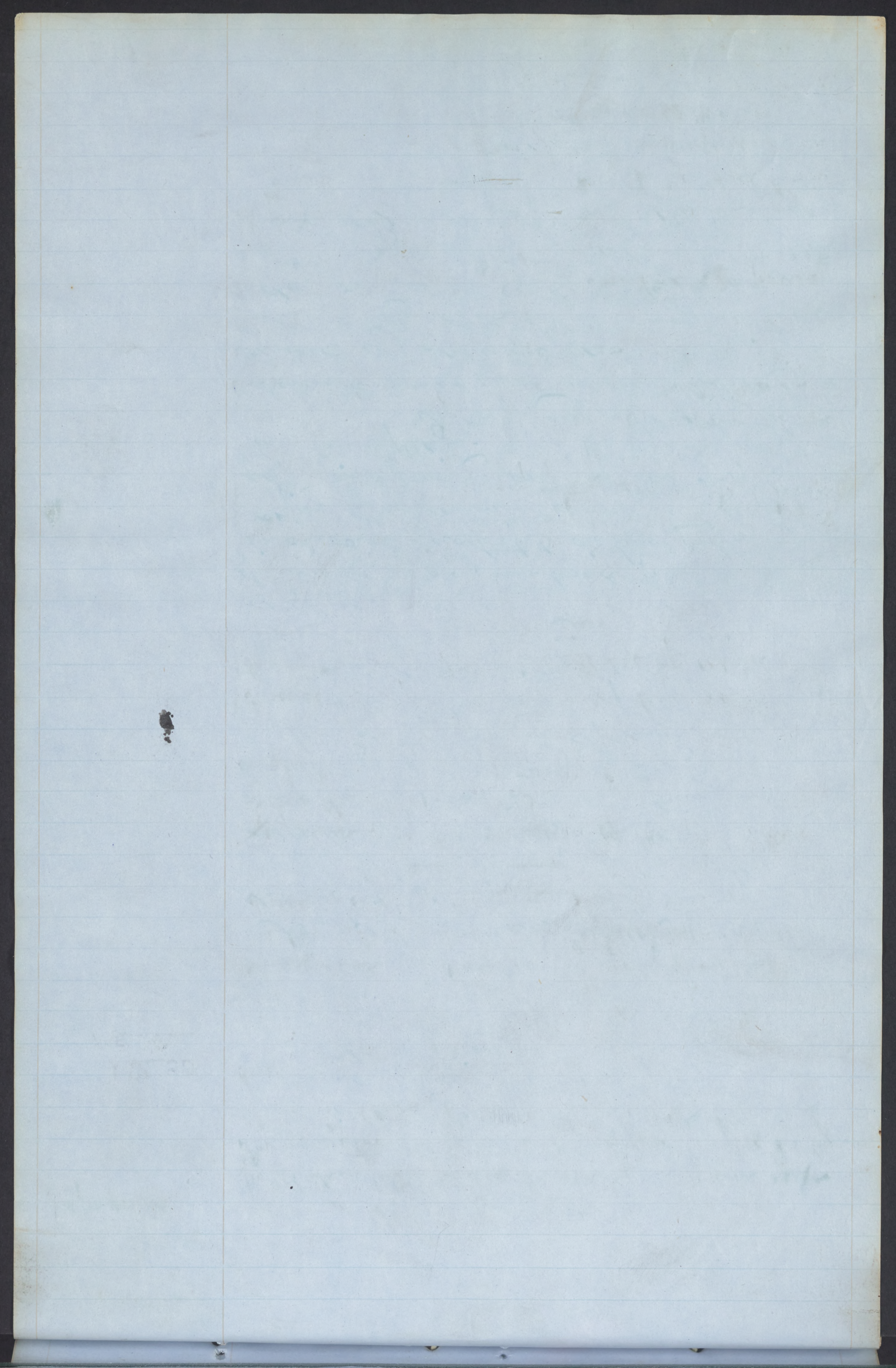
In testimony whereof, I have herunto signed my name officially and caused my seal of Office to be affixed at the City of San Francisco, the third day of October A. D. 1853.

J. C. H.

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

Filed in Office Feb. 13. 1854.

Geo. Fisher
Secy.



4
Translation of
Expediente

Jurisdiction of San Diego. Year of 1834

Expediente (proceedings)

In relation to the place known by the name of Los
Penasquitos, the Extatem whereof is prayed for by
the Ex Captain Geo. M. Ruiz withdrawn from
service

142 SD
PAGE 15

28

Third Seal For the years Twenty Six	Place of a Seal in the Original	Twenty five cents Eighteen hundred and Twenty Seven
---	---------------------------------------	---

Legalized by the Treasury of the Port San
Diego for the year 1833
Figueroa J. E. Arguello

Place of a Stamp On the Original	To the Brigada General Superior Political Judge of Upper California -
-------------------------------------	---

Place of a Stamp On the Original	The Citizen Francisco Maria Ruiz retired Captain of company of Cavalry stationed at the presidio of San Diego, of the Territory under your command and residing on the place called Santa Maria de los Penasquitos with the respect due to you, represents that said land is not over one league in extent towards each point of the compass, and neither the league towards the south nor three towards the gulch of San Diego on the North West being of no use on ac- count of the want of pasture for the preservation of his property being
-------------------------------------	---

San Diego
Aug 13th 1833
The Military
Commandant of
this port will
report on the
in petition
Figueroa

mostly covered with bushes so as not to answer the purposes of raising Cattle - Therefore he prays that you will grant him the extension of his Land of Sta. Maria, to the place called Cuarbo (Crow) which bounded a Opening in the gulch of the Soledad, being the same Gulch which forms the creek of my Land extending itself one league to the utmost towards the West -

142 SD
PAGE 16

The extension which I pray for up to the Cuarbo (Crow) is vacant Land

San Diego August 11th 1833

Geo. Ma. Ruiz

The avancements of the party in relation to the land he owns and the want of pasturage in the parts he speaks of is true and the same Gulch which he prays for being one lita (one square league) and being vacant it appears to me there is no inconvenience in the extension up to the Cuarbo or as you may deem fit.

San Diego Dec. 19. 1833

Santiago Arguello

Monterey December 7th 1833

The Reverend Father Minister of the Mission of San Luis Rey will report on the above and when he will have done so, the Expediente shall be sent for the same purpose to the Reverend Father Minister of the Mission of San Diego who will return it for final action - The Brigadier General and Superior Político Chief of the Territory thus has ordered decreed and signed in witness whereof

Agustin

(Seal as above) Agustin V. Lamorano
Mission of San Diego 3rd of January 1833

The place or Gulch known as the Cuarbo does not belong to this Mission of San Diego and

according to what I have heard, it belongs to
the Presidio of San Diego and up to this date
no one has claimed it, therefore, you may if
choose decree it in favor of the petitioner, Cap-
tain Don Francisco Ruiz so meritorious on acco-
unt of the services he has rendered to the nation
J. Fernando Martin

142 SD
PAGE 17

Monterey May 5th 1834

Considering the petition which
gave rise to this expediente and the report of the
Military Commandant of the Port of San Diego
and those of the Fathers Ministers of the Mission
of San Luis Rey and San Diego and that which
is Conformity with the laws and regulations on
the matter, the Captain Don Francisco Maria
Ruiz withdrawn from service is declared the Owner
in fee of the same extended to him, comprised
from the Rancho of Santa Maria de los Torosque-
tos, which he now owns to the Gulch of Cumbo
inclusive and subject to the conditions which
may be stipulated. Let the Corresponding
patent be made out let entry be made in the proper
Book and let the Expediente be sent to the Ter-
ritorial Deputation in which case the interested
party shall be made acquainted with this
decree and shall again present his title to be
revaluated.

Thus Don Jose Figueroa, the Comm-
andant General, Inspector General & Superior
Chief of papers California has ordered decrees
and signed In faith whereof

Jose Figueroa

Agustín V. Lamorano

Monterey May the 12th 1840. The above having
been placed before the Territorial Deputation
it was ordered in the sitting of this day that it
be sent to the Agricultural Commission Don V. Fernandez
Secretary

17
On the 19th of the same month the Commission
returned the above with the following decree
by
Fernandez

Monterey June 11th 1840

142 SD
PAGE 18
Considering the approval of the Territorial
Deputation of the 19th ultimo. let attestation
thereof be given to the Party Don Francisco Maria
Reis, in confirmation of the Land known as
San Maria de los Pinosquitos, obtained by him
on the 5th of May 1834 - Thus I Juan B. Alvarado
Constitutional Governor of the Department
of California has approved and signed it
In Witness whereof

Alvarado

Most Excellent Sir

The Agricultural Commission
charged with decreeing as to the concessions
made unto Captain Francisco Maria Reis
withdrawn from service, considering the proce-
dings, the reports and other acts which could
be done in the matter, submit to you deliberation
the following articles -

Art. 1st The extension granted to Captain Fran-
cisco Maria Reis withdrawn from service
is hereby approved by the Political Chief
Commandant and General Don Jose Figueroa
the 5th of May 1834

Art. 2^o The Departmental Government will please
order the issuing of a copy of this Superior app-
roval, seeing that it be directed to the interes-
ted party for his knowledge & satisfaction

Monterey May 16th 1840

Jose Rafael Gonzalez

Monterey May 19th 1840

In the Session of this day the Territorial

Deputation approves the above decrees altering
 the second article as follows Art 2^o That the
 present expediente be returned to his Excellency
 the Governor for further corresponding proceedings

Manuel Jimeno

José G. Fernandez

142 SD
 PAGE 19

Filed in Office Feb. 13. 1852

Geo. Fisher Secy

BYCE
20

19

Doc. B.

Por Jefe Superior Político y Militar de
la N^{va} California, Cap^{tan} Dⁿ Luis
Ant^o. Arguillo.

Dⁿ Fran^{co} M^a Ruiz Cap^{tan} Coman-
dante de la Comp^a de Caballería del
Presidio de Sⁿ Diego a la superioridad
de V. hago presente que como consta en el
Archivo de Gobierno de esta Provincia del
cargo de V. me hallo en la avanzada edad
de sesenta y ocho años cumplidos, con cuarenta
y dos de servicio, y con continuos achaques
los que me obligaron a solicitar el retiro
el año pasado, el qual me pidió su
antecesor a J. M. Y. de cuya piedad espero
recibir la gracia pronto; y de la de V.
como Jefe Superior Político y Militar de la
Provincia me conceda el sitio llamado
los Peñasquitos distante al Norte del
este Presidio, y de la Misión inmediata
de cinco a seis leguas en propiedad o
interinamto para ayuda de mi subsistencia;
por tanto.

A. V. suplico que si me considera
acrededor se sirva decretar en favor
de mi solicitud, lo que tenga a bien.

S. Diego 27 de Abril de 1823
Fran^{co} M^a Ruiz

Monte Junio 15 de 1823.

Por presentado y admitido el escrito
que antecede; y en virtud de lo que esta
parte pide; fangase en posesion del
sitio nombrado los Peñasquitos al Capitan
D. Francisco Maria Ruiz; para lo qual
nombro y autorizo al de igual clase
de la Comp^a auxiliar de Mazatlan
D. Pablo de la Portilla para que personal

mente pase al mencionado sitio, y ponga en posesion de el, al referido Capitan D. Francisco Maria Ruiz; asi lo proveo mande y firme, yo D. Luis Antonio Arguello, Jefe Superior Politico y Militar de esta Provincia de la Alta California con los testigos de assa con quienes actuo por receptoria a falta de todo Escribano, Day fe.

Luis Antonio Arguello.

De assa
Francisco de
Harro.

De assa
Jose Antonio
Gaxiola

142 SD
PAGE 21

En el citio nombrado los Peñas yntos Jurisdiccion del Paeñario de Sr. Diego en quinta dia del mes de Julio de mil ochocientos veinte y tres años; yo D. Pablo de la Portilla, Capitan de la Comp^a auxiliar de Mazatlan en esta Provincia de la Alta California Juez Comisionado por el Capitan D. Luis Ant^o de Arguello Jefe Superior Politico y Militar de dho Provincia: habiendo visto el antecedente Decreto, presentado por D. Fran^{co} Maria Ruiz Capitan de la Comp^a de Caballeria Previdial de Sr. Diego y en el lo mandado por el expresado Señor Jefe Superior Capitan D. Luis Antonio Arguello.

Dixere guarde y cumpla lo resuelto por S. E. y en su puntual y debido cumplimiento devia de mandar y mando se ponga en posesion y goce del subdicho sitio al expresado Capitan D. Fran^{co} Maria Ruiz hari por este auto de obediencia lo prebeni mande y firme con los testigos de asistencia con quienes actuo, por receptoria a falta

de todos Escribanos, Doy fe.

Pablo de la Penilla

De apo.^a

Jose Antonio Estudillo

De asse.

Franco Pantofia

142 SD
PAGE 22

En dho. sitio dia mes y año: yo el Comisionado acompañado de los testigos de asistencia, y de algunos otros individuos, pasamos al sitio nombrado los Penasquitos; al efecto de darle la posesion que manda el Ex. Jefe Superior Capitan D. Luiz Antonio Aguayo en su decreto de 15 de Junio de mil ochocientos veinte y tres; y estando en dicho sitio lo tome de las manos, y lo parei por ello hize y tomara posesion real y personal la que tomo quieta y pacificamente y en señal de verdadera Posesion, tiro piedras por los cuatro vientos, aranco yerbas, e hizo otros actos de verdadera posesion: Yo el coapresado fue comisionado mande a nombre de S. M. Y. (G. D. G.) que ninguna persona inquiete en manera alguna en la citada posesion de este Sitio de los Penasquitos, que el subdicho D. Franco Maria Ruiz tiene tomada, y de ella no sea despojado sin ser primero oido por fuerza de derecho bencido baxo la pena de doscientos pesos en que desde luego condemo, al que asi lo hiziere aplicado a camara y gastos de Justicia de cuyo auto fueron testigos algunos de los Individuos del Presidio de S. Diego y los de mi asistencia actuando por receptoria en la forma ordinaria doy fe.

Pablo de la Penilla

De asse.

Jose Antonio Estudillo

De asse.

Franco Pantofia

Filed in Office, Nov. 7th 1852. Geo. Fisher Sec.

20

Translation
of B

142 SD

PAGE 23

To the Political and Military Chief of New California Captain Louis Antonio Arguello
Don Francisco Maria Ruiz Captain Commanding
the company of Cavalry of the Presidio of San Diego represents to your Honor that as it appears by the Archives of the government of this province under your charge, I am of the advanced age of sixty eight years with forty two of service and suffering with continual disease which compels me to ask my withdrawal from service last year, which your predecessor asked in my behalf from his Majesty and from whose benevolence I expect soon to receive the favor and as political Chief - I ask for my maintenance the full or provisional grant of the tract called the Pinesquitos distant from here to six leagues from this Presidio and the Mission therefore I pray if I am considered worthy thereof that your Honor may decree my demand
San Diego 27 of April 1823

Francisco Ruiz

Monterey 15th of June 1823

Presented and admitted the above prayer and in consequence thereof let the Captain Francisco Maria Ruiz be placed in possession of the tract known as the Pinesquitos for which purpose I appoint and authorize Don Pablo de la Portilla of equal rank of the Company of Volunteers of Mazatlan in order that he may go on the aforementioned tract and place the aforesaid Captain Ruiz in possession thereof
Thus ordered and signed -

Executed and signed by me Don Luis Antonio Arguello Superior Political and Military Chief of this province of Upper California with the assisting witnesses for want of a Public Notary. Certified to
Luis Antonio Arguello

Witness. Francisco Navarro José Antonio Estudillo

On the above described tract known as the
 Panasquitos, jurisdiction of the Presidio of San
 Diego on the 15th day of June 1823 I Don Pablo de
 la Portilla Captain of the Company of Volunteers
 of Mazatlan in this province of Alta California
 Commissionsed by the Captain Don Luis Antonio
 Arguello, Political and Military Chief of this
 province, having seen the above decree presented
 by Francisco Maria Ruiz Capt. of the Company
 of Cavalry Presidio of San Diego and as ordered
 by said Political and Military Chief Don Luis
 Antonio Arguello I decreed that the Orders of the
 said Military Political Chief be complied with
 and as for its full and due execution I should
 order that the said Capt Ruiz should be put
 in full possession and enjoyment thereof in
 compliance with the decree I now decree and
 sign the same with the assisting witnesses with
 whom I executed the above for want of Notary public

Witnesses

José Antonio Estudillo

Francisco Fontoye

Witnesses to

Pablo de la Portilla

24

142 SD
PAGE 25

On the same property the same day and year
I the Commissioner of Offices accompanied by the
assisting Witnesses and of several other persons
went on the property known as the Panasquetos
for the purpose of giving possession as ordered
by the said Political and Military Chief Don Anto-
nio Arqueles on the 15th of June 1823 and being
on said property I took Juan Ruiz by the name
and led him over it and made him take real
and personal possession of said trees which he
did take quietly and peaceably I did cast
stones to the four corners and made other acts of
real possession. I the above Commissioner of Offices
ordered in the name of his Majesty whom God
may protect, that no one shall disturb in any
manner the above mentioned Ruiz in the possession
of the said trees called Panasquetos which
the aforesaid Francisco Marco Ruiz has taken
and of which he shall not be dispossessed
without being first heard and through legal
rights under the penalty of two hundred dollars
to payment of which I now condemn whosoever
shall disturb said Ruiz in possession which sum
shall be applied to the return and costs of court
of which act are Witnesses sworn persons of the
Presidencia of San Diego and those hereto assisting
performed in the ordinary way full and of
Notary Public

Subscribed to

Juan de los Rios

Filed in Office Nov. 4th 1852.

Geo Fisher

Secy

Translation of *SSN* annexed to the Dep. of
L. Arguello. Before Com. H. Hall Nov. 10th 1852

142 SD
PAGE 26

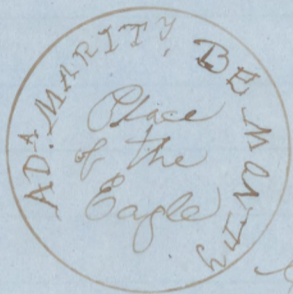
Doc. D.

Sello Fisco Dos Reales

Habilitado provisionalmente por la Aduana de San Martín del Puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Alvarado.

Antonio Maria Oro

142 SD
PAGE 27

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

La Exma. Junta Departamental en Sesión del día 19 del presente mes, aprobó la Concesión que este gobierno hizo en 5 de Mayo de 1834, la ampliación del terreno conocido con el nombre de Peñasquitos a D. Francisco de Paula Ruiz, en los términos siguientes:

Art. 1º. Se aprueba la ampliación concedida a la persona del Sr. Capitán retirado Don Francisco de Paula Ruiz por el Cefe Político y Comandante Genl. Don José Figueroa en 5 de Mayo de 1834.

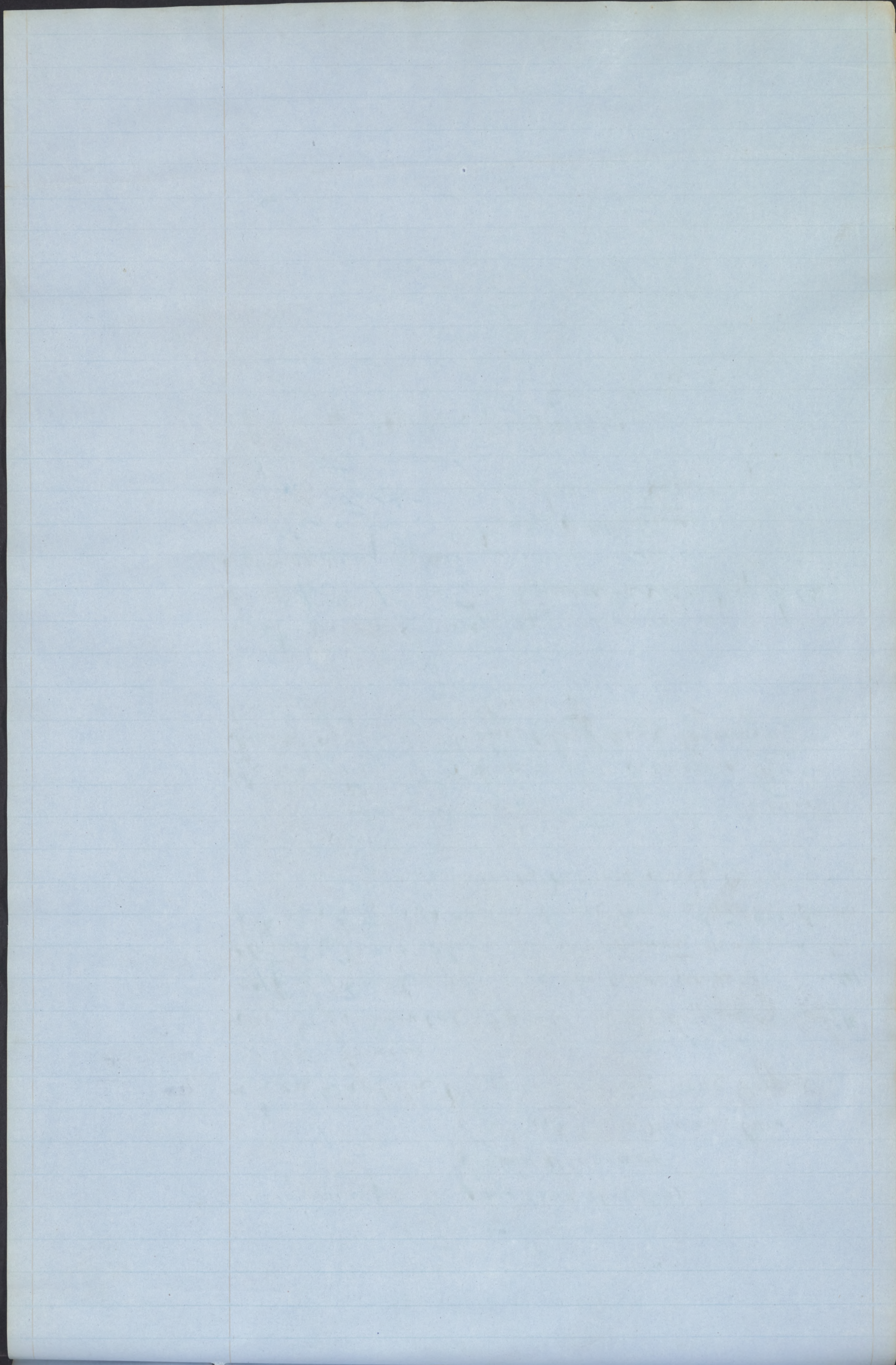
Y para resguardo del interesado se extiende el presente en Monterrey a treinta de Mayo de mil ochocientos cuarenta

Juan B. Alvarado

Man. Jimeno

Fisco del Despacho.

Filed in Office Nov. 4th 1852.Geo. Fisher
Secy.



29

Translation

E

Third Seal Two Reals

Legalized provisionally by the Maritime Custom House of the Port of Monterey Department of California for the years 1840 and 1841

Signed Alvarado

Signed Antonio Maria Osio

Juan Bautista Alvarado Constitutional Governor of California

The Departmental Assembly in the Session of the 19th of this month approved the concession of the additional land which this Government made on the 5th of May 1834 of the land known as the Ponce quitos to Don Francisco Maria Ruiz on the following conditions

The grant of the additional land made to the Captain out of Service Don Francisco Maria Ruiz by the Political Chief and Commander General Don Jose Maria Figueroa on the 5th of May 1834 is approved.

And for the security of the interested party the present document is signed in Monterey on the 30th of May 1840

Juan B Alvarado

Intens Secretary

Filed in Office Nov. 4th 1852

Geo. Fisher Secy

142 SD
PAGE 28

1875
1876
1877

Doc F.

En el Puerto de San Diego de la Alta California a los quince dias del mes de Marzo de mil ochocientos treinta y siete, ante mi José Antonio Estrudillo Alcalde Constitucional del expresado Puerto, compareció el capitán retirado Don Francisco Ruiz y haciendo presente la edad avanzada en que se encuentra y la imposibilidad en que se halla de poder fomentar y cultivar el terreno conocido con el nombre de los Peñasquitos que le fue concedido por el Señor Jefe Superior Político y Militar Don Luis Antonio Arguello, en quince de Junio de mil ochocientos veinte y tres, y que queriendo beneficiar con el predicho terreno al Ciudadano Francisco Maria Albarado vecino de este punto, en recompensa de la asistencia y cuidado que ha prodigado a su persona en sus achaques y enfermedades hace cesion espontanea y explicita del expresado terreno nombrado los Peñasquitos a favor del mencionado Ciudadano Francisco Maria Albarado para que como propiedad suya lo ocupe y fomente a su beneficio destinandolo al uso y cultivo que mas le acomode, para lo cual endona al ya repetido Francisco Maria Ruiz el documento que con decreto del ya indicado Jefe Don Luis Antonio Arguello de fecha quince de Junio de mil ochocientos veinte tres acredita la propiedad que obtuvo de mencionado terreno, renunciando ahora y en qualquiera tiempo al derecho que en él tenia, como igualmente renuncia a la devolucion de los gastos que en él haya invertido. Y para que conste y surta todos los efectos necesarios lo firmo conmigo y los de mi asistencia por falta

142 SD

PAGE 29

29

de escritano publico en el referido Puerto, dia
dia mes y año, en papel comun por
no haber del sellado que corresponde

José A. Estudios

Ant: Maria Ruiz

De asista

De asista

José M^a Corarrubias

José Maria

Mier y Suran

142 SD
PAGE 30

Filed in Office Nov. 4. 1852.

Geo: Fisher
Secy.

In the port of San Diego Upper California on the 15th day of March 1837 before me Jose Juliano Estedillo Constable and Alcalde of the aforesaid port has appeared the Officer out of Service Don Fr^{co} Ruiz who alleging his advanced age and his impotency to improve and cultivate the land known as Donasquetos granted him by the Superior Political and Military Chief Don Luis Antonio Arguello on the 13th of June 1823 and wishing to grant to Francisco Maria Alvarado a resident of this place the above mentioned land in reward of the assistance and care which he extended to the aforesaid Ruiz during his crone disease and sickness, voluntarily and explicitly cedes the above mentioned land to the aforesaid Citizen Alvarado to be occupied and improved by him, used cultivated and improved for his benefit as to him shall appear best for which the aforesaid Ruiz grants the document made by the aforesaid Arguello dated the 15th of June 1823 which shows the Ownership which he obtained of the aforesaid property, renouncing now and forever his right to said property together with the costs of improvements made therein

In testimony and for the effect thereof and there being no Notary in said Ruiz with the assisting Witnesses have signed the present document with me, at the above mentioned port on the day month and year aforesaid on this Ordinary paper for want of stamped paper

Witnesses.

Jose Antonio Estedillo

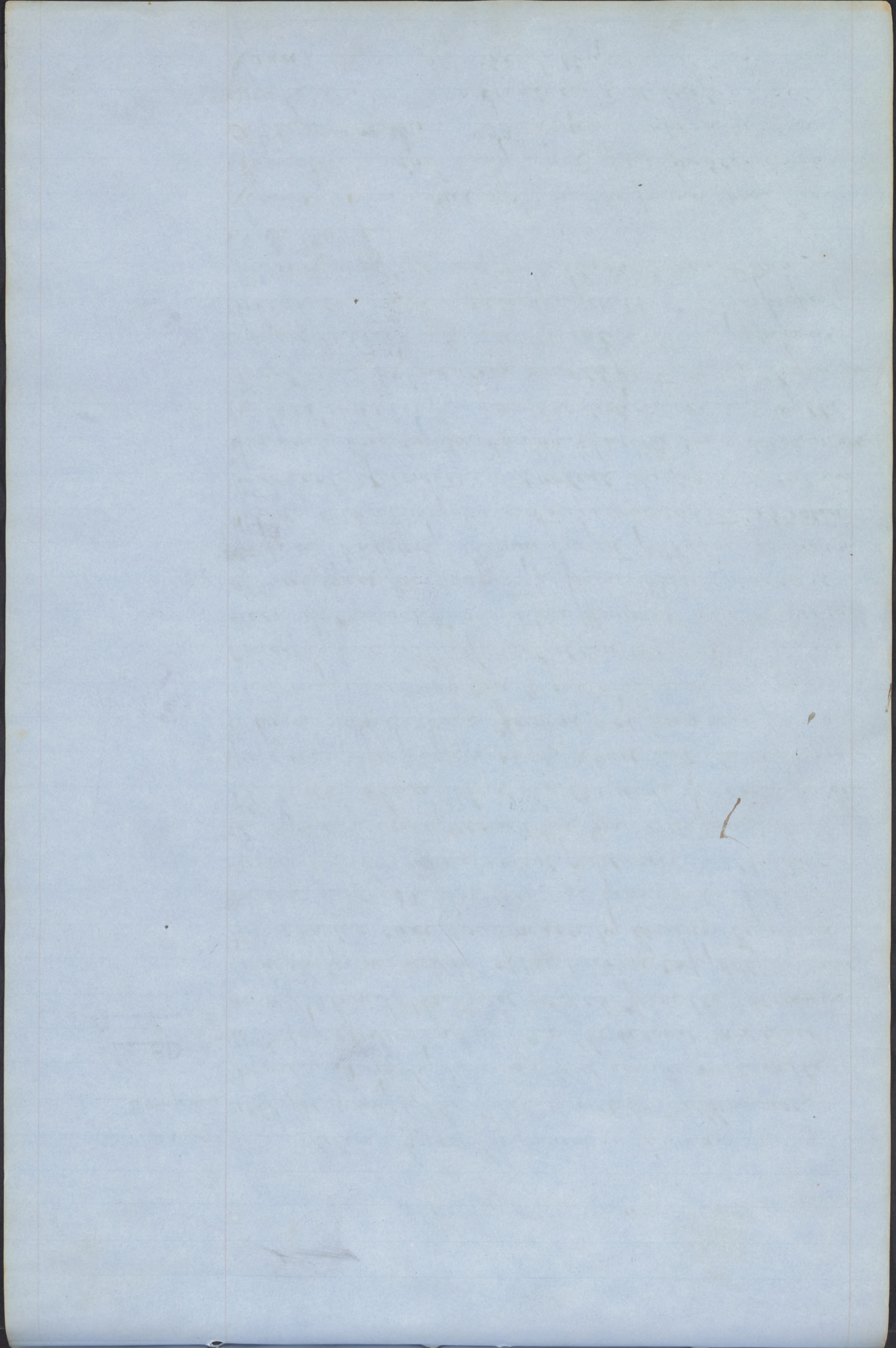
Jose Maria Corambes

Francisco Maria Ruiz

Jose Maria Maria y Jerome

Translation of A A No 2 annexed to the Dep. of S. Arguello. Before Com. A. S. Nov. 10th 1852

Filed in office Nov. 4th 1852 Geo. Fisher Secy



31

Francisco Maria Alvarado

vs
The United States

2 Peninsulas
32 Square Leagues

Opinion of Board
by Hon. Campbell

142 SD
PAGE 32

The petitioner bases her claim in this case on two alleged grants, the first made to One Francisco Maria Ruiz by Governor Antonio Arguello on the 15th day of June A.D. 1833 the second made as an addition to the first which from the concession which forms a part of the traced copy the Expediente filed in the case, was made by Governor Figueroa in the year 1834. The original grant or concession made by Figueroa is not produced, neither has its absence been accounted for in any way. The record shows that the original grantee received judicial possession of the land, but this appears to have been a mere formal act performed by leading the party over a portion of the premises and causing him to perform certain acts of ownership such as casting stones to the four corners in witness of real and personal possession. But it does not appear that any measurement of the land was ever made, or that any boundaries were ever established by which its limits and extent might be ascertained. The party has further shown that the concession made in 1834, was in the year 1840 duly confirmed by the Territorial Deputation and that Governor Alvarado issued to the party a certificate of said approval which certificate is on file in the cause properly proved and bearing date the 30th day of May A.D. 1840.

Leaving entirely out of view the power of the Governor Arguello to make any grant of the public lands, on the 15th of June 1833 the grant which he did make contains no sufficient description of the lands granted by which they could be separated from the other lands of a like character.

The only description of the Lanes to be found in the decree of Governor Arquele is in the following words "Let the Captain D Francisco Maria Ruiz be placed in possession of the tract known as the Tenosquitos." The officer who executed this order as has been before stated, merely placed the party in possession of the same place, without fixing any boundaries whatever - This judicial possession therefore in no way aided the description given in the grant. Neither is the description given in the grant made any more definite or identical in the petition of Ruiz to Arquele in which he solicits a provisional grant of the place called Tenosquitos with the exception that he locates it about five or six leagues from the Presidencia and Mission of San Diego.

In the purpose of establishing the boundaries of the place called "Tenosquitos" the claimant has filed the deposition of Santiago Arquele who testifies that he is acquainted with the Rancho called Tenosquitos, that said Rancho is situated in the County of San Diego, that it contains two square leagues more or less - that it is bounded on the north by a Canada called Chequitos - on the south by a Rancho called Salto del Agua on the east by the Canada de los Pelos, and on the west by the Canada de Lardos.

The question now presented is, whether the description as given by the witness Arquele is of itself sufficient to segregate the Lanes granted from the public domain. The rule adopted by the present Board of Commissioners and which has been adhered to, in their adjudications upon all questions similar to the one now under consideration is announced by the Chief Justice in the case of the United States vs King et al and is in the

following words "The instruments themselves contain no lines or boundaries whereby any definite and specific parcel of land was severed from the public domain, and it has been settled by repeated decisions in this Court, and in cases too where the instrument contained clear words of grant, that if the description was vague and indefinite as in the case before us, and there was no official survey to give it a certain location, it could create no right of private property in any particular in a Court of Justice. In the case under consideration the instruments themselves contain no lines or boundaries whereby any definite and specific parcel of land was severed from the public domain. The facts therefore in this case are almost in this respect identical, with those stated in the case of King and Others, and the rules laid down in that case must govern in this. In this case there was no official or any other kind of survey and no location of the land was ever made by any competent authority. The witness who defines the boundaries, does not pretend to be giving boundaries which had been fixed and established either in the grant, or by the act of previous possession or boundaries known at the time the grant was made but proceeds to define and locate the land without regard to the grant, the previous possession or any other act performed by a competent authority. Boundaries thus established can be considered in no other light than a private survey made by the party himself without its certainty as to quantity. The witness from Oregon that appears now measured the land which he attempts to bound with so much exactness, yet he swears that it contains two square leagues. I am clearly of opinion that the claim in question falls fully within the rules laid down in the case of King

and this part of the claim must for the same reason be rejected.

In regard to the concession claimed under a supposed grant made by Crown Jaqueo, if the case in any other respect has been complied with the same brevity of description and total want of location which characterizes the grant made by Arguello would compel the Commission to reject the concession.

142 SD
PAGE 35

The party as above stated has failed to produce the original grant under which he claims, neither has he had any foundation for the introduction of secondary evidence of any kind. This Commission has repeatedly decided, that the original concession found in the Expediente is not such evidence of title as would enable the party claiming under it, to a confirmation of his claim, and the certificate of the Crown, showing that such concession had been approved by the Deputation does not obviate the difficulty. If the concession found in the Expediente was admitted as legal evidence in the case, the want of any specific description of the land granted would be fatal. The concession grants the land "compreses from the Rancho Santa Maria de los Pinosquetos (which he now owns) to the Gulch of Leumbo" in order to understand the extent of this concession the boundary line of the Rancho de los Pinosquetos from which the extension to the Gulch of Leumbo, must first be ascertained, this we have no means of doing as has already been shown.

Filed in office
Feb. 21. 1854
Geo. Fisher
Secy

Without entering into an examination of the other questions presented by the case in this case, we are of opinion that no segregation of the land claimed from the public domain has been shown to have been made under the direction of any competent authority, and for this reason the claim must be rejected.

Decree

Francisco Maria Alvarado }
vs }
The United States }
}

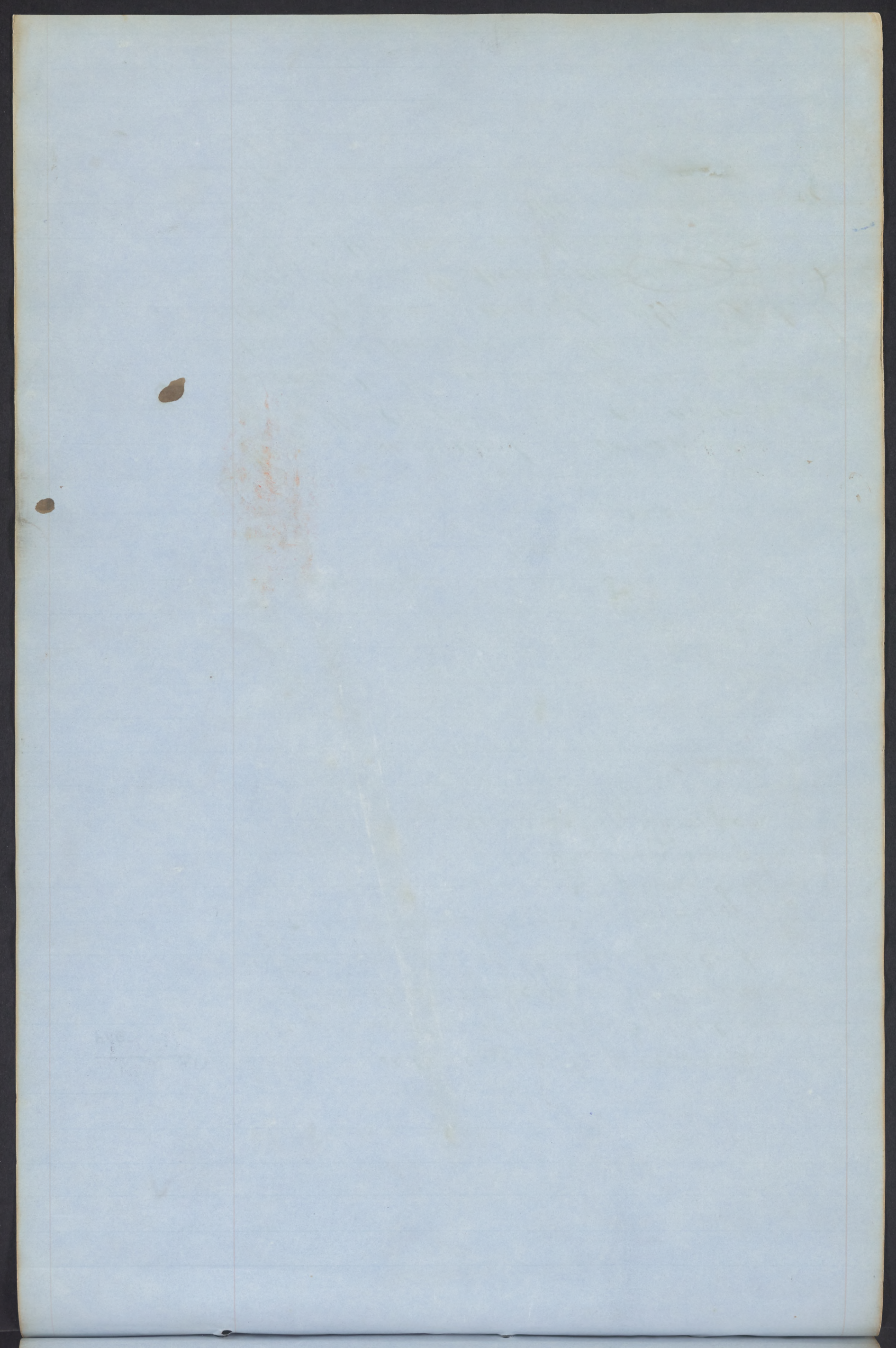
142 SD
PAGE 36

In this case on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the said petitioner is not valid, and his application for a Confirmation thereof is therefore denied

Alpheus T. Phelps }
Thompson Campbell }
R. A. Thompson }
Comme presence

Filed in Office Feb. 21. 1854
Geo. Fesko
Secy

And it appearing to the satisfaction of the Board that the said land hereby adjudicated is situated in the Southern District of California it is hereby ordered that two Transcripts of the Proceedings and of the decision in this case and of the reasons and grounds upon which the same are rendered be made 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



Office of the Board of Commissioners,

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

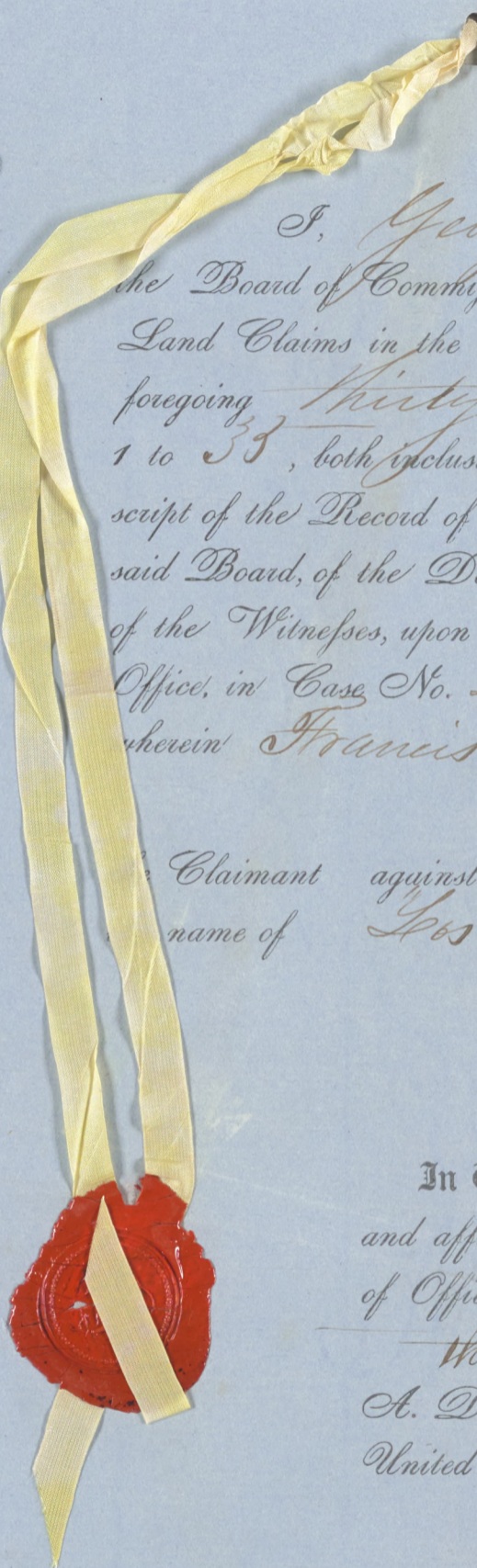
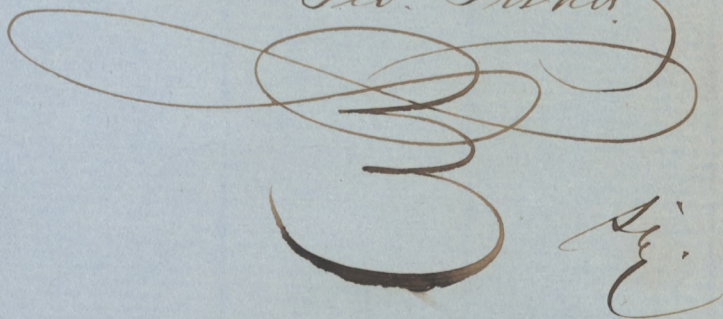
142 SD
PAGE 37

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *thirty five* pages, numbered from 1 to *35*, 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. *452* on the Docket of the said Board, wherein *Francisco Maria Alvarado* is

Claimant against the United States, for the place known by name of *Los Penasquitos*

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

Geo. Fisher



142 S D

U. S. DISTRICT COURT,

District of California.

No. 142, Docket

THE UNITED STATES,

vs.

Francis Marin Alvarado

142

"Los Penasquitos"

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 452.

Filed, November 8th 1854.

J. S. Farr
Clerk

142

142

United States District Court for the Southern
District of California

142 SD
PAGE 38

J^c M^a Alvarado }
Appellant, } Notice of intention to
vs } prosecute the appeal
The United States }
Appellee } from the decision of the
board of land commissioners

J^c M^a Alvarado claimant of the land
known as the Rancho of Santa Ana de los Penasqui-
tos situate in the County of San Diego and the Southern
District of California hereby give notice of his intention
to prosecute an appeal from the decision of the board
of U. S. land commissioners rendered in his claim
for the said land which was presented to the said
board of Commissioners and by them rejected, their
claim being that which is numbered N^o 432 the
transcript whereof is filed in this office

W. Hubert,
Attorney for Petitioner

No 142.

United States District
Court for the Southern
District of California

For the Appellants
vs
Appellants

The United States
Appellee

Notice to prosecute the
appeal from the decision
of the board of the U.S.
Land Commission

No 452.

Filed Feb 5th 1895.

142 SD C. E. Farr
PAGE 39 C. E.

W. A. Dubert
Attorney for Petitioner

United States District Court for the Southern
District of California.

Francisco Joana Alvarado

Appellant

"

The United States

Appellee

Petition of the appellant

praying the court to reverse

the decision of the

United States Land

Commission.

142 SD

PAGE 40

Your petitioner Francisco Alvarado respectfully
shew unto this honorable court that on or about the
27th of April 1823 Captain Francisco Joana
Ruiz commanding the company of cavalry of the
Presidio of San Diego on account of his advanced
age of seventy eight years, forty two whereof were spent
in the military career in the service of his country in
consequence whereof he was afflicted with a continual
disease, did apply to the proper authority for the grant
of the Rancho of Santa Maria de los Pinosquitos
in the County of San Diego in upper California
then composed of one league of land which was granted
to him by Captain Luis Arguello then Superior mili-
-tary Chief of upper California on the 13th of June
1823 and that he was placed in possession of the
said land on the 13th day of July 1823.

That thereafter to wit on the 11th of
August 1833 the said Ruiz prayed for an extension
of one league more of land called the cuerto which
lay adjoining to the pinosquitos, which said extension
was granted to said Ruiz by Governor Jose Figueroa
on the 5th of May 1834 and was approved by the
departmental assembly on the 19th of May 1840

That said Ruiz on the 13th day of
March conveyed unto your petitioner all his right
title and interest unto the said Rancho.

That the said Ruiz cultivated the land
planted a vineyard, improved and occupied it up to the

time of conveyance to petitioner and that petitioner occupied said land up to the present time.

That the said tract of land or Rancho is situated in the Southern District of California.

142 SD
PAGE 41

Your petitioner further shew that on the 4th day of November A.D. 1852 he presented his claim for the said two leagues of land before the United States Land Commission appointed under the act of Congress passed on the 3^d of March 1851 entitled an act to ascertain and settle the private land claims in the State of California when sitting as a board and prayed the said board to confirm his title. That on the 21st of February A.D. 1854 the said board of commissioners decided upon the validity of your petitioners claim, and rejected it.

Your petitioner pray that a transcript of the record of the board of commissioners on the claim presented to them as aforesaid and of the documentary evidence and testimony of the witnesses on which it was formed which is filed with the clerk of this court as directed by the 12th section of the act of Congress passed on the 31st of August 1852 entitled an act making appropriations for the civil and diplomatic expenses of the government, for the year ending the 30th of June 1853 and for other purposes may be held and considered as part of this petition.

Wherefore your petitioner appealing from the said decision of the board of commissioners present this petition to the honorable the district Court, in which the land is situated and he prays this honorable Court to reverse the said decision of the said board of commissioners and to decide upon the validity of his claim.

W. Hubbs,
Atty for petitioner

No 142.

United States District
Court for the Southern
District of California

J^c M^a Alvarez
vs Appellant

The United States
Appellee

Petition on appeal
from N. S. Lane
Commissioner

No 452.

Filed Feb 5th 1855.

J. S. Jare,
CLK.

142 SD

PAGE 42

H. Stubbins
Attorney for Petitioner

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

TO

The President of the United States,

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

142 SD

PAGE 43

GREETING :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against ~~you, and each of you~~ ^{The United States} in the District Court of the United States, in and for the Southern District of California, on the *Fifth* day of *February* 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 *Jco M. Alvarado*, praying the said

Court to review, upon the grounds therein set forth, the decision of the Commissioners to ascertain and settle the Private land claims in the State of California, of his claim for a tract of land called Santa Maria de los Puercos and Cuervo, in the County of San Diego, California, containing about two leagues ~~of land~~, which claim was presented by him to said Commissioners, on the 4th day of November A.D. 1842, and was by them rejected on the 21st of February A.D. 1854

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 *Twenty fourth* day of *February* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.

J. C. Carr
Clerk.

No 142

Marshals Cost,
 Copying Summons, 1st
 Summery 3.00
 " Petition 3.00

 6.00

Re. Feb 24 -

United States of America,

Southern District of California,

U. S. DISTRICT COURT.

Geo W. Alvarado
 Appellant } 452
 VS.
The United States
 Appellee

SUMMONS.

Received February 24th - 1855 -
Edward Hunter
 U.S. Marshal

142 SD

PAGE 44

I served this summons along with the proper copy of the petition upon *Pacificus Ord*
Attorney for the United States by leaving
 with him personally a true copy of
 the same in the County of Los Angeles

at *his office* in the Southern District of California or
 the *Twenty seventh* day of *February* A. D. 185 *five*

Sworn to and subscribed before me, *this 28th*
day of Feb. 1855. *C. E. Jan.* Clerk.

Edward Hunter
 Marshal.

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

(N.º 462 of Transcript)

Francisco Maria Alvarado, }
Appellant. } Answer to the petition

of the Appellant
praying the Court to
review the decision of
the United States Land
Commissioners.

vs.

The United States
Appellee

142 SD
PAGE 45

The answer of Pacificus Ord, Attorney of
the United States for the Southern District
of California, in behalf of the United
States to the petition of Francisco Maria
Alvarado, (filed February 5th 1855) claiming
two leagues of land in the ^{County of San Diego and} Southern District
of California; and alleging that on the
4th day of November A.D. 1852, he presented
his claim for the said two leagues of land
before the United States Land Commission,
appointed under the act of Congress passed
on the 3rd of March 1851, entitled, "an
act to ascertain and settle the private-
land claims in the State of California",
when sitting as a board, and prayed the
said board to confirm his title. That on
the 21st of February A.D. 1854, the
said board of Commissioners decided

upon the validity of his claim, and
rejected it; and praying this Honorable
Court to review the said decision of
the said board of Commissioners, and
to decide upon the validity of his claim.

142 SD
PAGE 46

And the said Attorney, answering
said petition, in behalf of the United
States, denies generally, all and singular
each and every allegation in the said
petition contained; and denies specially, -

"that on or about the 27th of April 1823,
"Captain Francisco Maria Ruiz commanding
"the Company of Cavalry of the Presidio of
"San Diego, on account of his advanced
"age of seventy eight years, forty two where-
"of was spent in the Military Career in
"the Service of his Country, in consequence
"whereof he was afflicted with a con-
"tinual disease, did apply to the proper
"authority, for the grant of the Rancho -
"of Santa Maria de los Perasquitos, in -
"the County of San Diego, in Upper California
"then composed of one league of land, -
"which was granted to him by Captain -
"Luis Arguello, then Superior Military -
"Chief of Upper California, on the 15th of
"June 1823, and that he was placed in
"possession of the said land on the 15th

3.
"day of July 1823. That thereafter, To wit:
"on the 11th of August 1833, the said
"Ruiz prayed for an extension of one league
"more of land called the Cuervo, which
"lay adjoining to the penesquitos, which
"said extension was granted to said
"Ruiz by Governor José Figueroa on the
"5th of May 1834, and was approved by
"the departmental Assembly on the 19th
"of May 1840. That said Ruiz on the
"15th day of March conveyed unto your
"petitioner all his right title and interest
"unto the said Rancho. That the said
"Ruiz cultivated the land, planted a
"vineyard, improved and occupied it
"up to the time of conveyance to petitioner,
"and that petitioner occupied said land
"up to the present time", as alleged
in said petition.

And the said Attorney of the United States, in pursuance of the provisions of the said act of Congress of the 3rd of March 1857, herein fully sets forth the grounds on which the said claim is invalid. To wit: -

1. That the said alleged grant of the said one league of land or Rancho of Santa Maria de los Penesquitos, to said

Francisco Maria Ruiz, by Captain Luis ^{4.} Arguello, dated the 15th of June 1823, was ~~made~~ not a grant of said land; but was nothing more than an order of said Arguello, that said Ruiz should be placed in possession of the place known as Penasquitos, and directing that one Pablo de la Portilla should give the possession of the said place to said Ruiz.

II. That there is no evidence that the said Luis Antonio Arguello, ever made a grant in fee of the said land to said Francisco Maria Ruiz. And it is denied that such a grant was ever made, as alleged in the petition of the said Claimant & said Commissioners.

III. That there is no evidence that the said Arguello had lawful authority to make any such grant, order, or decree. And it is denied that he had any lawful authority, to make such a grant, order, or decree, as alleged by said Claimant.

IV. That at the date of the said alleged grant, or order of said Arguello, the said land was in the possession of the Missions of Upper California; and particularly the Mission of San Diego; and it could not therefore be granted or disposed

of by said Arguello, in the manner and form as alleged.

V. That the said alleged grant, — decree or order of said Arguello, contains no description of the locality, extent, or boundaries of the land, by which it can be identified and surveyed. And it is vague, indefinite, and void for uncertainty.

VI. That the alleged judicial act of possession of said land, by Pablo de la Portilla, dated the 15th of June 1823, contains no description of the locality, extent or boundaries of the land, by which it can be identified and located. And it is vague indefinite and void for uncertainty.

VII. That the said claimant fails to show any grant of land of Governor José Figueroa, to said Ruiz, of an extension of one league more of land, called the Cuerdo, adjoining the Penasquitos, dated the 5th of May 1834, as alleged. And it is denied that the said Ruiz ever received from said José Figueroa, a grant of one league more of land, called the Cuerdo, adjoining the Penasquitos.

VIII. That the decree of José Figueroa of the date of the 5th of May 1834, contains

142 SD
PAGE 49

No description of the land alleged to have been granted. And it is vague indefinite, and void for uncertainty.

142 SD
PAGE 50

IX. That ~~at~~ the said alleged grant, or decree, of said José Figueroa, dated the 5th of May 1834, was made in violation of the 4th Article of the Colonization Law of Mexico, of the 18th of August AD 1824, in this:— That the land granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast. And there is no evidence shown by said Claimant that the Supreme General Executive power of Mexico, previously approved of the Colonization of the public lands in Upper California, lying within ten leagues of the Sea Coast. And it is denied that the previous consent of the said Supreme general executive power of Mexico, in such case, was ever had.

X. That at the date of the said alleged grant by Governor José Figueroa, the said land was occupied by, and in the possession of the Missions of the Territory of Upper California; and particularly by the Mission of San Diego.

XI. That there is no evidence that the said Ruiz, ever performed the Conditions

of the said alleged grant of José^{7.} Figueron, or the requirements of the law in such case, by asking for and receiving the judicial possession of the said tract of land called Cuervo; and that he built a house upon the said land within one year from the date of the said alleged grant; and that it was inhabited; and that he cultivated the said land. And it is denied that he ever occupied, received or asked for the judicial possession of the said land, and that he built a house upon the same within one year from the date of said grant, and that it was inhabited; and that he cultivated the said land.

XII. That there is no evidence that the said tract, or tracts of land, claimed as aforesaid, have ever been lawfully segregated from the public lands of Spain, or Mexico. And it is denied that said tracts of land have ever been so segregated.

XIII. That the said Claimant fails to show in his said petition to said Board of Commissioners, or in his said petition to this Honorable Court, any certain locality and boundaries of the land

Claimed as aforesaid.

142 SD
PAGE 52

XIV. That the said Claimant fails to show any definitively, valid grant or grants of said tract or tracts of land claimed by him as aforesaid. And it is denied that the said Ruiz, or the said Claimant ever received any definitively valid grant or grants for said tract or tracts of land.

XV. That there is no evidence that the said Claimant has any right, title, or interest, to the tract of land of one league called Cuervo, alleged to have been granted to said Francisco Maria Ruiz, by José Figueroa, on the 5th of May 1834. And it is denied that the said Ruiz ever transferred or conveyed to said Claimant, his right, title, or interest in and to said tract of land, alleged to have been granted by said José Figueroa, as aforesaid.

XVI. That the alleged conveyance of said tract or tracts of land by said Francisco Maria Ruiz, to said Claimant, dated the 15th day of March 1837, purports to cede or convey only the right of said Ruiz to the land known as Penasquitas, granted him by said Luis

Antonio Arguello on the 13th of June 1823. That there is no description of the locality and boundaries of the said tract of land of Penasquitos, in said alleged conveyance of said date, by which the land can be identified and surveyed. And said Alleged Conveyance is vague, indefinite, and ~~void~~ void for uncertainty.

142 SD
PAGE 53

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

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

No 142.

United States District Court
Southern District of California.

Enrico Maria Hernandez
Appellant

vs

The United States,
Appellee.

Answer of U.S. Atty.

New March 3^d 1855

J. E. Fox
Clerk

142 SD
PAGE 54

I served this answer on F. M. Alvarado
personally at San Diego in the
Southern District of California
by delivering to him a certified
copy of the same this Sept
2^d 1855

Edward Hunter
U. S. Marshal

Sworn to and Subscribed
before me this 10th day
of Sept 1855.

J. E. Fox,
Clerk.

Office of the Attorney General of the United States,

Washington, 17th January 1858.

142 SD
PAGE 55

Francisco Maria Alvarado }
vs. } 452.
The United States.

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

Clarking

Attorney General.

N^o 142.

U. S. Dist Court
Southern Dist of Cal.

The United States,

vs.

Francisco Maria Ararado.

Appeal notice.

Filed March 8th 1855.

J. S. Farr,
clerk.

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

José Maria Alvarado } N^o. 142,
vs. } (Transcript N^o. 452.)
The United States

142 SD
PAGE 57

In
José Maria Alvarado
his Attorney

I take notice that the above entitled
cause will be brought to a hearing
by the United States, on Friday the
19th day of October A.D. 1835; or as
soon thereafter as the same can
be heard by the Court.

Los Angeles

October 11th 1835.

J. Ord
Att. Dist. Ct.

N^o. 142.

Dr. Maria Alvarado.

Ms.

The United States.

Notice of hearing by
Ct. Clk.

Filed Oct 11th 1855

J. E. Farr
Ct. Clk.

142 SD

PAGE 58

P. D. Smith

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

Francisco Maria Alvarado }
Appellant } Case No 1412.

vs.

The United States }
Appellee }

142 SD
PAGE 59

And now comes Francisco Maria Alvarado appellant in this case by his attorney Norton & O'Leary and moves the Court for an order to return the Transcript in this case to the United States Land Commission for correction

Com — On page 9 the report in Spanish, of the Military Commandant, is of the date of Oct. 15th 1833 and the translation of the same on page 15 is of the date of Oct. 19th 1833. On page 10 the report of the Priest of San Luis Rey, in Spanish is of the date of January 2^d 1833. (which clearly ought to be 1834) and the same date is in the translation

of the said report on pages 15 & 16
On pages 11 & 12 a part of the
proceedings in Spanish of the Departmen-
tal Assembly are of the date of
May 12th & 19th 1840 and the
translation of the same proceedings
on pages 16 & 19 are of the date
of May 8th and 19th 1840.

Notion & Olay
M. J. for Appellant

Case No. 142.
U. S. District Court
Southern District of California.

Francisco Maria Alvarado

Appellant

v.

The United States

Appellee

Motion

Filed July 16th 1887

C. S. Lang
Clerk

142 SD

PAGE 60

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

142 SD
PAGE 61

N^o 142
Francisco M Alvarado appellant
vs
The United States appellee

~~August Olvera~~ and
~~of the~~ Francisco M Alvarado
being duly sworn deposes
and says that he cannot
safely go to trial because
by the original documents
The description of the land
Claimed is not sufficiently
Certain to authorize a
Confirmation of the same
according to the rulings
of this Court, and that there
is no map or plan in
The expediente making it
more Certain, and that to
enable this affiant to
present the case fairly upon
its merits before this Court
a survey of the tract is

necessary and to give
an opportunity to make
that survey a continuance
of this cause is asked
as well as an order of
this court directing a
survey of the land herein
claimed

Francis W. Alvarado

Proven to & subscribed
July 23rd 1856, before
me J. E. [unclear]
[unclear]

142 SD
PAGE 62

N^o 142

Francisco M. Alvares

vs

The United States

Applicant for
continuance and
order for survey

Filed Jan'y 23^d 1836.

J. C. Norton
Norton & Oliver

Atty for Applicant

142 SD

PAGE 63

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

Francisco Maria Alvarado

Appellant

Case No. 142.

142 SD

PAGE 64

vs

The United States

"Los Peñasquitos"

Appellee

And now at this day comes the said appellant
by Norton & Olvera his attorneys and moves
the Court that the above cause be continued
until the next regular term of this Court.
This application is based upon the annexed
affidavit and certificate of D B Hoffman M.D.

Norton & Olvera
Attys for app't

To the Honorable -

United States District Court,
Santho District, California.

I hereby certify that
Don Amund-Alvarado, in his present
state of health, cannot attend
this term of Court, without greatly
endangering his life, and as his
medical adviser, I give this as
my opinion,

J. B. Hoffman M.D.

142 SD
PAGE 65

San Diego Cal, 2
Feb. 3rd, 1856.

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

Francisco Maria Alvarado

Appellant

Case No 142.

vs

The United States

"Los Penasquitos"

Appellee

142 SD

PAGE 66

State of California }
Los Angeles County } S.S.

Myron Norton of said county
being duly sworn deposes and says that he
is one of the attorneys for the appellant in
this case, and as such is acquainted with
the facts therein - That the said appellant
has been in attendance upon this court
at the present term, and that by advice
of his counsel herein, he left this place
on or about the 25th day of January last
past for the county of San Diego (where
said lands are situated) in order to have
a survey and map made of said lands
and to procure the attendance of witnesses
to establish more definitely the boundaries
of the said Rancho - That said appellant
informed his counsel when he left this place
that he would be able to accomplish this
object and return to this place by the 8th
instant, but deponent has been informed
and verily believes that the said appellant
soon after his arrival at his home in

San Diego, was taken sick, and is still so unwell as to be unable to attend this term of the court, or to have the said survey & map made or to procure the attendance of his witnesses - that this deponent believes the same to be material & necessary for the interests of the appellant in this case, and that the appellant will be able to have said survey & map made & procure the attendance of his said witnesses by and at the next term of this court - Deponent further says that the annexed letter or certificate was received by his said counsel on Friday the 15th instant -

Myron Norton,

Swoon to & subscribed before
me this 18th of Jan^y 1856. J. S. Jones
Clerk.

No. 142.

U. S. District Court
South Dist of California

Francisco Mainsteward
Appellant

vs

The United States
Appellee

Affidavit, certificate
& mo. for continuance

Filed Feb^y 18th 1856.

J. S. Jones
Clerk.

142 SD

PAGE 67

Norton & Obora, attys

United States District Court for the
Southern District of California

December Term A. D. 1857

Francisco Maria Alvarado

appellant

Los Pinosquitos

No 142.

The United States

appellee

142-SD

PAGE 68

This cause, coming on to be heard, on appeal from the decision of the Board of Land Commissioners, appointed, to settle the private land claims in California, under an act of Congress approved March 3rd 1851, upon the transcript of the proceedings, and decision of said Board, and the papers and evidence, upon which said decision, was founded, all of which, have been filed in this Court, and upon the pleadings filed in this cause.

And Counsel for the respective parties having been heard.

It is ordered, adjudged, and decreed, that the decision of said Board, rejecting said claim, and title, to the Lands, described, in said Transcript, filed in this cause.

Be, and the same is hereby reversed, and set aside, and that the title of the above named appellant, is good and valid.

The lands of which Confirmation is hereby made, is hereby confirmed to the

said appellant and to the legal heirs and representatives of Francisco Maria Ruiz is known by the name of "Los Penasquitos" and situated in the County of San Diego, State of California, and consisting of two square leagues of land. the first consisting of one square league granted to Francisco Maria Ruiz by Antonio Arguello then Governor of California on the 15th day of June A.D. 1823, and the second made, as an addition to the first by Jose Figueroa, then Governor of California in the year 1834,

The Lands of which Confirmation is hereby made consist of two square leagues of land and no more. Known by the name of "Los Penasquitos"

And for a further description of the Land claimed, reference is hereby made to the grant & residence, contained in the Transcript on file in this case.

Francis P. Ogden
U.S. Dist. Judge

N^o 142.

No 142

Francis P. Ogden
Applicant

Receipt

Filed March 4th 1858

John C. Carr

Recorded on Page 253

At a stated term of the District Court of the United States of America, for the District of California, held at the Court Room, in the City of San Francisco, on Wednesday the fifteenth day of March in the year of our Lord, one thousand eight hundred and seventy nine

142 SD
PAGE 70

Present:

The Honorable OGDEN HOFFMAN, Judge.

The United States	} Said Case	
"		No. 142. S. D.
Francisco M. Alvarado		"La Penasquitos"

On motion of C. P. Evans Esq. Attorney for claimant who presents the mandate of the Supreme Court of the United States, dismissing the appeal heretofore taken by the United States from the Decree of the District Court confirming the claim herein it is hereby ordered, that the said mandate be filed herein, and that the claimant have leave to proceed under the decree of confirmation heretofore entered herein as under final decree.

Ogden Hoffman
Dist. Judge

No. 142. S.D.

United States District Court,
DISTRICT OF CALIFORNIA.

The United States
vs
Francisco M Alvarado

Order that mandate be
filed, & that claimant
proceed under Decree of this
Court as under final decree.

Filed March 15th 1876

Southard Hoffman Clerk.

By A. D. Grimwood Deputy.

142 SD

I hereby certify that the foregoing is a full, true and correct copy of an original
order made and entered in the above entitled action.

Attest my hand and seal of said District Court,
this _____ day of _____ A. D. 187

By _____ Clerk.
Deputy Clerk.

United States of America, ss:

The President of the United States of America,

To the Honorable the Judge of the District Court
of the United States for the _____ District
of California

greeting:

142 SD

PAGE 72

Whereas, lately in the District Court of the United States
for the Southern District of California, before you,
~~at some of you,~~ in a cause between Francisco M. Alvarado, ap-
pellant, and The United States, appellee, wherein
the decree of the said District Court entered in said
cause was in favor of the said appellant, Francisco
M. Alvarado, and against the said appellee. Where-
upon the said appellee prayed an appeal to the
Supreme Court of the United States.

as by the inspection of the ~~transcript of the record~~ certificate of the Clerk
of the said District Court under the seal of the said Circuit
Court, which was brought into the Supreme Court of the United States by
virtue of

agreeably to the act of Congress, and the rules of the said Su-
preme Court in such case made and provided, fully and at large appears,

And whereas, in the present term of October, in the year of our Lord one thousand eight hundred and seventy-five, the said cause came on to be heard before the said Supreme Court, ~~on the said transcript of record, and was argued by counsel.~~ On consideration whereof, and it appearing that the said appellant has failed to have his cause filed and docketed in conformity to the rules of this Court, it is now here ordered, adjudged and decreed by this Court that this appeal from the District Court of the United States for the Southern District of California be, and the same is hereby, docketed and dismissed.

And it is further ordered that this cause be, and the same is hereby, remanded to the District Court of the United States for the District of California.

29th February 1876.

142 SD

PAGE 74

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

142 SD
PAGE PAGE 76

Francisco M. Alvarado
vs

The United States

Now on this
day comes the Appellant
and moves the Court to
make an order directing
a survey of the lands claimed
in the above entitled cause
D

Norton & Olvera
Attys for appellant

SD

No 142

U S Dist Ct West

F M Alvarado

vs

The United States

Motion for summary