CASE NO.
3
SOUTHERN DISTRICT

LOS TULARCITOS GRANT
MONTEREY COUNTY

HEIRS OF RAFAEL COMEZ
CLAIMANT

LAND CASE 3 SD PAGES 117

FEB 7 1963

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 195

Heirs of Rafael Gomez, CLAIMANTS

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Los Tularcitos"

Monterey Co.

1.

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* twentieth day of "April", *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 Heirs of Rafael Gomez, *for the Place named* "Los Tularcitos"

was presented, and ordered to be filed and docketed with No. 195 *and is as follows, to wit;*

(Vide page 5 + 6, *of this Transcript.)*

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

Saturday April 23rd 1852.

In Case No 195 the Heirs of Rafael Gomez, the Deposition of David Spence a witness in behalf of the Claimant taken before Commissioner Harry I. Thornton was filed and is in the words and figures as follows, to wit; (Vide pages of this Transcript 6. 7. and 8.)

Saturday May 8th 1852.

In Case No 195 Heirs of Rafael Gomez, the Deposition of David Spence a witness in behalf of the Claimants taken before Commissioner Hiland Hall was filed and is in the words and figures as follows, to wit; (Vide pages of this Transcript 8 and 9.)

Wednesday May 18th 1852.

The following cases were set for hearing and transferred to the Trial Docket viz:

No 191. Charles Walters.

No 195. Heirs of Rafael Gomez.

Tuesday, June 1st 1852.

The following cases were set in their order for hearing to wit:

No 138. J. B. R. Cooper.

No 191. Charles Walters.

No 195. Heirs of Rafael Gomez.

Monday September 6th 1852.

In Case No 195, Josefa Antonia Gomez de Walters, et al, heirs of Rafael Gomez, for the place called 'Los Tularcitos', the Counsel for the Claimant presented the following Motion, to wit:

Motion to strike out name of Ja. Ma. Gomez de Walters

Moved. That the name of "Josefa Antonia Gomez de Walters, widow", be stricken from the petition in this Case, and that the Children of said Rafael be considered as the petitioners in this Case.

Halleck, Peachy & Billings,
Attys for Petitioners.

Which having been sustained, it was ordered to be filed, and the Petition granted.

Case No 195, Felipe Gomez, et al, heirs of Rafael Gomez, deceased, for the place called "Los Tularcitos" called. The Counsel for the Claimants,

ded. The U. S. Law Agent filed his written ar-

H. W. Halleck opened the argument, and concluded. The U. S. Law Agent filed his written argument. Case submitted to the Board, and taken under advisement.

In the same Case, the Counsel for the Claimants submitted an authenticated Copy of the Original Expediente on file in the Office of the U. S. Surveyor General for California, heretofore filed, to wit, on the 23d April 1852, with the Petition in this Case, marked Exhibit D, as Evidence in this Case, in behalf of the Claimants, also a Translation of Exhibit A, marked B; which Exhibit and Translation are as follows, to wit; (Vide pages of this Transcript. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69 & 70.)

Monday, September 13th 1852.

In Case No 195, the Heirs of Rafael Gonez, for the place called 'Sularcitos', Commissioner James Wilson, delivered the Opinion of the Board, declaring the Claim valid; the entering of the Decree of final Confirmation be reserved for a future day.

Wednesday December 22nd 1852.

In Case No 195, Josefa Antonia Gonez de Waters, et al, heirs of Rafael Gonez, for the place named "Los Sularcitos", Commissioner Harry S. Thornton delivered the opinion and decree of final confirmation of this Board.

Order for the recording of Opinion, &c.

Ordered, that the opinion and decree of final confirmation, of this Board, delivered this day,

in this case, be recorded on the Journal
Which Opinion and Decree are
in the words and figures as follows, to wit;
(Vide pages of this Transcript 71. 72. and 73.)

To the Honorable Commissioners to settle private Land Claims in California.

Petition.

The petitioners Josefa Antonia Gomez de Walters widow, and Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, children, of Rafael Gomez deceased, respectfully show;

That on the 18th day of December A.D. 1834, José Figueroa, Governor of California, by virtue of authority in him vested, granted to the said Rafael Gomez the tract of land called "Los Tulucitos", situate in the present county of Monterey, containing six square leagues of land a little more or less, as shown by the map accompanying the possession.

That said grant was approved by the Deputation of California on the 29th day of August A.D. 1835.

That on the 5th day of February A.D. 1836, the said tract of land was duly surveyed and the juridical possession of it given to the said Gomez; a copy of which grant, approval, map and juridical possession is submitted herewith marked "A", with a translation marked "B".

That the said Rafael Gomez died on the 18th day of September A.D. leaving the petitioners his widow and heirs;

That the said tract of land has not been surveyed by the Surveyor General of the United States, but that it was duly surveyed, and its boundaries marked out at the time of giving the juridical possession of it;

That the said Rafael Gomez, and the petitioners, his heirs, have been in the quiet peaceful and undisputed possession of the said tract of land for about 20 years: and that the petitioners are now in such possession and occupation.

That they know of no conflicting claim;

That they rely for confirmation of title upon the original papers, copies of which are submitted herewith; upon the records and minutes in the

archives now under the charge of the Surveyor General; and upon such other and further proofs as they may be advised are necessary.

Wherefore, they pray the Commissioners to confirm to them the said tract of land.

By their Attys
Halleck Peachy & Billings.

Filed in Office April 20th 1852.
(Signed) Geo Fisher:
Secy.

Office of the Board of Commissioners of California Land Claims.
San Francisco April 23rd 1852.

On this day before me Henry S. Thornton one of the Commissioners for ascertaining and settling private Land Claims in California came David Spence a witness produced in behalf of the Claimant Rafael Gomez, and docketed No 195. The witness being duly sworn testified as follows. The U. S. Law Agent being notified and attended by Mr Greenhow.

Deposition of David Spence.

Questions propounded by Claimant.

Question 1st. State your name, age and place of residence; what Offices you have held in California; what you know about the usages and practices of Governors to grant lands on the coast; what you know about the Rancho of "Los Tularcitos", its occupation and ownership; and also what

you know about the documents now before you, and whether true copies are filed in the Office of the Secretary of the Board of Land Commissioners: Ans. My name is David Spence; my age is fifty three years; I have resided 28 years in California. I have held the Offices of Alcalde, and of Judge of First Instance, of Prefect, and was a member of the Legislative body of California, under Governor Chico, and under Governor Micheltorena. I have been well acquainted with the Governors of California ever since I came into the country. I know that they granted lands within 10 leagues of the coast, the same as elsewhere in California, to native and naturalised citizens of Mexico, and I never heard any of the Governors, or members of the Legislative body, or other authorities under the Mexican Government question the authority of the Governors to make such grants; nearly all the grants made until within a few years of the time when the Mexican Government ceased in California, were made within 10 leagues of the coast. The ten leagues referred to in the law of 1824, were understood to refer to colonization by foreigners, not Mexican citizens. I know the Rancho of "Los Vulcanitos", Rafael Gomez, occupied this land from some time in 1834 to the time of his death, which took place about the 18th day of September A.D. 1838, and since that time his widow and children have been, and now are in the quiet, peaceful and undisputed possession of said tract of land. Gomez built a house on the land sometime in 1834 or beginning of 1835; and it has ever since been occupied by said Gomez, his family, or his or their servants. I never heard their title disputed, or any conflict of boundaries with any other person. I am acquainted with the signatures of José Figueroa, Augustin V. Zamorano, José Castro, J. del C. Negrete, Rafael Gomez, Marcelino Escobar, José Aguilar,

José Maria Mouldonado, Teodoro Gonzales, Juan Arroyo, and their signatures to the documents before me, are genuine, the documents are genuine, and originals; I have compared them and the attached map with the documents filed as Exhibit "A," in Claim No 195, in the Office of the Secretary of the Land Commissioners and find the latter to be correct copies.

D. Spence.

Sworn to and subscribed before me, the Law Agent of the United States declining to put any cross Interrogatories, this 23rd of April 1852.

Henry S. Thornton
Com.r, &c.

Filed in Office April 23rd 1852.
(Signed) Geo Fisher.
Sec'y.

Office of the Board of Com.rs of California Land Claims
San Francisco, May 8th 1852.

On this day before me Hiland Hall one of the Commissioners of California, to ascertain and settle private Land Claims, came David Spence a witness produced in behalf of the Claimants, Heirs of Rafael Gomez whose petition is number 195, on the Docket of the Board and was duly sworn.

The Law Agent was notified and attended.

The Land Agent was notified and attended.

9.

In answer to questions put by Counsel for Claimant the witness testified as follows.

Deposition of David Spence.

1st Question. What is your name, age and place of residence?
Answer: My name is David Spence; my age is 53 years; I reside in Monterey, and have resided in California 28 years.
2d Question. Do you know the signatures of Martin Sanches Cabello, and Julian Estrada, if so, are their signatures to the paper before you, genuine, is this document genuine, and the last will and testament of Rafael Gomez; and is the paper marked Exhibit "C", filed in Claim No 195, a true copy of this original?
Answer: I know the signatures of Martin Sanches Cabello, and Julian Estrada; their signatures to the paper before me are genuine, the paper is genuine, and the last will and testament of Rafael Gomez, and the paper marked Exhibit "C" in Claim No 195, in the Office of the Secretary of the Commissioners is a true copy of this original. Under this will Rafael Gomez, one of the Claimants, is the posthumous child referred to in the said will, and was born soon after his fathers death.

D. Spence.

Subscribed and sworn
Before me
Hiland Hall.
Comr.

Filed in Office May 8th 1852.
(Signed) Geo Fisher.
Secy.

11.

1. S. D. K.

N.° 57.

D

Espediente

sobre el parage nombrado los

Fularcitos p.r

Rafael Gomes

95.

2. S. D. R.

D.

Espediente

Sello Tercero: Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ocho cientos treinta y tres, y mil ocho cientos treinta y cuatro

Figueroa. José Rafael Gonzales

Santa Barbara Marzo 26 de 1834.

De conformidad con las leyes de la materia informe el Ilustre Ayuntamiento de Monterey, si el interesado en esta instancia obtiene los requisitos prevenidos para ser atendido en su solicitud: si el terreno que pretende está comprendido en las veinte leguas limitrofes y diez litorales que expresa la ley de 18 de Agosto de 1824; si es de regadio temporal ó abrevadero; si pertenece á propiedad particular, corporacion Pueblo ó Mision, con todo lo demas que sea concerniente á ilustrar la materia

Evacuado este informe pasará el espediente con

Sor. Gefe Superior Politico

El Lind.o Rafael Gomez Asesor de este Territorio por el recurso mas conforme á derecho ante V.S. dice: que en el año pasado de 1830. hizo el ocurso q. devidamente acompaño con el objeto de conseguir un terreno q. cultivar y poblar de ganado, el q. en efecto se le concedio, aunque no llegó á tener efecto por la oposicion del padre Ministro de la Mision de S. Rafael visible en las tres cartas q. en debida forma adjunta que allara q. acaso sin aquel embaraso pudiera lograr lo proyectado hay el mebo de estar informado q. V.S. trata de formar un Presidio ó Poblacion en el parage concedido, por lo que, y estar remuelto á dedicarse á la Agricultura, ocurre á la notoria justificacion de V.S. para q. si en efecto se convierte el terreno referido

igual objeto al R. P. Ministro de la Mision de San Carlos para que exponga lo que le occurra sobre el particular.

El Sor. General de Brigada D. Jose Figueroa Comandante General y Gefe Superior Politico del Territorio de la Alta California así lo mandó decreto y firmó de que doy fé.

Jose Figueroa

Por ans.a del Secret.o

Bernardo Navarrete

3. S.D.K.

en establecimiento publico; en razon indemnizacion por el derecho que le anote á el ó en contemplacion á estar casado en el Territorio tener dos hijos, y en obsequio de los deseos del Supremo Gobierno q.e intenta poblar y hacer productivos los terrenos q.e hay incultos, repite q.e occurra á V.S. solicitando le conceda el que se conoce con el nombre de Tubareitos que reconoce la Mision del Camelo por suyo, aunque sin titulo y sin ocuparlo, en el concepto q.e desea q.e la estension del sitio comprehenda el Macsimum q.e por la ultima ley de Colonizacion puede concederse, y en el de que en el caso de agraciarlo, introduciria en el acto cuatro cientas cabezas de ganado mayor y cien de menor.

A V.E. suplica defiera á su solicitud por ser de justicia q.e pide. Para lo necesario. Monterrey, Marzo 7 de 1834.

Rafael Gomez

En esta fha. se dio cuenta con el expediente, y pso á la Comision de Colonizacion.

Monterrey, Abril 5 de 1834

Jose Maria Maldonado

Secrio.

Sello Tercero: Dos Reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ocho: cientos treinta y tres, y mil ocho ciento treinta y cuatro.

Figueroa. Jose Rafael Gonzales

Y. Ayuntamiento.

La Comision de Colonizacion y Terrenos baldios á quien se paso este espediente p.ª que estendiese el dictamen correspondiente se habia abstenido de ejecutarlo en lo principal hasta que el interesado acompañó el diseño del terreno prevenido en el articulo 2. del reglamento de colonizacion p.r ser este un requisito escencial en instancias de esta clase, y por que se contrahe el superior decreto del Sor. Gefe politico; mas reflecionando la Comision q. á la autoridad politica le corresponde ecsigir el requisito indicado, y que podra dictaminar apoyandose en el informe de sugetos que tienen conocimiento del terreno pretendido pasa á esponer q. el sitio nombrado los Fularcitos, que solicita el Ciud.no Rafael Gomez, Asesor del Territorio, es Baldio en razon de no pertenecer á propiedad particular, corporacion ó pueblo ni a la Mision del Carmelo, por que ni tiene titulo á el ni lo ocupa en cuyo unico caso podria impedir su colocacion segun el Arto. 1.º del Reglamento citado de 24 de Nob.e de 828. El tal terreno es de abrevadero y solo la industria podria lograr el cultivo de regadio y de temporal: Esta

comprendido en las diez leguas litorales y no en las 20 limitrofes q. espresa la Ley de 18 de Agosto de 824 y el pretendiente obtiene todos los requisitos prevenidos pa. ser atendido en su solicitud con la particular recomendacion de haberse prestado siempre á auxiliar á este Ayuntamiento con donativos, prestamos ofrecidos y ser un vecino util á la Municipalidad por todo concluye la Comision ofreciendo á la deliberacion de este S. Ayuntamiento las siguientes proposiciones.

5. S.D.K.

1a. Debe concederse al Ciud.no Rafael Gomez, Asesor del Territorio el Terreno nombrado los Tularcitos en rason de ser acreedor á esta gracia si asi lo aprobare la superioridad.

2a. Que para dar el lleno al superior Decreto q. acompaña esta solicitud pase al R. P. M. de la Mision de S.n Carlos para que dictamine segun le parezca.

Monterey 11 de Abril de 834.

Jose Aguila

Jose Antonio Romero

Con esta fha. pasa este espediente al R. P. M. de la Mision de S. Carlos con el objeto que indica el superior Decreto de 26 del mes pjo. do.

Monterey Abril 12 de 1834

José María
Maldonado
Secio.

16.
6. S. D. K.

Sor.=

[Sello Tercero Dos Reales

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

Figueroa Rafael Gonzales]

=Gefe Superior Politico.

3 SD
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El Y. Ayuntamto. de esta Capital con el objeto de dar el informe q. se sirve V.S. pedir en el espediente instruido á consecuencia de la solicitud q. el Sr. Asesor del Territorio ha hecho pa. q. se le conceda el terreno nombrado los Fuaretos, oyó a la Comision respectiva cuya dictamen constante a f. 2. no tubo embarazo en aprobarlo en Sesion del dia 12 del pp.do por q. los conceptos vertidos por la Comision, son los mismos en q. abundan esta Corporacion. En debido cumplimiento del Superior Decreto de V.S. de 26 de Marzo ultimo, se pasó el espediente al R. P. M. de la Mision de S. Carlos q.n lo ha evacuado en el pliego de papel comun q. se acompaña por acuerdo habido en sesion de 3 del presente

Monterey 5 de Mayo de 1834.

Manuel Jimeno Casarin

Jose Maria Maldonado
Secto.

7. S. D. K.

En atencion al espediente q. se me ha dirigido pa. q. esponga lo q. hubiese sobre

el particular: Digo q. hasta q. la Comision de Colonizacion haya declarado q. el sitio llamado los Tulareitos p.r baldio en razon de no pertenecer á propiedad particular, Corporacion ó Pueblo ni á la Mision del Carmelo, p.r q. no tiene titulo de el ni lo ocupa. espoga q. la Mision siempre lo ha reconocido p.r suyo como consta p.r el informe q. se dio q.do se hizo el reconocimiento de lo q. las Misiones reconocian p.r suyo, igualm.te siempre lo ha ocupado y lo ocupa siendo muy necesario p.a sus ganados menores en la mayor parte del año. y no teniendo otra parte adonde poderlos mandar seria hacerles un daño muy grave ha estos infelices p.r los detrimentos q. padecerian si se les quitase hasta propiedad q. siempre han reconocido p.r suya, no siendo ellos menos acreedores tanto p.r los servicios q. han prestado y prestan continuam.te como p.r la consideracion q. se les debe tener p.r ser hombres seres degradados y q. p.r faltar de conocimiento de los q. han informado en la posecion de otros Ranchos q. han perdido hasta siendoles mui utiles, ahora se lamentan de las perdidas q. han padecido siendo imposible remediarlas; á lo q. digo q. hemos de obrar en justicia no hai lugar a la peticion del del interesado, no oponiendome á ninguna orden superior en q. solo procurare eximirme del cargo de esta.

San Carlos Abl. 25 de 834

F. J.e M.a del Refugio

Z del Real.

8. S. D. R.

Sello 3.º Dos Reales

Habilitado provisionalmte. por la Comis.n subalterna interina del Pto. de Monterrey p.a los años de 1830 y 1831.

Echeandia

Gob.o

Gr. Comand.te Gral. y Gefe S. Político.

Monterrey, 8 de Enero de 831.

En consideracion á que es de suma importancia á la seguridad y integridad del territ.o Nacional, el que ... haya poblac.n en la parte de terren q.e media entre la Mision de San Rafael y el Establecim.to Ruso del Puerto de Bodega que sirva como de barrera p.a impedir en alguna incursion de los Extranjeros p.a posesionarse de él, como lo han hecho del ocupan p.a que Gran el Poderoso Padre de la citada Mision, temeroso de q.e así suceda p.r el antecedente de un reconocimiento q.e hicieron en el año pasado escito á este Gobi.o p.r que se ponga á cubierto: A que es de esperarse se reduzcan muchos de los indijenas q.e llaman Jentiles habiendo poblacion en ese desierto; y a q.e el solicitante Lic.do C. Rafael Gomez tiene haberes p.a llevar á delante sus proyectos de agricultura y Crianza de ganados le concedo del

El Ciud.no Lic. Rafael Gomez originario del Pueblo de Ameca del Estado de Jalisco, y Asesor de este Territorio de la Alta California como mas haya lugar en derecho ante V.S. parezco y digo: Que deseando por mi parte llenar el objeto que se propuso el Soberano Congreso Gral. al dictar su Dto. de 18 de Agosto de 1824. sobre colonizacion, he resuelto verificarlo en el terreno nombrado Santa Rosa, del que acompañaré el diseño prevenido en el art.o 2.º de las Disposiciones del Sup.mo Gobierno de la Union espedidas en 24 de Nov.bre de 1828. sobre el particular; sino me lo embarazara carecer de sujeto que lo forme y no ser de facil practica

10. S. D. K.

11. S.D.K.

mencionado terreno la parte conocida con el nombre de Sta. Rosa, en la cantidad q. previene el artº. 12 del decreto sobre Colonizacion de 18 de Agosto de 24, con las demas sujeciones q. en el se previenen, y en calidad de Provisional hta. la reunion de la Exma. Diputac.n reservandose q.a cuando tenga la propiedad, la posesion judicial; en el concepto de que no comenzara ninga. obra en el citado terreno sin previa atencion del respectivo Padre Misionero, q. hara constar á este Gobierno con oportunidad, y de que no se posesionara de aquella parte que habiten ó cultiven los Gentiles ya esten reunidos en tribus rancherias ó en lo particular cada uno de la inmediata q. mas le acomode, de modo q. no se les inquiete y perjudique pro=curando p.r el contrario atraerlos y civilizarlos como ofrece; dandoles suertes de tierra para q. se vaya formando una Poblac.n lo mas ordenada posible.

En cuanto a los presidarios de por estar ocupado de gentilidad. No obstante, cumplire con este requisito tan luego como pueda salvar las dificultades referidas.

La que ofrece mi solicitud en tener por objeto un terreno que reconoce por suyo la Mision de S.n Rafael, con lo que parece se contraviene al artº. 17. de las Disposiciones generales citadas; no lo es en la realidad, y menos para V.S. que esta instruido de que el Padre de aquella Mision, no solo no resistirá la concesion, sino que por el contrario lo desea por las razones de politica que ha hecho presentes varias veces al gobierno de cargo de V.S. y que no me es permitido referir.

Sin embargo, son tan imperiosas en mi concepto que sin atender al bien particular mio, lo es y muy grande para el Gobierno: resultandole tambien el ahorro del gasto que tendria la manutencion de los diez y seis Presidarios q. estan en el Puerto de San Francisco, que hare por mi cuenta, pagandoles á mas su competente

de q. habla; como que van á convenir al indicado objeto mas recomendable sin duda, q. el de la ley de 14 de Octubre de 823, se le franquearo los q. no hagan falta en sus trabajos indispensables de la guarnicion de S. Francisco bajo las condic.s q. expresa la 2a. pte. del art.o 20 de esa ley y con la que estipula el interesado, Advirtiendose, q. si de sus terrenos diere á estos y á los gentiles, se le indemnizara con otros equivalentos.

Echeandia.

12. S. D. K.

13. S. D. K.

jornal desde el dia que se pongan á mi disposicion en aquel punto.

Estos son los brazos con que intento principiar el cultivo del repetido terreno, apoyando esta mera solicitud, en la 2a. parte del art.o 20 del Dto. de 14 de Octubre de 1823. en el concepto de que tendre libertad para devolverlos todo ó parte, cuando por sus vicios ó incorregibilidad los juzgue inutiles.

Me parece preciso hacer presente á V.S. que con relacion á los gentiles que ocupan el terreno y los mas que quieran avecindarse en el, seran tratados con la humanidad propia de nuestro Gobierno; q. de que es idolatra el q. representa.

Tambien procurare la civilizacion de los referidos indigenas, en los respectos moral y politico: contando al efecto con el ausilio del R. Padre Fr. Antonio Menendez que llebare conmigo en calidad de Capellan.

Por todo lo espuesto á V.S. suplico, se sirva concederme el mencionado

terreno de Sta Rosa, con la estension q. pudiere cultivar con labores, y ocupar con ganado; bajo la protesta que hago de no traspasar los limites del art.o 12 del D.to respectivo: todo con la calidad de provisional, p.r reservar la solicitud p.a obtener la propiedad hasta la reunion de la Excma. Diputacion Territorial.

14. S.D.K. A V. S. suplico decreta de conformidad por ser de justa que pido. Juro q.e

S.n Carlos D.re 23 de 1830.

Rafael Gomez.

15. S.D.K.

Viva + Jesus

Mision de S. Rafael, Febrero 7 de 1831

Muy dueño y S.r Don Rafael Gomez = salud y gracia en Jesu Christo: recibi su unica y apreciable del 27 de Enero relativo á la pretension del rancho de conquisto de Santa Rosa; es verdad que algo escribi para la conservacion de aquella muestra conquista: y dando instruccion para sostener los derechos de la Republica pues me considera obligado ello; y por la gracia de Dios, ya se han desvanecido los proyectos que se intentavan. Ya este año sembramos algo, y esperamos sembrar mas todo para mayor incremento: como este año todo aquella tierra ha estado escasisima de semillas gentilicas: ni bellotas; los gentiles han tenido que salirse y venirse por las cercanias de S. Rafael para hallar que comer. Hasta ultimos de Agosto no puedo contestar á su favorecida pretension: interinamente solo puedo decirle que para pasar á ocupar aquellas tierras se requiere singular vocacion, porque

la indiada es bravita, nos territorios ventajosos para ellos; y entre ellos no anda quien quiere: diez años hace que hago toda diligencia de maridad para atraerlos á la mansedumbre y conocimiento de Dios he podido lograr visitarlos, lo que no han podido los soldados, ni otras gentes de razon, la ranchería indiada de gentiles que es de distinto idioma es muy encarecida y la mas bellica: el verano pasado fueron gentes de razon para acariciarlos no podieron lograr entrar en su rancharía tuvieron que regresarse, y me dijeron se vieron bien apurados, y sin ganas de bolver otra vez: Yo fui despues guardando todas las precauciones y logré estar y quedar una noche entre ellos, les hable y trate lo mas conveniente para su salud, y comprendi que solo con mucha cautela se podia estar entre ellos. Y como tenemos la experiencia de los empydados en que estuvo la Mision de S. Francisco Solano los tres primeros años siendo asi que estava surtida de Cristianos viejos y bien ladinos se vio en sus apuros, y tuvo sus averias á pesar de que estava guarnecida de mucha tropa el sitio apartado de la gentilidad, y favorecida de buen desembarcadero. Finalmente me repito le escribiré al tiempo indicado practicare todas las diligencias para que se llenen nuestros deseos; no es bueno andar precipitados por no perder lo que vamos adelantados aguno. Servidor.

J. Juan Amores.

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16. S. D. R.

Viva + Jesus.

S. Rafael Marzo 5 de 1831.

Muy Amigo y Sr. D. Rafael Gomez.

salud y gracia en Jesu Christo: recibi su apreciable: en modo de pensar fueron ya en las diligencias que he practicado: como yo he tenido que comunicarla cosa con el Prelado, para que vaya todo como me veo obligado y á V.M. con la propiedad que le deseo: este es el único fin que puedo decirle por ahora: una completa respuesta: todo quanto se procura en la conquista por lo presente todo espero en Dios resultara para el bien estar de todos. Luego reciba la contestacion del Prelado, le escriveré; que mis deseos todos se inclinan a su favor: pasalo felizmente y manda á S.S. que de veras lo ama y B. L. M.

J. Juan Amoros

[Note by the Supr. Govt. – The following is the direction on the outside of the above letter.]

Al Sr. Don Rafael Gomez Asesor
qe. Dios gde. en la Mision
de
S. Carlos.

17. S. D. R.

Viva + Jesus

S. Rafael Mayo 10 de 1831.

Muy dueño y Sr. Dn Rafael Gomez salud y gracia en Jesus Christo: acabo de recibir la contestacion de mi Prelado el Presidente F. Jose Sanchez sobre las tierras del rancho de Santa Rosa: y me dice no es de su aprobacion el que se cedan: y asi yo como subdito devo conformarme al parecer del Prelado: todo quanto yo le escriví todo era en

favor de V.M. pero los Prelados suban mas y asi devemos venerar sus contestaciones: por otra parte el Sr. General me dixo que alli se havia de poner una mision (que esto mejor) y que havia ya hablado con V.M. para que depena lo proyectado: por tanto esta es la contestacion que puedo darle sobre el asunto. la tardanza vera como todo provenia de que yo sin el conocimiento del Prelado no hubiera obrado bien: Pasela felizmente y vea en que puede serle util su a. S.S. Q.S.M.B.

J. Juan Amoros

P.D. le incluyo una estampa del Sr. S. Rafael para que en compañia de su amada esposa tengan un buen Protector en su Santa Vision.

Vale.

[Note by the Govr. Genl.- The following is the direction on the outside of the forgoing letter.]

Al Sor. Dn. Rafael Gomez
Asesor q. Dios g.a en la Mision
de
S. Carlos

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterey para los años de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

Figueroa. Rafael Gonzalez
Sor. Gefe Sup.r Politico.

Monterrey 9 de Mayo de 1834.

Agregese al Espediente de la materia

Figueroa

El Ciud.no Rafael Gomez como mas haya lugar en derecho ante V.S. comparece y dice: que en la solicitud q.e hizo en 7. de Marzo ultimo en pretension del terreno llamado los Fulaveritos no desconoce q.e devia haber acompañado el diseño del terreno de conformidad con lo prevenido en el art.o 2.o del reglamento de colonizacion mas por falta de oportunidad p.a reconocer el sitio incurrio en la falta dicha q.e subsana ahora acompañandolo en devida forma, en el concepto q.e de la Baranca al Norte solo pide dos leguas y para las otras direcciones hasta el completo del macsimum q.e permite se conceda de abrevadero, la ley de 18 de Agosto de 1824.

A V.S. suplica q.e teniendolo por presentado en tiempo y forma se sirva mandar agregar este a sus antecedentes para que surta los efectos q.e haya lugar, juro lo necesario q.e

Monterrey Mayo 5 de 1834.

Rafael Gomez.

19. S.D.K.

Sello Tercero Dos Reales.

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

Figueroa Rafael Gonzales.

Monterey Mayo 9 de 1834

Siendo el Terreno solicitado en este espediente de los que ha reconocido por suyos y poseido la Mision de San Carlos suspendase por ahora la continuacion y resolucion de dho. espediente hasta que se ponga en ejecucion la ley de 17 de Agosto del año proximo pp.do y llegue el Sor. Gefe Superior Politico Dn. Jose Maria Hijar a quien el Supremo Gobierno ha conferido la Comision especial de distribuir los Terrenos. Hagasele saber á la parte para los ocursos que le convengan y reserva el espediente para dar cuenta á su tiempo

El Sor. D. Jose Figueroa Genl. de Brigada, Comandante general Inspector y Gefe Superior Politico de la Alta California asi lo mando decreto y firmo de que doy fé.

Jose Figueroa

Agustin V. Zamorano.
Srio.

En quince dias del mes de Mayo de mil ochocientos treinta y cuatro habiendo ocurrido á esta Secretaria el Lic. D. Rafael Gomez se le hizo saber el decreto que antecede del Senor Gefe

Superior politico del Territorio y enterado de el dijo que lo oye y queda conforme añadiendo la Suplica de q. se le de diera testimonio del Superior decreto q. se le hace saber: esto respondio y firmo con migo el Secretario

22. S. D. K.

Agustin V. Zamorano.

Raf.l Gomez

Monterey 31 de Octubre de 1834

Informe el comisionado Don Joaquin Gomez si el terreno de los Fularcitos solicitado por D. Rafael Gomez hara falta á los indigenas en la distribucion de terrenos que les ha de hacer. El Sor. D. Jose Figueroa general de Brigada Comandante general Inspector y Gefe Superior Politico del Territorio de la Alta California asi lo mandó decreto y firmó de q. doy fé.

Jose Figueroa

Agustin V. Zamorano.
Srio.

Sor Comandte Gral y Gefe Sup.or Politico.

El Potrero que esta frente á la Mision es mas que suficiente para el reparto que está mandado hacer á los indigenas, por la grande estencion de aquel y corto numero de estos. Por esto y no hacerse ninguno del terreno de los Fularcitos creo que se hara falta al tiempo de la distribucion de tierras; y es cuanto puedo informar á V.S. en cumplimiento de su Sup.r antecedente Decreto. Monterey 20 de Novre de 1834.

Jose Joaquin
Gomez.

Mon=

[Sello Tercero
Para los años de mil
y seis y ochocientos

[Place of the Seal in the original]

Dos Reales
ochocientos veinte
veinte y siete.]

Seal in the original for the years 1828 & 1829.

Seal on the original for the years 1830 & 1831.

Seal on the original for the year 1832 & 1833

Seal on the original for the year 1834 & 1835

Tepic Diciembre 1º de 1834.

Vista la peticion con q. da principio este Espediente el informe de la autoridad municipal de esta Capital el del R. Padre Ministro de la Mision de San Carlos y el de su Comisionado: la esposicion de testigos con todo lo demas q. se tubo presente y ver convino de conformidad con lo dispuesto por las leyes y reglamentos de la materia se declara al Licenciado Don Rafael Gomez dueño en propiedad del terreno conocido con el nombre de los Fularcitos Colindante con la Barranca blanca Laguna de los Conejos, Sierra del Fularcito y Sierra de Passhaguan sujeto á las condiciones q. se estipularen: librese el Despacho correspondiente, tomese razon en el libro respectivo y dirijase este Espediente para la devida aprovacion á la Excelentisima Diputacion Territorial en cuyo caso el interesado á quien se le hara saver este decreto presentara nuevamente su titulo para q. se revalide. El Sr. D. Jose Figueroa General de Brigada Comandante Gen. y Gefe Superior Politico de la Alta California así lo mando decreto y firmó de que doy fé

Jose Figueroa.

29.

24. S. D. K.

José Figueroa, General de Brigada de la República Mejicana, Comandante general, Inspector y Gefe Superior Político del Territorio de la Alta California.

Por cuanto el Ciudadano Licenciado Rafael Gomez, Mejicano por nacimiento ha pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de los Fularcitos Colindante con la Barranca blanca: Laguna de los Conejos, Sierra del Fularcito y Sierra de Sashaguan; practicadas previamente las diligencias y averiguaciones concurrentes segun lo dispuesto por leyes y reglamentos: usando de las facultades q. me son conferidas: á nombre de la Nacion Mejicana he venido por decreto del dia primero del corriente mes en concederle al espresado Ciudadano Licenciado Rafael Gomez el mencionado terreno de los Fularcitos, declarandole la propiedad de el por las presentes letras, entendiendose dicha concesion con entera conformidad á lo dispuesto por las leyes, á reserva de la aprovacion ó desaprovacion de la Exma. Diputacion Territorial y del Supmo. Gobierno y bajo las condiciones siguientes.

1ª Que se sometará á las q. establecieren el Reglamento q. se ha de formar p.ª distribucion de terrenos baldios, y que entretanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se le adjudica: ni ponerlo censo, vinculo, fianza hipoteca ni otro gravamen aunq. sea por causa piadosa, ni pasarlo á manos muertas.

25. S. D. K.

2ª Podra cercarlo sin perjudicar las trasesias, caminos y servidumbres: lo

disfrutara libre y esclusivamente, destinandolo al uso ó cultivo q. mas le acomode pero dentro de un año á lo mas fabricará casa y estará habilitada.

3.ª Cuando se le confirme la propiedad solicitara del Juez respectivo le dé posesión jurídica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites podran á mas de las mohoneras algunos arboles frutales ó silvestres de alguna utilidad.

4.ª El terreno de q. se le hace donacion es de seis sitios de ganado mayor poco mas ó menos segun esplica el diseño. El Juez q. diere la posesion lo hara medir conforme á ordenanza p.ª señalar los linderos, quedando el sobrante q. resulte á la nacion p.ª los usos convenientes.

5.ª Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable p.r otro.

En consecuencia mando, q. sirviendole de titulo el presente y teniendose p.r firme y valedero se tome razon en el libro á que corresponde y se entregue al interesado p.ª su resguardo y demas fines. Dado en Monterey á 18 de Diciembre de 1834 = Jose Figueroa.

Agustin V. Zamora. S.º

3 SD
PAGE 30

26. S. D. K.

Ag.to 27 de 1835.

En sesion de este dia acordo la E. Diputacion pase á la Comision de terrenos baldios.

Figueroa
José Maria
Maldonado
Secr.o

31.

27. S.D.K.

Emo. Sr.

La Comision de Terrenos baldios impuesta del espediente q. se mandó practicar p.a pretension que el Ciud.o Rafael Gomez hizo al paraje nombrado Fularcitos no encontrandose en el objecion alguna q. hacer y siendo en todo conforme á la Ley de 18 de Ag.to de 1824. como el art.o 5 del reglamento de V.S. de Nove de 1828. ofrece á la deliberacion de V.E. la siguiente proposicion.

Se aprueba la concesion hecha al C. Rafael Gomez del paraje nombrado Fularcitos concedido a 18 de Diciembre de 1834.

Jose Castro

Ag.to 29 de 1835.

En sesion de hoy aprovó la E. D. el dictamen q. antecede y pasa el Espte. al S.G. Politico p.a su conclusion.

Jose Castro

Jose Maria Maldonado.

28. S.D.K.

Sello cuarto de Oficio.

Habilitado provisionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. Angel Ramirez

Monterrei Obre. 12 de 1835

En vista de la aprovacion otorgada el dia veinte ámbos de Agosto p.r la E. Diputacion

Territorial Diversos testimonio de ella y de este decreto á la parte de Dn. Raphael Gonzales en conformidad á la concesion del terreno conocido con el nombre de Tulareitos q. obtuvó en 18 de Dbre. de 1835. El C. D. Jose Castro primer Vocal de la Exma Diputacion Territoral é Gefe Politico interino así lo mandó decreto é firmo de q. doy fé.

Jose Castro

Se le estendió el testimonio de la aprovacion de la E. D. T.

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

I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my charge and control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California, do hereby certify that the twenty eight preceding and hereunto annexed pages of tracing paper numbered from one to twenty eight 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. this tenth day of April 1852

S. D. K.

Samd. D. King, Surr. Genl Cal.

Filed in Office April 20th 1852.

Translation of Expediente. D

Stamp third. Two Reales.
Provisionally authorised by the administration of the Maritime Custom House of Monterey for the years 1833 & 1834.
Figueroa. Jose Rafael Gonzales

Santa Barbara, March 26. 1834.

In conformity with the laws on the matter, let the Ilustrious Ayuntamiento of Monterey report, if the party interested in this proceeding has the requisites to entitle his petition to be attended to; if the land asked for is included within the 20 boundary leagues or the 10 littoral which are mentioned in the law of August 18th, 1824, if it is irrigable, dependent on the seasons, or pasture land; if it belongs to the property of any individual, corporation, Pueblo or Mission & what else is calculated to illustrate the matter.

Having made this report, let the expediente be passed for the same purpose to the R. Minister of the Mission of San Carlos that

Senor Superior Political Chief

Citizen Rafael Gomez Asesor of this Territory duly appears before your Excellency says: That in the year 1830 he instituted the proceedings sent herewith for securing a land for cultivation and stocking with cattle which was in reality granted to him, but not carried into effect on account of the opposition of the Priest of the Mission of San Rafael as seen in the three letters duly sent, and if without that difficulty the project could be carried into execution, there is now a new one, as I am informed that your Excellency is intending to form a Presidio or Town in the place granted; Wherefore, and as I wish to dedicate myself to agriculture I come to the well known justification of Your Excellency in order that if in fact the said land is to be converted

he may express what occurs to him on the matter.

The Senor General of Brigade, Don Jose Figueroa Commandant General and Superior Political Chief of Upper California thus ordered, decreed and signed, of which I certify.

Jose Figueroa.

In the absence of the Secretary

Bernardo Navarrete

into a public Establishment, as an indemnification for the right which I formerly had in it, and inasmuch as I am married in the Territory, have two children and in obedience with the decrees of the Supreme Government to incite settlement and to make productive the lands which are cultivated, I respect that I come to your Excellency petitioning that you will grant me the land known by the name of Turlacitos which the Mission of the Carmelo recognizes as its own, although without title or occupation; for this purpose I desire that the extent of the place may include the maximum which by the last law of Colonization may be granted and in case it is granted, I will introduce into the place four hundred head of large Cattle and a hundred small.

I pray Your Excellency to grant my request as what I ask is just. I make the necessary oath.

Monterey March 7th 1834.

Rafael Gomez.

On this day took into consideration this Espediente

& paped it to the Committee on Colonization.

Monterey April 5th 1834.

Jose Maria Maldonado
Secretary

Illustrious Ayuntamiento

The Committee on Colonization and vacant lands to whom was referred this expediente to make out the corresponding report has delayed making it principally to await till the Petitioner should send in the map of the land provided for in article 2d of the regulation of Colonization as being an essential requisite in a proceeding of this Class and as it is required by the Superior Decree of the Political Chief; but the Committee having reflected that it belongs to the political authority to exact the said requisite and as they can report on what matters they know of the land asked for, proceed to say that the place called the Tularcitos which Citizen Rafael Gomez, Asesor of the Territory asks for, is vacant as it belongs to the property of no individual, corporation or Pueblo, nor to the Mision of Carmelo as it neither has a title to it, nor occupies it, by which alone its colonization could be prevented according to article 17 of the said regulation of Nov. 21st 1828. The land is pasture land and industry alone could bring it into cultivation as irrigable or dependent on the seasons; it is within the 10 littoral leagues, but not in the 20 border, expreped in the law of August 18th 1824, and the petitioner has all the requisits to entitle him to be attended to in his petition,

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with the particular recommendation of having always apisted this Ayuntamiento with donations & loans and as being a useful citizen of the municipality. Finally the Committee concludes, offering to the deliberation of this Illustrious Ayuntamiento the following propositions.

1st. The land called the Tularcitos ought to be granted to citizen Rafael Gomez Apesor of the Territory, as he merits this favor, if it thus please the Superior power.

2d. That in order to comply with the Superior decree which accompanies this petition, it be paped to the Reverend Father Minister of the Mision of San Carlos for him to report as to him may appear fit.

Monterey April 11. 1834.

Jose Aguila

Jose Antonio Romero.

On this date this Espediente is paped to the Reverend Father Minister of the Mision of San Carlos for the purpose indicated in the Superior decree of the 26th ultimo.

Monterey April 12th 1834.

Jose Maria Maldonado
Secty.

Señor Superior Political Chief

The Illustrious Ayuntamiento of this Capital in order to report as your Excellency requires on the Espediente of the petition of the Señor Apesor of this Territory for a grant of the land called the Tularcitos, having heard the respective Committee whose report is sent, on two

pages, had no hesitation in approving it in Sesion of the 12th ultimo, as the opinions expresed by the Committee are the only ones which this Corporation entertain.

In due compliance with the Superior decree of Your Excellency of the 26th March last, the Espediente was passed to the Reverend Father Minister of the Mision of San Carlos who has reported on it in a sheet of common paper, which is sent herewith as agreed in Sesion of the 3d inst.

Monterey May 5th 1834.

Manuel Jimeno Casarin.

Jose Maria Maldonado
Secretary.

In attention to the Espediente which is directed to me that I should express what I have on the matter: I say, that although the Committee on Colonization has declared that the place called the Tularcitos is vacant, as it belongs to the property of no individual corporation or Pueblo, nor to the Mision of Carmelo, as it neither has a title to it nor occupies it, the Mision has always recognized it as its own, as is shown by the report given when an inventory was made of what the Misions claimed as theirs; also it has always occupied it, and occupying as necessary for its small cattle the greater part of the year; and having no other place to move them to will cause a very great injury to these poor people by the damage which will result to them if the land is taken which they have always regarded as

theirs; they being not the less deserving for the services which they have always rendered and are still rendering, and on account of the injuries they have suffered from the want of information of those who have reported on the possession of other ranchos which they have lost although very useful; now they lament these losses although it it is now impossible to remedy them: I say if we act justly there is no place for the petition of the party interested, not opposing any superior order, but only working for my charge.

San Carlos April 25th 1834

F. J. Maria del Refugio Idiaquez

Real.

× × × × × × × × ×

Señor Superior Political Chief.

Citizen Rafael Gomez duly appears before Your Excellency and says: that in the petition which he made on the 7th of March last for the land called Los Tularcitos he was not ignorant that he ought to have sent therewith the map of the land in conformity with article 2d of the Regulation of Colonization, and for want of opportunity to examine the place he incurred the said fault. which he now rectifies by accompanying it herewith in due form, with the understanding that he only asks two leagues from the "Barranca Blanca" to the North, and in the other directions for enough to complete what the law of August 18th 1824 permits to be granted as pastoral land. He prays Your Excellency that considering this as presented

Monterey May 9th 1834
Let this to the Expedente on the matter.
Figueroa.

in time and form you be so good as to order it annexed to the proceeding for the corresponding purposes. Making the necessary oath &c.

Monterey May 5th. 1834
Rafael Gomez.

[Here follows the Map referred to.]

Monterey May 9th 1834.

The land asked for in this Espediente being of those recognized as belonging to Ypofeped by the Mission of San Carlos, Let the continuation & resolution of said Espediente be suspended until the law of August 17th of last year be put in execution and until the Señor Superior political chief Don Jose Maria Hijar arrives to whom the Supreme government has given the special Commission of distributing these lands. Make it known to the party for the uses he may see fit to make of it and reserve for use at the proper time. The Señor Don Jose Figueroa General of Brigade, Commandant General Inspector & Superior Political Chief of Upper California thus ordered, decreed & signed of which I certify.

Jose Figueroa
Agustin V. Zamorano.
Secretary.

On the 15th day of May 1834 having appeared at this Secretary's Office the Licenciado Don Rafael Gomez, he was notified of the preceding Decree of the Señor Superior Political Chief of the Territory, and having understood it, said he heard it and submitted to the

refusal of his petition as shown in the Superior Decree of which he was notified: Answering thus he signed with me the Secretary.

Agustin V. Zamorano. Rafael Gomez.

Monterey October 31st 1834.

The Commissioner Don Joaquin Gomez will report if the land of Los Tularcitos asked for by Don Rafael Gomez will be wanting to the Indians in the distribution of lands which is to be made to them. The Señor Don Jose Figueroa, General of Brigade, Commandant General Inspector & Superior Political Chief of the Territory of Upper California thus ordered decreed and signed of which I certify.

Jose Figueroa

Agustin V. Zamorano
Secretary.

Señor Commandant General & Superior Political Chief.

The Potrero in front of the Mission is more than sufficient for the distribution which is ordered to be made to the Indians, on account of the great extent of that place and the small number of these (the Indians). For this reason and and as no one in the land of Los Tularcitos, I think there will be no want of land at the time of distribution. This is what I can report to your Excellency in compliance with your foregoing Superior Decree.

Monterey November 20th 1834

Jose Joaquin Gomez.

Monterey December 7th 1834.

Having seen the petition at the beginning of this Expediente, the Report of the municipal authority of this Capital that of the Reverend Father Minister of the Mision of San Carlos, and that of the Commissioner, the depositions of witnesses, with all else presented and proper to be seen, in conformity with the laws and regulations on the matter, I declare the Licenciado Don Rafael Gomez owner in fee of the land known by the name of Los Tularcitos bounded by the "Barranca Blanca", the "Laguna de Conejos; the Sierra of the Tularcito, and the Sierra of Tasehaguan", subject to the conditions which may be stipulated. Let the corresponding despatch issue, take note in the respective book, and direct this Expediente for the due approbation to the Most Excellent Territorial Diputation, in which case the party interested, to whom this Decree will be made known, will present anew his title in order that it may be revalidated. The Señor Don Jose Figueroa, General of Brigade, Commandant General Inspector & Superior Political Chief of Upper California thus ordered decreed & signed, of which I certify.

Jose Figueroa

[Here follow copy of title proceedings of Approval which are already translated]

Filed in Office February 10th 1854.

Geo: Fisher
Secy.

Doc
43.

Expediente.
Doc. A
Exhibit "C"
annexed to
deposition of D.
Spence

3 SD
PAGE 42

En el nombre de Dios todo poderoso y de la Santissima Trinidad, Padre, Hijo y Espiritu Santo, tres personas distintas y un solo Dios verdadero; estando en la cama grasamente enfermo, peró en mi enteró juicio y temeroso de la muerte que á todos es natural, para descargar mi conciencia ordeno este testamento en apuntes por no estar en paraje proporcionado para que lo fuera Judicialmente, declarando en primer lugar haber sido baptizado en el seno de la santa Iglesia Catolica, Apostolica, Romana.— Creer como firmamente creo en el misterio altissimo de la Santisima Trinidad; en el misterio de la Encarnacion del hijo de Dios, en las purisimas entrañas de la siempré Virgin Maria, y igualmente creo en los misterios de la pasion y muerte, resureccion y asencion de ntro Señor Jesu Cristo, quien há de venir á juzgarnos en aquel horrible dia de Juicio, en que hemos de resucitar todos y que dará á los buenos su santisima Gloria, porque guardaron sus mandamientos, y á los malos las penas del infierno porque no los guardaron.— Creo en el santissimo y disinissimo Sacramento del Altar, y todos las demas misterios y sacramentos q.e cree y confiesa ntra madre la Yglesia, santa Catholica, Apostolica y Romana; bajo de cuya fee y creencia protesto y es mi intention de morir. Yasimismo q.e por el Sacramento de la penetencia se perdonan nuestras culpas.

Mando mi alma á Dios que la crió y formó de la nada, y mi cuerpo á la tierra de que fué formado; siendó mi voluntad que mis albaceas dispongan se le dé sepultura Ecca. en el cementerio de la Mission del Carmelo con misa de cuerpo presente si hubiere proporcion de q.e se diga, y sin ninguna otra pompa. Declaro haber sido casado y velado segun el orden de ntra Santa Madre la Yglesia con Dona Josefa Antonia Estrada, de quien hube cuatro hijos legitimamente; dos varones llamados, el mayor Felipe y el 2.o Juan Evangelista; y las mujeres Isabel y la menor Mariana; advirtiendo que dar mi espoza embarazada, y tanto la prole q.e naciere como los cuatro citados deberan tenerse por mis herederos legitimos.

Itm.— Declaro haber introducido mi muger al matrimonio doscientas reces, y yo por mi parte tres cientos uno, trescientas borregas, setenta y cinco yeguas aburradas con dos maestras de costo de dos cientos pesos. Tambien el sueldo

q.e disfrutè desde el 7. de Marzo 831 en que me casé ó razon de tres mil pesos anuales (como Asesor del Territorio.) hasta el 22 de Mayo del ano de 834 en que me fué admitida la renuncia que hizé de dho. empleo, esceptuando dos mil p.s q.e aun me debe el gob.no y cuyos documentos justificatiosos de la deuda que daran en poder de mis albaceas, como tambien la casa de mi abitacion en Monterrey.

Yten. Declaro reconocer por mis bienes la casa antes citada, y el rancho de los Tulareitos, en que poco mas ó menos, se encontraran á la fecha mil y pico de reses: ciento y tantas yeguas, dos burros maestros y dos garanones; ciento y una mulas entre mansas y cerreras; treinta potrillos; y tres cientos cinco borregas de todas clases; treinta caballos mansos.- diez yuntas de bueyes y cabrestos.- y sesenta vacas chichiyeras.- cinco corrales de cajon, una casa techada con tule compuesta de dos piezas.

Item.- Declaro no tener otros heredores legitimos, ni naturales que á los cuatro citados Felipe, Juan, Isabel, Mariana y la postuma: y para que goecn y disfruten los dhos. bienes por iguales partes sin mejorar á ninguno, suponiendo que mi muger no pase a segundas nupcias; pues en este caso es mi voluntad q. deduciendo su dote q.e queda mencionado, y las respectivas gananciales, los demas bienes queden á disposicion de mi segundo Albacea para q.e me los entregue á mis dhos. herederos en edad competente.—

Declaro tambien por mis bienes, dos cientos y tantos pesos q.e me adeuda Vicente Lané; cuatro cientos la mision de la Soledad, y otras cantidades de menor cuantía que constan en un apunte de deudas activas, que encontraran mis albaceas en la papelera de mi escritorio, que si pudieren cobrar las Albaceas lo agregarán al cuerpo de mis bienes; pero si negaren las deudas como sospecho que lo harán muchos, les perdono, y omitiran el paso de ponerlos anté justicia.

Item. Declaro por mis deudas pasivas la que acreditaren por libramientos mios, los S.s Don José Abrego, Don David Spence, Don Santiago Watson, D.r Eulogio Celis y a Don Santiago Maguinle, a quien no se

Cely y a Don Santiago Maguinte, a quien no se

45.

mas q.e dos cientos doce cueros aunq.e reclama quinientos y
tantos pesos; pero que debe pasar por reclamos que le he hecho con
anticipacion, y por eso segun mi cuenta de cargo y data q.e
se le exigirá se le hará el pago, y al padre ministro de la mis-
-ion del Carmelo la cantidad que aparezca por un documento
mio deberle.- Y para cumplir y pagar este mi testamento
nombro por mis albaceas á mi citada mujer D.a Josefa Antonia
Estrada y á Don David Spence para que cada uno en
particular é insolidum, verificado mi fallecimiento, entren
y se apoderen de mis dhos. bienes para cumplir con lo que
queda ordenado en él, sin que sirva de obstaculo la
falta de alguna clausula prevenida para dhos. Documentos;
pues quiero que se tenga por tan firme y valedero como
si estuviera otorgado en el papel sellado, q. no se encuen-
-tra en todo este Departamento, y ante Notario publico
que no lo hay tampoco, ni ante otra autoridad judicial,
pues las leyes de España vigentes en la Republica facult-
-an á los testadores para obrar como les parezca.

3 SD
PAGE 44

Asi lo otorgue en el rancho citado de los Tulareitos
á diez y ocho del mes de Setiembre de mil ochocientos treinta
y ocho, siendo testigos los señores Dn Martin Sanchez Cab-
-ello, Don Julian Estrada. y los C.C. Martias Corodero,
Liborio Soto, Joaquin Valenzuela, Carlos Lorenzana,
José Antonio Urias y Bertoldo, neofito de la Soledad,
sin que aparezca mi firma por ser mi enfermedad fractur-
-acion de la mano derecha; pero autorizo para que lo
haga á mi nombre al primer testigo nombrado.

(Firmado) Martin Sanchez Cabello.

Firmo por mi y por los demas por no saber firmar.

(Firmado) Julian Estrada.

(Firmado) Martin Sanchez Cabello.

47.
Original of Exhibit "E"

En el nombre de Dios todo poderoso; y de la Santisima Trinidad, Padre, Hijo y Espiritu Santo, tres personas distintas y un solo dios verdadero; estando en la cama grasan.te enfermo, pero en mi entero juicio y temeroso de la muerte que á todos es natural, para descargar mi conciencia ordeno este testamento en apuntes por no estar en paraje proporcionado para que lo fuera judicalmente, declarando en primer lugar haber sido santizado en el seno de la santa Iglesia Catolica, Apostolica, Romana; Creer como firmamente creo en el ministerio Altissimo de la Santisima Trinidad, en el ministerio de la Encarnacion del Hijo de Dios, en las purisimas entrañas de la Siempre Virgen Maria y igualmente creo en los ministerios de la passion, y muerte, resureccion, y asencion de N.tro Señor Jesu Cristo, quien ha de venir á Jurgarnos en aquel horrible dia de Juicio, en que hemos de resucitar todos y que dará á los buenos su Santissima gloria porque guardaron sus mandamientos, y a los malos las penas del infierno porque no los guardaron. — Creo en el Santissimo y divenisimo Sacramento del Altar; y todos los demas misterios y sacramentos q.e cree y confiesa ntra madre la Iglesia santa, Catolica, Apostolica y Romana, bajo de cua fé, y creencia protesto y es mi intencion morir. Yasimismo q.e por el Sacramento de la penetencia se perdonan nuestras culpas.

Mando mi alma a Dios que la creó y formó de la nada, y mi cuerpo á la tierra de que fue formado, siendo mi voluntad que mis albaceas dispongan se le dé sepultura Ecca. en el cementerio de la Mission del Carmelo con misa de cuerpo presente si hubiere proporcion de q.e se diga, y sin ninguna otra pompa. Declaro haber sido casado y velado segun el orden de ntra Santa madre la Iglesia con D.a Josefa Antonia Estrada; de quien hube cuatro hijos legitimamente; dos varones llamados, el mayor Felipe y el 2.o Juan Evangelista; y las mujeres Isabel y la menor Mariana. advirtiendo que mi esposa embarazada, y tanto la prole q.e naciere

como los cuatro citados deberan tenerse por mis herederos legitimos.

Ytem. Declaro haber introducido mi muger al matrimonio doscientas reces, y yo por mi parte trescientos una, trescientas borregas, setenta y cinco yeguas aburradas con dos maestras de costo de dos cientos pesos. Tambien el sueldo q.e disfrute desde el 7. de marzo de 831 en que me casé á razon de tres mil pesos anuales (como Asesor del Territorio) hasta el 22. de Mayo del ano de 834, en que me fue admitida la renuncia que hire de dho. empleo, esceptuando dos mil p.s q.e aun me debe el gob.no; y cuyos documentos justificatiosos de la deuda que daran en poder de mis albaceas, como tambien la casa de mi abitacion en Monterrey.

Ytem. Declaro reconocer por mis bienes la casa antes citada, y el ranchó de los Tulareitos, en que pocó mas ó menos, se encontrarán á la fecha mil y pico de reses: ciento y tantas yeguas; dos burros maestros: y dos garañones. - ciento y una mules entre mansas y cerreras; treinta potrillos; y tres cientos cinco borregas de todas clases. - treinta cabellos mansos. - diez yuntas de Bueyes y cabrestos. - y sesenta vacas chichigeras. cinco corrales de cajon, una casa techada con tule compuesta de dos piezas.

Item. Declaro no tener otros herederos legitimos, ni naturales que á los cuatro citados Felipe, Juan, Isabel Mariana y la postuma: y para que gocen y disfruten los dhos. bienes por iguales partes sin mejorar á ninguno, suponiendo que mi muger no pase á segundas nupcias. - pues en este caso es mi voluntad q. deduciendo su dote q.e queda mencionado, y los respectivos gananciales, los demas bienes queden á disposicion de mi segunda Albacea para q.e me los entregue á mis dhos. herederos en edad competente. - Declaro tambien por mis bienes, dos cientos y tantos pesos q.e me adeuda Vicente Cané: cuatro cientos la mission de la Soledad, y otras cantidades de menor cuantía, que constan en un apunte de deudas

cuantía, que constan en un apunte de deudas

activas que encontraran mis albaceas en la papelera de mi escritorio, que se pudieren cobrar los Albaceas lo agregarán al cuerpo de mis bienes; pero si negaren las deudas como sospecho que lo harán muchos; les perdono y omitran el paso de poner los ante Justicia. Item.- Declaro por mis deudas pasivas la que acreditaren por libramientos mios, los Sres Don José Abrego, Don David Spencer, Don Santiago Watson, Dr Eulogio Celiz y á Dr Santiago Maguinle, á quien non se entregaran mas qe dos cientos doce cueros aunque reclama quinientos y tantos pesos; pro que debe pasa por reclamos que le he hecho con anticipacion, y por eso segun mi cuenta de cargo y data qe se le exigerá se le haron el pago.- Y al padre ministro de la mision del Carmelo la cantidad que aparezca por un documento mio deberle.- Y para cumplir y pagar este mi testamento nombro por mis albaceas á mi citada mujer Da Josefa Antonia Estrada y á Don David Spence para que cada uno en particular é nisolidun, verificado mi fallecimiento, entien y se apoderen de mis dhos. bienes para cumplir con lo que queda ordenado en él, sin que sirva de obstaculo la falta de alguna clausula prevenida para dhos. documentos; pues quiero que se tenga por tan firme y valederó como si estuviera otorgado en papel sellado qe no se encuentra en todo este Departamento, y ante notario publico que no lo hay tampoco, ni ante otra autoridad judicial, pues las leyes de España vigentes en la Republica facultan a los testadores para obrar como les parezca.

Asi lo otorgue en el ranchito citado de los Tulareitos á diez y ocho del mes de setiembre de mil ochocientos treinta y ocho, siendo testigos los señores Dr Martin Sanchez Cabello, Don Julian Estrada, y los C.C. Martias Cordero, Tiburcio Soto, Joaquin Valenzuela, Carlos Lorenzana, José Antonio Frias y Bertoldo, neofito de la Soledad,

sin que aparezca mi firma por ser mi enfermedad fracturacion de la mano derecha: peró autorizo para que lo haga à mi nombre al primer testigo nombrado.

(Timado.) Martin Sanchez Cabello.

Firmo por mi y por los demas por no saber firmar

(Timado.) Julian Estrado.

(Timado) Martin Sanchez Cabello.

Map follows

53. Exhibit "A" annexed to 1st deposition of D. Spence.

Titulo.

de posecion dada al C. Lic. Rafaël Gomez del terreno nombrado Tulareitos en cinco de Febrero de mil ochocientos treinta y seis, por el Alcalde de segunda nominacion de Monterey C. Marcelino Escobar.

Sello Primero Seis Reas.

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

Figueroa. A. Ramirez.

José Figueroa, General de la Brigada de la Republica Mejicana, Comandante General, Inspector y Jefe Superior Politico del territorio de la Alta California.

Gobierno Politico de la Alta California. Eagle.

Por cuanto el ciudadano Licenciado Rafael Gomez, mejicano por nacimiento há pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de los Tulareitos colindante con la Varanza blanca; Laguna de los Conejos, Sierra del Tulareitos, Sierra de Cassaguan: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos: usando de las facultades que me son conferidas à nombre de la nacion Mejicana hé venido por decreto del dia primero del corriente mes en conceder le al espresado ciudadano Licenciado Rafael Gomez el mencionado terreno de Los Tulareitos, declarandole la propiedad de el por las presentes letras, entendiendose dicha concesion con entera conformidad à lo dispuesto por las leyes à reserva de la aprobacion ó desaprobacion de la Exma Diputacion territorial y del Supremo gobierno y bajo las condiciones siguientes:

1ª Que se sometra à las que estableciere el reglamento que se ha de formar para la distribucion de terrenos Baldios, y que entretanto ni el agraciado ni sus herederos podran dividir ni enagenar el que se le adjudica; imponer censo, vinculo, fianza, hipoteca

ni otro gravamen aunque sea por causa piadosa, ni pasar lo á manos muertas.

2ª Podrá cercarlo sin perjudicar los travesias caminos y servidumbres, lo disfrutará libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro un año á lo mas fabricará casa y estará habitada.

3ª Cuando se le conferme la propriedad solicitará del Juez respectivo le de posesion juridica en virtud de este despacho por el cual, se demarcarán los linderos en cuyos limites pondrá á mas de las mahoneras algunos arboles frutales ó silvestres de alguna utilidad.

4ª El terreno de que se le hace donacion es de seis sitios de ganado Mayor poco mas ó menos segun esplica el diseño. El Juez que dive la posesion lo hará medir conforme á ordenanza para señalar los linderos, quedando el sobrante que resulte á la nacion para los usos convenientes.

5ª Si contravenire á estas condiciones perderá su derecho al terreno y será denunciable á otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey á diez y ocho de Diciembre de mil ochocientos treinta y cuatro.

José Figueroa.

Agustin V.ª Zamorano.
Secretario.

Queda tomada razon de este despacho en el libro de asientos de titulos sobre adjudicacion de terrenos á fojas cincuenta y nueve, numero cincuenta y siete que obra en la Secretaria de mi cargo. Monterrey diez y ocho de diciembre de mil ochocientos treinta y cuatro.

Zamorano.

55.

Sello Tercero Dos Reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez.

Gobierno político de la alta California. Place of the Eagle.

Testimonio.

Proposicion de la Comision.

Se aprueba la concesion echa al C.no Rafael Gomez del paraje nombrado los Tulareitos concedido en diez y ocho de Dbre de mil ochocientos treinta y cuatro.- José Castro. Monterey agosto veinte y nueve de mil ochocientos treinta y cinco.

Aprovacion de la E. Diputacion.

En sesion de hoy aprovó la Exma Deputacion el dictamen q. antecede i pasa el espediente al S. Jefe Politico p.a su conclusion. José Castro. = José Maria Maldonado. = Secretario. = Monterey. Octubre dies y nueve de mil ochocientos treinta y cinco.

Decreto de confirmacion de S. S. Politico.

Dros. 8 p.s

En vista de la aprovacion otorgada el dia veinte y nueve de Agosto p.r la Exma diputacion Territorial librese testimonio de ella y de este decreto á la parte de Don Rafael Gomez, en confirmacion á la concesion del terreno conocido con el nombre de Tulareitos q. obtuvo en dies y ocho de Dbre. de mil ochocientos treinta y cinco. El Sor Don José Castro, Primer vocal de la Exma Deputacion Territorial y Jefe politico interino del Territorio de la Alta California asi lo mando, decreto y firmó de q.e doy fe. = José Castro. = F.co del Castillo Negrete. = Secretario.

Concuerda á la letra con su original q. queda archivado en esta Secretaria del Gobierno politico de mi cargo en el legajo de Espedientes sobre terrenos aprovados p.r la Exma diputacion señalado, con el numero primero al q. me remito. Monterey. Octubre dies y nueve

de mil ochocientos treinta y cinco.

T.co del Castillo Negrete."

Sello tercero Dos Reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez.

Ciud.no Alcalde de 2.a nominacion.

El Ciud.no Rafael Gomez, ante V. por el oficio mas oportuno dice: que haviendosele concedido por la Gefatura politica del Territorio para su beneficio personal y de su familia el terreno conocido con el nombre de los Tulareitos, y obtenido igualmente la confirmacion de la Extra ripetacion como la acreditan el titulo y testimonio que devidamente acompaña; solo le falta la posecion juridica, cuyo efecto ocurre á V. para que se sirva previa la citacion de los colindantes que demuestra el diseño que tambien acompaña señalar dia para otro otorgarsela - Por tanto.—

A. V. Suplica dispiera a su solicitud ordenando el Espediente original p.a su resguardo concluidas q. sean las diligencias, por ser todo de justicia Jura lo necesario. Monterey. D.bre 29. de 1835.

Rafael Gomez.

Monterey. Enero. 30. de 1836.

Derecho sin el papel Veinta y cuatro pesos, tres Re.s Ss. p.s 3. R.s

J.

Por presentado y admitido en cuanto há lugar por derecho: procedase por el presente Alcalde á dar la posecion que se solicita, señalandose para verificarlo el 3. del proximo Febrero previa citacion de los colindantes Ciud.nos Francisco Mesa y Teodoro Gonzales.— Asi lo alcalde de Segunda nominacion lo decreté, mandé y firmé actuando con los

mando y firme actuando con los

57.

testigos de asistencia en la forma establecida.

Marcelino Escobar.

de assa.

José Maria Maldonado.

de assa.

José Aguila.

En la fecha presentes los ciudadanos Francisco Mesa y Teodoro Gonzales, les hice ver el decreto que antecede y de el entendido dijeron; que lo oyen y se dan por citados firmando el Segundo y por no saver lo hacer el primero, lo hice y con los.

[Sello Tercero Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterrey de la alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez.]

de assa.

M. Escobar.

de assa.

José Maria Maldonado.

Teodoro Gonzales.

de assa.

José Aguilar.

En el Rancho de los Islareitos á los cuatro dias del mes de Febrero de mil ochocientos treinta y seis estando en la posa q. se halla en la Barranca blanca lindero del C. Teodoro Gonzales, con el objeto de dar principio á las medidas del terreno concedido al C. Rafaël Gomez en los terminos que consta en el diseño, mande leer, el titulo de concesion y de respectiva aprovacion de la E. diputacion, siendo presentes el interesado y como colindantes los C.C. Teodoro Gonzales y Francisco Mesa, nombré para peritos medidores á los C.C. Francisco Mesa y Juan Arroyo, quienes inteligenciados de su nombramiento aceptaron y juraron por Dios nuestro Señor y la Señal de la cruz desempeñarlo fiel y legalmente á todo su leal saver y entender sin dolo, fraude ó encubierta alguna y lo firmaron con migo los que supieron hacerlo.

Doy fe. Lo entre renglones S.S

Juan Arroyo.

de asis.

José Maria Maldonado.

Marcelino Escobar

Teodoro Gonzales.

de assa.

José Aguilar.

En seguida siendo presentes todos los interesados mandé reconocer un cordel q. tuvo cincuenta varas usuales y lo firmaron los q. supieron con migo y los testigos de ass.

Marcelino Escobar. Rafael Gomez.

Juan Arroyo (de ass.

de ass. José Aguilar.

José Maria Maldonado.

En la fha, citada dando principio á la medida.

[Sello tercero Dos reales.

Habilitado provisionalmente por la Administracion de la Aduana maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Castro. Angel Ramirez.

Prevalidado para el bienio de 1836 y 1837.

Gutierrez A. Ramirez.]

tomaran el cordel los medidores y se midieron desde el punto de la varanca citada con direcion al S. treinta cordeles dando por medidas desde el punto referido p.r el N. hasta la mesa del mirador del corral de tierra setenta cordeles por haverse hecho hace pocos dias igual medida por el C. Alcalde 1.o de esta municipalidad; en lo que como en lo demas quedaron conformes todos los interesados y firmaron con migo y los de asistencia los que lo supieron hacer. Doy fé.

Marcelino Escobar.

Juan Arroyo. Rafael Gomez.

Teodoro Gonzales.

de assa. de assa.

José Maria Maldonado. José Aguilar.

En el mismo dia, en prosecucion de estas diligencias se midieron desde dicha cabesa del O. al E. doscientos cordeles que llegaron hasta el frente de la casa del Rancho, y desde este punto, otras doscientas hasta la segunda lagunita que esta adelante a los conejos en cuyo lindero, como en el anterior, impuse al interesado fijase las majoneras, y con el cual quedó conforme

fijase las majoneras, y con el cual quedó conforme

59.

el interesado y firmó con migo y los asistencia.

Marcelino Escobar.

Juan Arroyo. Rafael Gomez.

de assa. de assa.

José Maria Maldonado. José Aguilar.

En el Rancho citado á los cinco dias del mes y año referido. Yo el presente Juez accompañado de los medidores interesados y testigos de asistencia para concluir la medida del terreno mandé medir, desde la casa mencionada ciento cincuenta cordeles con direccion al N. q. remataron en la falda de la Sierra donde acaba la cañada de los chupines, de las cuales las cincuenta pertenecen á los cuatro Sitios, que quedan ya demarcados y las cien, forman la cabessa de los Dos Sitios que deben darse para el entero de la posecion. Por ultima se midieron dos cientos cordeles del E. al O. que forman el largo de los dos Sitios que faltaban para el completo: con cuya operacion quedó recivido y enterado el C. Rafael.

[Sello tercero Dos reales.

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

Castro. Angel Ramirez.

Revalidado para el bienio de 1836 y 1837.

Gutierrez. A. Ramirez.

Gomez de los Seis Sitios de ganado Mayor que contiene el diseño que corre agregado en este Espediente y lo firmó con migo, el interesado, y uno de los colindantes, por no saber el otro, y los testigos de as.^a

Marcelino Escobar. Rafael Gomez.

Juan Arroyo. Teodoro Gonzales.

de assa. de assa.

José Maria Maldonado. José Aguilar.

En el mencionado Rancho á los cinco dias del mes y año ya citado, Yo el Juez referido, hallandose presentes el C. Rafael Gomez, los colindantes y testigos de as.^a

en vista de estar concluidas, las medidas de los seis sitios de que se há hecho merito, sin haciendo resultado contradicion: alguna tomé de la mano al citado Licenciado Gomez, y lo meti en posecion del terreno que aquellos comprenden, mandandose á la vez: "como lo verifico" que hiciese algunas demostraciones de señorio y propiedad, en cuya virtud movió piedras de una parte á otra y arrancó algunas yervas, y para la devida constancia siento esta diligencia q. firmé con el interesado, colindante q. lo supo hacer y testigos de asf.

Marcelino Escobar. Rafael Gomez.
Teodoro Gonzales. de assa.
de assa. José Aguilar.
José Maria Maldonado.

Monterey Febrero 6. 1836.

Tomese razon en el libro de posesiones de este Espediente y devuelvase al interesado el original para los usos q. le corresponden. Asi lo el Alcalde de 2a nominacion lo mandé y firmé con los de asf.

Marcelino Escobar.
de assa. de assa.
José Maria Maldonado. José Aguilar.

En la Sto. se tomé razon de este titulo en la foja 5a del libro respectivo y pa constancia lo anoto y rubrico.

Sin fojas intermedias por fin.

Translation of Grant, Approval and Juridical possession.

Exhibit B.

Seal of the first class, Six Dollars.
Authorized provisionally by the Collector of maritime Custom House of Monterey, Upper California, for the years one thousand eight hundred and thirty four, and eighteen hundred and thirty five.
(Signed) Figueroa. (Signed) A. Ramirez.

Jose Figueroa, Brigadier General of the Mexican Republic, Commandant General, Inspector and Superior Political Chief of the Territory of Upper California.

Whereas the Licenciate, Citizen Rafael Gomez, a mexican by birth has solicited for his personal benefit and that of his family the land known by the name of "Los Vulvercitos" bounded by the Barranca blanca, the Laguna de los Conejos, the mountains of the Vulvercito and the mountains of Sisshagnase; the necessary proceedings and investigations having been previously taken and made, in conformity with the requisitions of laws and regulations.
I have by decree of the first of this month, in virtue of the powers conferred upon me, granted to the said Licenciate, Citizen Rafael Gomez, in the name of the Mexican Nation, said land of Los Vulvercitos, declaring unto him the ownership thereof by these present letters, it being understood that said grant is made in entire conformity with the requisition of the laws and subject to the approval or disapproval of the Most Excellent Territorial Deputation and the Supreme Government and under the following conditions.
1st. He shall be subject to those which may be established by the Regulations to be made for the distribution of vacant lands, and in the mean time neither the grantee nor his heirs shall divide or alienate the land granted to him,

Map of Rancho

impose ground rent, entail, reversion, mortgage, or any other burthen, although it may be for pious purposes.

2d. He may enclose it without prejudice to the crossings, roads, and privileges; he shall enjoy it freely and exclusively, destining it to the use and cultivation which may best suit him; but within one year at furthest he shall build a house and it must be inhabited.

3d. When the ownership is confirmed to him, he will solicit the respective Magistrate to give him juridical possession thereof, in virtue of this Title, and said Magistrate shall designate the boundaries in the limits whereof he shall beside placing the landmarks, plant some fruit trees or wild ones of some utility.

4th. The land whereof donation is made consists of six square leagues, (sitios de ganado mayor), a little more or less, as appears by the plot. The Magistrate who gives possession will cause it to be measured according to law, in order to designate the boundaries, the surplus which may result being left to the Nation for the necessary uses.

5th. If he transgress these conditions he shall lose his right to the land, and it may be denounced by another.

I consequently command that these presents serve him as a Title and being held as firm and valid, a record thereof be made in the corresponding book, and the original be delivered to the party interested for his security and further ends.

Given in Monterey this eighteenth day of December, one thousand eight hundred and thirty four.

(Signed) José Figueroa.
(Signed) Agustin V. Zamorano
Secretary.

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A record of this Title has been made in the Book of entries respecting the adjudication of lands, at folio fifty nine, number fifty seven, kept in the Secretary's Office under my charge;
Monterey (diez y ocho) eighteenth of December, one thousand eight hundred and thirty four.
(Signed)
Zamorano.

Seal of the third class, Two Rials.
Authorized provisionally by the Collector of the maritime Custom House of Monterey, Upper California, for the years one thousand eight hundred and thirty four, and eighteen hundred and thirty five.
(Signed) Castro. (Signed) Angel Ramirez.

(Govt. Seal.)

Proposal of the Committee.

Testimony.
The grant made to Citizen Rafael Gomez, of the land called Tularcitos, on the eighteenth of December, eighteen hundred and thirty four is approved. = José Castro. —

Approval of the M. E. Deputation

Monterey, August twenty ninth, eighteen hundred and thirty five —
In the session of to day, the Most Excellent Deputation approved the foregoing proposal, and transfers the Expediente to the Political Chief for its conclusion. = José Castro = José Maria Maldonado. Secretary. — Monterey, October nineteenth eighteen hundred and thirty five. —

Decree of Confirmation by the Political Chief.

In view of the approval granted by the Most Excellent Territorial Deputation on the twenty ninth of August, let a testimony thereof and of this decree be delivered to Don Rafael Gomez in confirmation of the grant to the land known by the name of Tularcitos, which he obtained on the eighteenth of December, eighteen hundred and thirty five, Señor Don José Castro, first member of the Most Excellent Territorial Deputation and Political Chief ad interim of the Territory of

Fees 8$.

2.00

Upper California, did thus command, decree and sign, whereof I give testimony.— José Castro Francisco del Castillo Negrete——Secretary——

The foregoing literally agrees with its original, on file in the Office of the Secretary to the Political Government under my charge, in the bundle of Expedientes respecting lands approved by the Most Excellent Diputation, marked with number one to which I remit: Monterey October nineteenth, eighteen hundred and thirty five.——

(Signed) Francisco del Castillo Negrete.

Fees $4.25:

Seal of the third class, Two Rials.

Authorized provisionally by the Collector of the maritime Custom House of Monterey, Upper California, for the years one thousand eight hundred and thirty four, and eighteen hundred and thirty five.

(Signed) Castro. (Signed) Angel Ramirez.

Citizen Alcalde of 2d nomination.

Citizen Rafael Gomez, before Your Honor, in the most proper manner says: that the Political Government of the Territory having granted to him for his personal benefit, and that of his family, the land known by the name of the Tularcitos, the confirmation whereof he likewise obtained from the Most Excellent Diputation, as appears by the Title and Testimony which duly accompany; he merely stands in need of the juridical possession, for which purpose he applies to Your Honor, in order that you may be pleased after summoning the owners of the adjoining farms, designated in the plot which also accompanies, to appoint a day for carrying it into effect. He therefore requests that Your Honor will accede to his petition, and return him the original Expediente for his security, when the proceedings are concluded; the whole being a matter of justice. He swears that which is necessary.

Monterey, December 29th 1835.

(Signed) Rafael Gomez.

Monterey, January 30th 1836.

Considered as presented and admitted, as far as the law will allow; I the present Alcalde will proceed to give the possession asked for, appointing for the execution thereof, the 3d. of next February, after summoning the adjoining land holders, citizens Francisco Mesa and Teodoro Gonzalez. That I the Alcalde of second nomination, did decree, command and sign, actuating with assisting witnesses in the established form.

(Signed) Marcelino Escobar.

(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

On the same date, Citizens Francisco Mesa, and Teodoro Gonzalez, being present, I manifested to them the foregoing decree, which having understood, they said; that they heard it and considered themselves summoned, and as the former cannot write, the second signed with me and the assisting witnesses.

(Signed) Escobar. (Signed) Teodoro Gonzalez.

(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

In the Rancho of the Tularcitos, on the fourth day of the month of February, eighteen hundred and thirty six, being at the fond or fudde (fosa) inside of the Barranca blanca the boundary line of Citizen Teodoro Gonzalez, for the purpose of commencing the measurement of the land granted to citizen Rafael Gomez, according to the terms mentioned in the plot, I ordered the Title and the respective approval of the Most Excellent Deputation to be read in presence of the party interested and of the adjoining land holders, citizens Teodoro Gonzalez and Francisco Mesa, and appointed as measurers, citizens Francisco Mesa, and Juan Arroyo, who being informed of their appointment accepted it, and swore by the Lord

over God and the sign of the cross, to execute it faithfully and legally to the best of their knowledge and understanding, without deceit, fraud or connivance, and those who knew how signed with me, whereof I give testimony.

(Signed) Marcelino Escobar.

(Signed) Juan Arroyo. (Signed) Teodoro Gonzalez,
(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

At the same time, all the parties interested being present, I ordered a cord of fifty common varas to be examined and those who knew how, signed with me and the assisting witnesses.

(Signed) Marcelino Escobar:

(Signed) Juan Arroyo. (Signed) Rafael Gomez,
(Signed) José Maria Maldonado.
(Signed) José Aguila } assisting witnesses.

On the same date the measurers on commencing the measurement took the cord and measured from the point of said Barranca, in a southerly direction thirty cords, supposing to have measured from said point towards the North, to the table land of the mirador del corral de Tierra, seventy (70) cords, the first Alcalde of this Municipality having a few days ago made said measurement; with respect to which, and to all the rest, all the parties interested agreed and signed with me, and the assisting witnesses, those who knew how, whereof I give testimony.

(Signed) Marcelino Escobar

(Signed) Juan Arroyo. (Signed) Rafael Gomez.
(Signed) Teodoro Gonzalez.
(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

On the same day in prosecution of these proceedings, two hundred cords were measured from said head line (cabecera) in the direction of West to East which distance came to opposite the house of the Rancho, and from this point other

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two hundred cords to the second small lagoon which is situated before the Conejos; at which boundary as likewise at the former one, I ordered the party interested to fix landmarks, to which he agreed and signed with me and the assisting witnesses.

(Signed) Marcelino Escobar.
(Signed) Juan Arroyo. (Signed) Rafael Gomez.
(Signed) José Maria Maldonado. } assisting witnesses.
(Signed) José Aguila.

In the said Rancho on the fifth day of the said month and year, I the present Magistrate accompanied by the measurers, party interested and assisting witnesses, in order to conclude the measurement of the land, ordered to be measured from said house, one hundred and fifty cords in the direction of North, which reached to the brow of the mountains where the cañada de los Cupines ends; of which fifty cords belong to the four square leagues (sitios) already designated and the other hundred from the head line of the two sitios which must be given to complete the entire possession. Lastly two hundred cords were measured from East to West which form the length of the two sitios wanted for the complement; with which operation, Citizen Rafael Gomez was put in possession of the six square leagues, (sitios de ganado mayor,) contained in the plot annexed to this Expediente, and the party interested signed with me and one of the neighboring land holders (the other not knowing how) and the assisting witnesses.

(Signed) Marcelino Escobar. (Signed) Rafael Gomez
(Signed) Juan Arroyo. (Signed) Teodoro Gonzalez.
(Signed) José Maria Maldonado. } assisting witnesses.
(Signed) José Aguila.

In the same Rancho on the fifth day of the month, and year already mentioned, I the said Magistrate, being present Citizen Rafael Gomez, the owners of the neighboring farms, and the assisting witnesses, seeing that the measurement

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of the before mentioned six sitios was concluded, without any contradiction having arisen, took the said Licentiate Gomez by the hand and put him in possession of the land comprehended therein, commanding him at the same time (which he did) to make some demonstrations of lordship and ownership, in virtue whereof he moved stones from one part to another, and pulled up some grass. And in due testimony whereof I note this proceeding which I signed with the party interested, the neighboring land owner who could write and the assisting witnesses.

(Signed) Marcelino Escobar.
(Signed) Rafael Gomez. (Signed) Teodoro Gonzalez.
(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

Monterey February 6th 1836.

Let this Expediente be recorded in the book of possessions and the original be returned to the party interested for the uses which may best suit him. Thus I the Alcalde of 2d nomination did command and sign with the assisting witnesses

(Signed) Marcelino Escobar.
(Signed) José Maria Maldonado.
(Signed) José Aguila. } assisting witnesses.

On the same date this title was recorded at folio 4 of the respective book, in testimony whereof I note this and sign with my seal.

(Signed) with the Alcalde's seal.

I The undersigned do hereby certify the foregoing to be true and faithful translations of the original documents in possession of Mr Charles Walter.

State Translator's Office
Monterey 28th November 1851. } W. E. P. Hartwell.
State Translator.

Filed in Office April 20th 1852.
(Signed) Geo Fisher Secy.

27#

Josefa Antonia Gomez, et al,
Heirs of Rafael Gomez, claimants
vs
The United States.

No 195. Tularcitos,
Monterey Co.
Opinion by
Commr. Thornton.

Opinion delivered by Comr. Thornton. Confirmation.

The claim in this case presented is founded on a grant made on the 18th of December 1834 under, and by virtue of the Decree of the Mexican Congress of the 18th of August 1824, and of the Executive Ordinance of the 21st of November 1828, by Jozé Figueroa, Governor of California, to Rafael Gomez, the ancestor of the claimants for six square leagues of land, a little more or less. On the 29th of August 1835, the grant was approved by the Territorial Deputation of California; and on the 5th of February 1836, a measurement according to the custom of the country was made of the premises, and possession thereof, delivered to the grantee. Continuous and undisturbed possession and occupation of, and residence on the same, has been had, and enjoyed for upwards of nineteen years, by the grantee, and his heirs, the present claimants. The genuineness of the grant, and the authority of the grantor, and all the other facts above stated are fully established by regularly authenticated documentary evidence from the public archives of the former Governments of the country, and by the other testimony on file in the case. The evidence is not by any means conclusive, as it relates to the locality of the land, with regard to the sea coast. There is in this grant, a reservation or condition of the approval of the Federal Executive, which not being specially obtained in this case, is insisted upon, as destructive of all right, or title, in the claimants. The grant declares that it is made in conformity with the laws and regulations; and we have already decided, that in grants like this, the special approval of the Federal Executive is not necessary, according to the said laws and regulations. The effect of this reservation

or condition, can be nothing more than that the approval of the Federal Executive must be had, only, if, or in the contingency, that the other alternative provided by the Ordinance, viz, the approval of the Territorial Deputation should be refused to the Governor's Grant.

All the grounds of objection urged against the validity of this claim, have been fully considered, and overruled in the case of Cruz Cervantes, the opinion in which is now on file in the Office of the Secretary of this Board.

The effect of the terms "a little more or less," which occur in this grant, we have already decided not to be destructive of it, for uncertainty; nor to increase, or diminish the specified quantity. This was so held by us, in the opinion delivered and on file in the case of John Keyes, assignee, &c'r No 222.

In view of all which we decide the claim in this case to be valid, and that it be confirmed. In the result above announced Commissioner Hall concurs.

(Signed) Harry I. Thornton.

Decree of Final Confirmation.

Decree of Final Confirmation.

This Board upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid; therefore now proceeds to make, and does hereby make, the following decree, or report of final confirmation, viz:

It is decreed that the said claim be confirmed to the said claimants, to the extent and quantity; of six square leagues, and for no more; being the same land described in the grant, and expediente referred to therein, and of which possession has been had, and enjoyed under the said grant, by the grantee, and the claimants, as

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73.

his heirs: Provided, that the said quantity of land granted, and now here confirmed, be contained within the boundaries called for in the said grant, and map to which the grants refers; and if there be less than the said above named quantity, within the said bounds; than we confirm to the claimants, that less quantity; it being apparent, that said quantity, exceeds the minimum of two hundred varas, as prescribed in the Ordinance of the 21st of November, 1828.

(Signed) Hiland Hall.
(Signed) Harry I. Thornton. } Commissioners.

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Office of the Board of Commissioners,

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

3 SD
PAGE 68

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 Seventy four ——— pages, numbered from 1 to , 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 Witnesses, upon which the same is founded, on file in this Office, in Case No. 195 on the Docket of the said Board, wherein

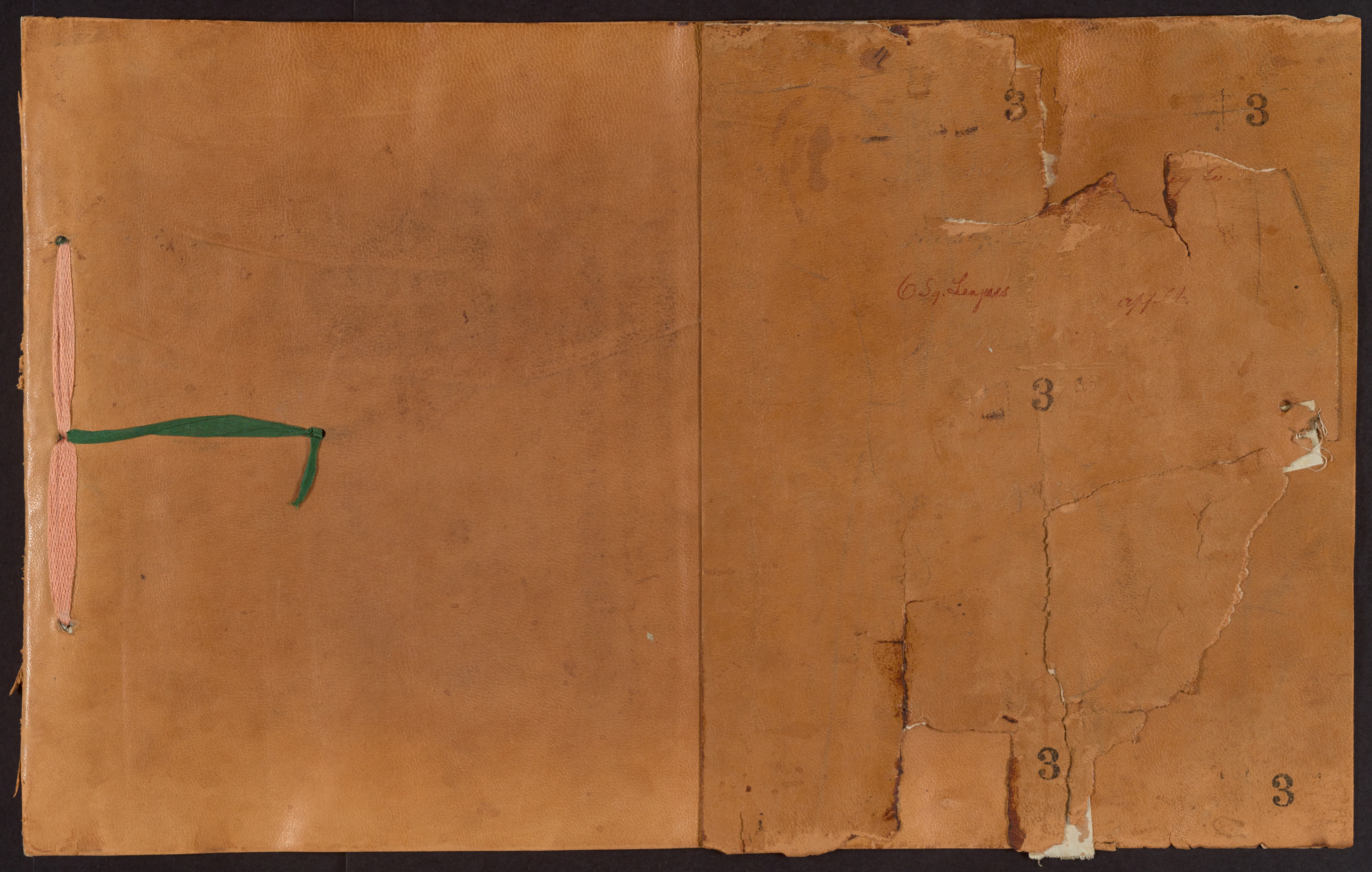
Heirs of Rafael, are

the claimants against the United States, for the place known by the name of Los Tularcitos

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this fifteenth day of February, A. D. 185 , and of the Independence of the United States of America the seventy-eighth.

Geo: Fisher

Sec.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Attorney General's Office
15th July 1857.

Heirs of Rafael Gomez, claimants.
vs.
The United States.
} 195.

You will please take notice that an appeal in the above case (a transcript of the proceedings in which was received at this office on the 15th of March 1854) from the decision of the Commissioners to ascertain and settle the private land claims in the State of California, to the District Court of the United States for the Southern District of California, will be prosecuted by the United States.

Cushing
Attorney General U. S.

No 3.

U. States Dist. Court

South. Dist. of Cal.

Heirs of Raf. Gomez
vs.
The United States for No. 195

Notice of Appeal
from Atty Genl
15 July/54
~~No. 20~~ (of appeals)

Recd Sept. 1/54
Filed Sept 2/54
A. J. Taylor
Dpty. Clk

In the District Court of the United States for the Southern District of California. ~~Monterey County~~ Los Angeles County.

Heirs of Rafael Gomez
vs.
The United States.

No. 195.

To the Hon.ble Isaac S. K. Ogier District Judge of the United States for the southern District of California.

The petition of Pacificus Ord ~~of Monterey County~~ attorney of the United States for the southern District of California, who petitions ~~and represents~~ in this behalf for the United States; and being present here in Court in his proper person, and in the name and behalf of the United States, represents as follows:

1st. That, heretofore, to wit on the 20th April 1852 the Heirs of Rafael Gomez to wit, Josefa Antonia Gomez de Wolter Widow. Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez & Rafael Gomez children of Rafael Gomez dec.d, filed their petition in the office of the Commissioners to ascertain and settle the private land claims in the state of California, claiming a tract of land called "Las Tularcitas" of about six square leagues of land, a little more or less, in Monterey County California, in virtue of an alleged Grant to Rafael Gomez, by Governor Jose Figueroa, of the date of about the

18th December AD 1834, and the approbation of the Deputation of the date of ~~July~~ 29 August AD 1835, and the ~~judicial~~ judicial possession of the land on the 5th of February AD 1836, and map of the same; that said Rafael Gomez died on the 18th Sept. leaving the petitioners his Widow and heirs:

II. That, on or about the 22d of December AD 1852 the said Commissioners, after due proceedings had, made a decree of final Confirmation of said Claim, in favor of said petitioners:

III. That on or about the 18th of February AD 1854 a duly Certified transcript of the decree and proceedings of said Commissioners in said Cause, and the documentary evidence and testimony of Witnesses, on which said decree was founded, was filed in the office of the Clerk of the District Court of the United States, in and for the Southern District of California, and Nos. 195: reference to which may be had as part of this petition:

IV. That on or about the 15th of March AD 1854 the Honble Caleb Cushing, Attorney General of the United States, received a duly Certified duplicate of said transcript of the said proceedings of said Commrs in said Cause:

V. That on or about the 2d of September 1854, the said Caleb Cushing, Attorney General of the United States, filed, or caused to be filed, in the said Office of the Clerk

of the District Court of the United States in and for the southern district of California, a notice, that an appeal would be prosecuted by the United States, in said Cause, from the decision of the said Commissioners to ascertain and settle the Private land Claims in the State of California, to the District Court of the United States for the southern district of California, ~~would be prosecuted by the United States~~:

Your Petitioner further represents, that the said decree of Confirmation of said Claim by said Commissioners is erroneous; and that said Claim of said petitioners is invalid; on the following grounds.

1. That the land is within the ten (littoral) leagues of the Sea Coast; and was not therefore, subject to grant or colonization at the said date of the said alleged grant, without the previous approbation of the Supreme executive Power; which said previous approbation is not shewn by said Claimants; and was not given:

2. That at the date of the said alleged grant of Governor Figueroa, the said land claimed belonged to, ~~and~~ was occupied by the Mission of San Carlos, which then existed in the Territory of Upper California; and was not, therefore, subject to grant:

3. That by the terms of the said alleged grant, it is made subject to the approbation of the Supreme

Government, which petitioners do not show; and which was never had;

4. That the boundaries are vague and indefinite; and insufficient to identify the land claimed;

5. That the claimants show that they did not take or receive juridical possession of the land claimed until the 5th of February A.D. 1836, which was more than one year after the date of the alleged grant, to wit, the 18th of December A.D. 1834; which was a violation of the second condition of the said alleged grant;

6. That the said alleged juridical possession was not given by the Judge according to law; nor did he make the measurements of the land according to law

7. That the petitioners have not shown that they are the heirs at law of the said Rafael Gomez. ~~And your petitioner prays that said claimants may be served with a copy of this petition, whereof the said District attorney of the United States for and in behalf of the United States by reason of the premises and the laws and statutes in such case made and provided prays the~~

And the said petitioner alleges and shows that the said tract of land of about six square leagues called "Las Tularcitos" and claimed as aforesaid

by said heirs of Rafael Gomez lies in the Southern District of California and within the jurisdiction of this Honble Court, Wherefore the said ~~District~~ Attorney of the United States for and in behalf of the United States by reason of the premises and the laws and statutes in such case made and provided, prays this Honble Court to review the said decision of the said Commissioners to ascertain and settle the private land claims in the State of California, and to decide on the validity of said claim of said heirs of said Rafael Gomez and that the same may be declared invalid; and for such other ~~or~~ further orders, decrees, ~~or~~ decisions as to this Honble Court may seem meet. And he further prays that the said heirs of Rafael Gomez may be served with a copy of this petition. And further that they the said claimants may be condemned to pay the costs in the premises. And general relief.

P. Ord

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

3 N° 3. 2

Heirs of Rafael Gomez Appes
vs.
The United States. Appe

Petition of Atty. of US for
review &c.

Filed Dec. 4. 1854.
J. S. Lane
Clk.

N. 195.

(No. 195.) In the District Court of the United States,
for the Southern District of California
County of Los Angeles.

Widow, and Heirs of
Rafael Gomez, Appellees
ads
The United States, Appellant.
} Tularcitos.

The Answer of Josefa Antonia Gomez de Walker the Widow, of the late Rafael Gomez, and of Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, Children of the said deceased Rafael Gomez, to the petition filed by the U. S. District Attorney in behalf of the United States, respectfully shews to this Honorable Court.

That on or about the 18th day of December 1835, José Figueroa, Governor of California, by virtue of authority in him vested, granted to the said Rafael Gomez, the tract of land called "Los Tularcitos" situate in the present County of Monterey, containing six square leagues of land a little more or less, as shewn by the map accompanying the concession and made part thereof.

That the said Concession was approved by the Territorial Deputation of California on or about the 29th day of August A.D. 1835, and that on or about the last named day and after said approval, the Governor or Political Chief of California, made, signed and delivered to the said Rafael Gomez a document of title, whereof his title to the said land became definitively valid.

That on or about the fifth day of February A.D. 1835, the said tract of land was duly surveyed by the Mexican Government, and the Juridical possession thereof given to the said Gomez by proper authority

and in due form of law.

That the said Rafael Gomez died on the 18th September A.D. , leaving his said Widow, and the aforenamed Children, and no other child or descendant of such his heirs. —

That the said Rafael Gomez, his said Widow and Children have been in the quiet and undisputed possession of the said tract of land for more than twenty years, and that the appellees now are in such possession. —

That the said Rafael Gomez, fulfilled and duly performed all the conditions annexed to his said grant.

Wherefore the appellees pray this Honorable Court to affirm the decree of the said Commissioners confirming their claim. —

Halleck Peachy & Billings
Attys for Appellees

No. 3.
U. S. Dist. Court
South Dist. Cal.
Widow & Heirs of
Rafael Gomez
Appellees
vs
The United States.
Appellant
Answer of Appellees.
Filed March 20th 1855.
J. E. Carr
Clk.

3 SD
PAGE 78

Served this answer on Ford Attorney of the United States, by delivering to him personally a certified copy of the same at his office in the Southern District of California this March 23d 1855

Edward Fontes
U. S. Marshal

Sworn to & subscribed before me this 23d day of March, A.D. 1855.
J. E. Carr
Clk.

The Heirs of Rafael Gomez
vs
The United States - Appellants.

The claim in this case is founded upon a grant made by Governor Figueroa on the 18th of December 1834, to Rafael Gomez the ancestor of the present claimants.

The original grant, the approval of the departmental Deputation, the Act of juridical possession, and a copy of the expediente of all the proceedings had in this case, taken from the archives in the possession of the Surveyor General,* from the documentary evidence in the case — The genuineness of all these documents is established by sufficient proof, and indeed is not denied by the appellants. The testimony of David Spence proves the occupancy of the land by the claimants in 1834, and that he built a house upon it in that year, in which he and his family resided until his death in 1838, and that his family have resided there ever since —

The objections urged upon one fact

* Copied from the title of the original grantee

1st. that the land is within ten leagues of the Sea shore & therefore could not be granted "without the special license of the Supreme Government"

This objection has been overruled upon several occasions by this Court, as not being ~~but~~ available to defeat a grant — and need not therefore be discussed here —

~~The~~ 2nd. that the lands granted belonged to the Mission of San Carlos, & therefore could not be granted.

The original petition of Rafael Gomez was referred by the Governor to the Ayuntamiento, and to the Resident Priest of the Mission for reports thereon as to the situation of the land &c — the reports are contradictory as to whether the land asked for belonged to the Mission or not, upon these reports the Governor Figueroa made a decree, dated May 9th 1834 in which he decides that the lands did belong to the Mission, & suspends all further proceedings upon the expediente, until the bases of the 18th of August 1833 be put in execution & until the arrival of Don Jose Maria Hijar, ~~who arrived~~, to whom he says the Supreme Government have ~~the~~

given the special commission of distributing them, at the time when this decree was made, as we learn from the "manifesto of General Figueroa to the Mexican Republic in regard to his conduct and that of Don Jose Maria de Hijar & Don Jose Maria Padres as Directors of Colonization" in 1833 & 1834 — Governor Figueroa had received instructions from the Supreme Government of Mexico, dated the 15 of July 1833 that he was superseded by the appointment of Hijar as Political Chief and Director of Colonization" Therefore it was, that he did not feel authorized to proceed further in the matter of Rafael Gomez petition, more especially as at that time no regulations had been established for the secularization of the Missions, but on the 10th of September 1834 Figueroa received another order from the Supreme Mexican Government, ordering him not to turn over the Government to Hijar, and to continue discharge the duties of of Governor himself, there was a long dispute between Figueroa & Hijar, as to their powers; but Figueroa remained in power up to his death. and Hijar ~~never succeeded~~ never succeeded in establishing his rights, upon the death of Figueroa the reins of Government passed to the first vocal, Figueroa therefore being at the time of making the final grant ~~the~~ dit, on the 18th of Dec. 1834

Governor and Political Chief, had power to grant the public lands, and the Supreme Court of the United States in the Case of the United States vs Ritchie 17 How. page 540. Say. "As early as the 17th "of August 1833. the Mexican Congress decreed "that the Government will proceed to secular "ize the Missions of upper and lower California, "and various regulations are prescribed for "carrying this policy into effect" —

"Again the 26th of November of the same Year, "it is declared that "the government is empow- "ered to adopt all measures which shall secure "the Colonization and effect the secularization "of the Missions in Upper and Lower California, "being authorized to use in the most convenient "manner, the property devoted to pious uses, "in the said territories, for that purpose"

"Again by a decree of the 14th April "1834 it is declared ~~that~~ "All the Missions of "the Republic will be ~~colonized~~ secularized"

Under these laws, the authorities empower ed to grant the Public lands, have dealt with these missions ~~the~~ establishments, the same as with any other portion of the public domain ; — Therefore according to the decision of the Supreme Court in that Case he had power to grant the land described in the Grant to Rafael Gomez

The 3rd objection to the grant is, that it is void for uncertainty. — ~~The judicial~~

The juridical possession is very obscure and we think the figure of the land could not be determined from it without explanation, but the calls in the grant are for natural objects within which exterior limits, the quantity of six leagues is granted, this is sufficiently definite the Court think to bring the case within the rule in the Freemont case. 17th How. R 542. —

All the other objections urged ~~again~~ have been already passed upon by the Court as insufficient to invalidate a grant of this kind, except the last objection, which is that the claimants have not shewn that they are the heirs of the original Grantee Rafael Gomez and therefore they are not entitled to ask for a confirmation of the Grant. Before going into this objection, it will be stated that the Court doesn't consider itself bound to take notice of any document offered which is not translated, the rule offered this case to prove the interest of the claimant is in the original without a translation, in this case however the Court has concluded to take notice of it —

The Will of Rafael Gomez the original Grantee in this case, is filed as part of the documentary evidence. The Genuiness of the Will and the signatures thereto is proved by ~~David Spence~~ the deposition of David Spence, ~~the witness~~. In that instrument the present claimants with the exception of Rafael Gomez Jr are named as the heirs of the testator ~~Rafael Gomez~~ and ~~Rafael the Younger~~ Rafael ~~Gomez one of the present claimants~~ is ~~proven by David Spence to be the child~~ The Will recites the fact that the wife of the testator was then with child, & ~~David Spence proves that~~ it is proven by the testimony of David Spence that the present claimant Rafael Gomez the child whom the wife of the testator was then enceinte, and that he was born soon after his fathers death. — This is sufficient evidence to show an interest in the claimants more especially as there is interest is not disputed by any other heirs claiming under the original Grantee. —

Upon these considerations we think the decision of the Commissioners should be confirmed and it is so ordered.

The United States
appellants
vs.
Felipe Gomez et als
appellees

District of the United States, for the Southern District of California, Special Term.

This case comes up to be heard on an appeal from the final decision of the Commissioners to ascertain and settle private land claims in the State of California, under an act of Congress passed 3rd of March 1851. On a transcript of the proceedings & decision & the papers and evidence on which said decision was founded & it appearing to the Court that the said transcript was filed according to law, and Counsel for the parties having been heard; It is ordered adjudged and decreed, that the same is hereby affirmed, and it is further ordered adjudged and decreed, that the claim of the Appellees to the land described in the copy of the grant on file in the case, is a good & valid claim and the same is hereby confirmed to the extent of six square leagues, provided said quantity hereby confirmed, be contained within the limits called for in said grant, & in case there be a less quantity, the claim of Appellees to such less quantity is hereby confirmed —

No. 3

Heirs of Rafael Gomez

ads

The United States

Opinion & Decree of the Court herein

Filed Sept 24th 1855

J. E. Carroll

By W. Roy Dep

In the U States District Court for the Southern District of California,
Special Term Sept 1855.
Los Angeles.

Heirs of Rafael Gomez. appeals
vs.
The United States. Appt.

No. 3.
(Transcript No. 195)

On motion of P. Ord Attorney of the United States for the Southern District of California, it is 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 United States, in the above entitled cause, rendered on or about the 24th day of September AD 1855.

P. Ord
US Dist Atty

No. 3.

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

Heirs of Rafael Gomez
appees.

vs.

The United States
applts.

Order of Appeal to the Supreme Court on motion of P. D. C. U.S. Atty.

Filed Oct. 18th 1855.

J. E. Carr
Clk.

California Land Claims.

Attorney Generals Office

11 September 1856.

Sir:

In the case of the claim of the Heirs of Rafael Gomez, confirmed to the claimant by the Commissioners, Case No. one hundred and ninety-five (195), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Cushing

Pacificus Ord Esq.
U. S. Atty for the
Southern Dist. of California

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Heirs of Rafael Gomez

195

Recd Oct 21 1836

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

Hon Isaac S K Ogier Judge

December Term 1856

The United States
Appellants

vs

Heirs of Rafael Gomez
Appellees

Docket No B

Transcript from the Board of Land Commissioners No 195

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

P. Ord Dist Atty

Halleck Peck & Billing
attys of Appellees

U. S. Dist Court
South Dist. Calif.

No 3

The United States
Appellants
vs
Heirs of Rafael Gomez
Appellees

Stipulation
to vacate order of
Appeal to Supreme Court

Filed this 5th February
1857
C Sims clk
J. H. Coleman
Dep

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

Hon. Isaac S. K. Ogier, Judge

December Term 1856

The United States
Appellants
vs
The Heirs of Rafael Gomez
Appellees

Docket No. 3

Transcript from the Board of Land Commissioners 7.195

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

Ordered, adjudged and decreed, That the Order granting an appeal to the Supreme Court heretofore made in this Cause be and the same is hereby vacated, and that the Claim-

= ant have leave to proceed under the decree of this Court heretofore rendered in this Cause as under a Final decree

Isaac L. Ogden
U. S. Dist Judge

U. S. Dist Court
South'n Dist Cal
No. 3.

The United States
Appellant
vs
Heirs of Manuel Gomez
Appellees

Order
Dismissing Appeal

Filed Feb 5th 1857
Wm M. Carr
Clerk

3 SD
PAGE 94

In the United States District Court for the Southern District of California - June Term AD 1862.

Felipe Gomez Juan Gomez, Isabel Gomez, now Isabel Johnson, Mariana Gomez, now Mariana Day, & Rafael Gomez, heirs of Rafael Gomez, decd, Appellees. vs. The United States Appellants	Docket No 3. Transcript no. 195 Claim for tract of land known as "Los Tulareitos"

On motion of D. S. Gregory, attorney for appellees in the above entitled cause, now in open Court Court made, and B. C. Whiting U.S. Dist Attorney being present in Court & making no objection thereto, and it satisfactorily appearing to the Court, from an examination of the record in this case, that a clerical error was made in entering the decree of this Court, heretofore, to wit at the Special September Term, AD 1855, thereof, rendered, and that said error consists in the insertion of the words "The

heirs of Felipe Gomez", in the title thereof, whereas, it should have been "Heirs of Rafael Gomez";

And it further appearing by the affidavit of D. S. Gregory now filed in open Court, that Isabel Gomez, one of the said Heirs of Rafael Gomez, has intermarried with and is now the wife of Charles H. Johnson, & that Mariana Gomez, another of said Heirs of Rafael Gomez has intermarried with and is now the wife of Thomas N. Day,

It is therefore ordered that said Original decree of confirmation so made by this Court be amended by the Clerk of this Court, by striking out from the title thereof, ~~the word~~ "Felipe", ~~after the words~~ ~~Heirs of~~, ~~and inserting the word Rafael in place thereof~~ —

And it is further ordered that the title of said Cause be further amended so as to read as follows: "Felipe Gomez, Juan Gomez, Isabel Gomez, now Isabel Johnson, Mariana Gomez, now Mariana Day, and Rafael Gomez — Heirs of Rafael Gomez, dec'd, Appellees, vs. The United States, Appellants."

And it is further ordered by the Court that a certified copy of this order, and of said decree of the Court confirming the,

claim in this case as amended be forwarded to the United States Surveyor General for the State of California.

Rendered in open Court this 18th day of August AD 1862

Fletcher M. Haight
U S Dist Judge N Dist Cal

No. 3

U. S. Dist Court
South Dist Cala

Heirs of Rafael Gomez
deceased
vs
The United States

Order Amending Decree

Filed Aug 18, 1862
John S. Wheeler
Clk

In the United States District Court for the Southern District of California June Term A.D. 1862.

Felipe Gomez, Juan Gomez, Isabel Gomez, now Isabel Johnson Mariana Gomez, now Mariana Day, & Rafael Gomez, heirs of Rafael Gomez, deceased appellees vs. The United States, appellees	Docket No. 3. Transcript No. 195 Claim for the Tract of Land known as "Los Talanegos"

California
Monterey County } D. T. Gregory being by me sworn deposes & says, that he is personally acquainted with the above named persons, Heirs of Rafael Gomez: that the said Isabel Johnson is intermarried with and is now the wife of Charles H. Johnson of the County of San Luis Obispo: and that Mariana Gomez, another of said heirs, is ~~[illegible]~~

intermarried with and is now the wife of Thomas W. Day, of the County of Montery aforesaid.

Sworn to & subscribed before me this the 18th day of August A.D. 1864

D. T. Gregory

John O. Wheeler
Clk
U.S. Dist Court
Nort'n Dist Cala

No 3
U. S. Dist Court
Nort'n Dist Cala

Affidavit of Rufus Gomez
Accuser
vs
The United States

Affidavit of Gregory as to the marriage of Female Heirs

Filed Aug 18, 1864
John O. Wheeler
Clerk

Office of the Surveyor General of the United States,
FOR CALIFORNIA.

3 SD
PAGE 101

I, J. W. MANDEVILLE, United States Surveyor General, for the State of California, do hereby certify that the Rancho "Los Tularcitos"

confirmed to the heirs of J. Gomez

has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the Fourth day of April 1860; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the "Pacific Sentinel," published in the County of Santa Cruz, State of California, being the newspaper published nearest to where the said Rancho is located, the first publication being on the twenty first day of September 1860, and the last, on the twelvth day of October 1860; also, in the "Los Angeles Star"

a newspaper published in the City and County of Los Angeles, State aforesaid

the first publication being on the twenty ninth day of September 1860, and the last on the twentieth day of October 1860, a notice that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

L. S.

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of office to be affixed, at the City of San Francisco, this Twenty Second day of January 1861

J. W. Mandeville
U. S. Surveyor General for California.

U. S. Sur. Genl. Office
San Francisco
Aug 25. 1863.

I hereby certify this to be a full, true and correct copy of the original, as appears on file in this office.

C. H. Dale
U. S. Surveyor General.

No. 3

U. S. Dist Court
Dist. of Dist Ore

Heirs of Gomez
vs
The United States

Certificate Surv. Gen'l. pub. of survey

Filed Sept. 9, 1863
John Wheeler

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

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

Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, Heirs of Rafael Gomez, deceased

3 SD
PAGE 103

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 fourth day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by Pacificus Ord, attorney of the United States for the Southern District of California, in behalf of the United States, praying the said Court to review, upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez deceased, namely, Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Tularcitos, in the County of Monterey, California, to the extent of six square leagues more or less, which said claim was presented by your petition to said Commissioners on or about the 20th of April A.D. 1852, and by them confirmed on or about the 22d of December A.D. 1852.

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

C. E. Carr,
Clerk.

No 3.

Rafael Gomez
Not found

Marshals Cost —
Copying summons, 90
Serving " 3.00
Mileage 38 miles
9 cts per mile 3.60
Serving Petition 3.00
Mileage on Petition 3.60
$ 14.30

United States of America,

Southern District of California,

U. S. District Court.

Heirs of Rafael Gomez
Appees

adj
vs

The United States
appelee

SUMMONS.

Received February 2d 1855
Edward Martin
U. S. Marshal

3 SD
PAGE 104

Return not found

I served this summons along with the proper copy of the petition upon Charles Moulton Personally in the County of Monterey by delivering to him in person at Salinas City in said County of Monterey a true copy of the within summons, at the same time and place

at the 14 day of June in the Southern District of California on A. D. 1855.

Sworn to and subscribed before me, this 14th June 1855.

J. Ygnacio Clerk.

Edward Martin
U. S. Marshal.

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

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

Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, Heirs of Rafael Gomez, deceased,

3 SD
PAGE 105

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 fourth day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States, praying the said Court to review, upon the grounds therein set forth, the decision of final Confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez deceased, namely, Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Sulacitos, in the County of Monterey, California, to the extent of six square leagues, more or less, which said claim was presented by your petition to said Commissioners on or about the 20th of April A.D. 1852, and by them confirmed on or about the 22d of December A.D. 1852.

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

J. E. Carr
Clerk.

No 3

United States of America,

Southern District of California,

U. S. District Court.

Heirs of Rafael Gomez, Appl'ts

vs

The United States Appl'ee

SUMMONS.

Received February 2d 1855

Edward Hunter
U. S. Marshal

3 SD
PAGE 106

Marshals Cost

Copying Summons	1,00
Serving Petition	4,00
Serving Summons	4,00
Actual Travelling expenses	104,00
	$113,00

I served this summons along with the proper copy of the petition upon Joseph Alvarez Gomez de Mesta the defendant by leaving with his personally a true copy of the summons and said petition.

at his house in the city of Monterey in the Southern District of California on the Ninth day of February A. D. 1855.

Sworn to and subscribed before me, this 10th day of March, 1855.

P. B. Gar. Clerk.

Edward Hunter
U. S. Marshal.
by
W. H. Dorr
Deputy

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

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

Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, Heirs of Rafael Gomez, deceased.

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 fourth day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States, praying the said court to review, upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez, deceased, namely, Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Tularcitos, in the County of Monterey, California, to the extent of six square leagues, more or less, which said claim was presented by your petition to said Commissioners on or about the 20th of April A.D. 1852. and by them confirmed on or about the 22d of December, A.D. 1852.

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

J. E. Carr.
Clerk.

Isabel Gomez.
No. 3

United States of America,

Southern District of California,

U. S. District Court.

Heirs of Rafael Gomez
Applts

vs.

The United States
Applt.

SUMMONS.

Received February 2d 1855
Edward Hunter
U. S. Marshal

3 SD
PAGE 108

Marshals Cost

Copying summons	1,00
Serving Petition	4,00
Serving summons	4,00
actual traveling expenses	104,00
	113,00

I served this summons along with the proper copy of the petition upon Isabel Gomez the a defendant by leaving with her personally a true copy of the summons and petition

at the house in the city of Monterey in the Southern District of California on the 5th day of February A. D. 1855.

Sworn to and subscribed before me, this 10th day of March 1855.

J. S. Carr Clerk.

Edward Hunter
U. S. Marshal.
By
Deputy.
Richard. Pérez

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

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

Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez Heirs of Rafael Gomez deceased.

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 fourth day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by

Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States, praying the said Court to review, upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez, deceased, namely, Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Tularcitos, in the County of Monterey, California, to the extent of six square leagues, more or less, which said claim was presented by your petition to said Commissioners on or about the 20th of April A.D. 1852 and by them confirmed on or about the 21st of December A.D. 1852.

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

J. E. Carr

Clerk.

No. 3.

United States of America,

Southern District of California,

U. S. District Court.

Heirs of Rafael Gomez
Appts

vs

The United States
Appts.

SUMMONS.

Received February 2d 1855
Edward Vinton
U. S. Marshal

3 SD
PAGE 110

Marshals cost—
Copying summons 1,00
Serving Petition 4,00
" Summons 4,00
actual traveling expenses 104,00
$113,00

I served this summons along with the proper copy of the petition upon Maria Luna by reading the within summons and delivering to her personally a true copy of the petition, and to the guardian, Charles Walker, a true copy of the summons.

E. Brooks
Deputy

at the Parish day of February in the Southern District of California on A. D. 185

Sworn to and subscribed before me, this 10th day of March 1855.

J. S. Gary Clerk.

Edward Vinton
U. S. Marshal
By R. S. Jones
Dep. Sh.

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

TO The President of the United States,

Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, ~~children~~ Heirs of Rafael Gomez, deceased.

3 SD
PAGE 111

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 Fourth day of December in the year of our Lord one thousand eight hundred and fifty-four at the City and County of Los Angeles, in said District, by Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States praying the said Court to review, upon the grounds therein set forth, the decision of final confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez, deceased, namely, Josefa Antonia Gomez de Wolter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Tularcitos, in the County of Monterey, California, to the extent of six square leagues ~~of land~~, more or less, which said claim was presented by your petition to said Commissioners on or about the 20th of April A.D. 1852, and by them confirmed on or about the 22d of December A.D. 1852.

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

J. E. Carr,
Clerk.

No. 3

United States of America,

Southern District of California,

U. S. District Court.

Heirs of Rafael Gomez,
Appees

ads

The United States.
Apltes.

SUMMONS.

Received February 2 - 1855
Edward Stanton
U. S. Marshal

3 SD
PAGE 112

I served this summons along with the proper copy of the petition upon Felipe Gomez by delivering to him personally a true copy of the summons and petition,

Brooklyn

at the Lower Town day of February in the Southern District of California on A. D. 1852.

Sworn to and subscribed before me, this 10th day of March, 1855.

C. C. Parr, Clerk.

Edward Stanton
U. S. Marshal.
By R. S. Stone
Dep'y

Marshals Cost—

Copying summons 1,00
Serving Petition 4,00
" Summons 4,00
actual travelling expenses 104,00
$113,00

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

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

Josefa Antonia Gomez de Walter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, Heirs of Rafael Gomez, deceased.

3 SD
PAGE 113

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 fourth day of December 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 Pacificus Ord, Attorney of the United States for the Southern District of California, in behalf of the United States, praying the said Court to review, upon the grounds therein set forth, the decision of final Confirmation of the Commissioners to ascertain and settle the private land claims in the State of California, of the claim of the Heirs of Rafael Gomez, deceased, namely, Josefa Antonia Gomez de Walter, Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, for a tract of land called Los Tularcitos, in the County of Monterey, California, to the extent of six square leagues, more or less, which said claim was presented by your petition to said Commissioners, on or about the 20th of April A.D. 1852, and by them Confirmed on or about the 22d of December A.D. 1852.

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

J. E. Carr
Clerk.

No. 3.

Seen on Journ. Not found

United States of America,

Southern District of California,

U. S. District Court.

Mrs of Rafael Gomez
Appellee

ad

The United States
Appellt.

SUMMONS.

Received February 2-1855
Edward Hunter
U.S. Marshal.

Marshal's fees
For
Copying summons .90
Serving " 3.00
" Petition 3.00
Mileage 80 miles at 19 cts 15.20
46.00
Mileage for Petition 400 at 9 cts 36.00
$ 82.30

I served this summons along with the proper copy of the petition upon Charles Walter as Guardian of Rafael Gomez by delivering to him personally a true copy of the same in the county of Monterey

at the town of Monterey in the Southern District of California on the fourteenth day of June A. D. 185 5.

Sworn to and subscribed before me, this 24th June A.D. 1855.

Edward Hunter
U. S. Marshal.

Clerk.
E. Egan.
Dep. Clk.

3 SD
PAGE 114

No 3.

Heirs of Rafael Gomez ads The United States.

Transcript contains.

I. Petition of Claimants. pp 5 & 6 filed April 20th 1852. One petitioner stricken out p 2.

III Deposition of David Spence, pages 7, 8 & 9. ~~proves~~ Knows this rancho; it was occupied by Rafl. Gomez from some time in 1824 to the time of his death, sept 18th 1838. & since by his widow & children; Gomez built a house on it in 1834 or beginning of 1835; & it has ever since been occupied by Gomez, his family or servants.

proves signatures to original expediente of juridical possession, which is copied on pages 53 to 60. & translated on pages 63 to 70. This expediente of juridical possession contains original grant, approval of the Deputation, a map of the land and proceedings of measurement & possession, the signatures of all of which are proved by Spence.

IIIII. Second Deposition of David Spence proves will of Rafael Gomez, & that Rafael Gomez one of the claimants is the posthumous child referred to in the will & was born soon after his fathers death. The

of Rafael Gomez is copied on pages 43 to 45 & again from pages 47 to 50. In this mill the petitioners are named as the children & heirs of Rafael Gomez.

III. Expediente from office of surveyor general copied on pages 11 to 32 & is translated on pages 33 to 41.

This expedient contains entire proceedings in application for the land, and full copies of grant & approval of deputation.

IV. Maps. There are two, one belonging to expediente of title & one to the act of juridical possession. They are both the same.

Transcript filed Feby 18th 1854
Notice of appeal filed Sept 2d 1854
Petition on appeal filed Dec 4th 1854
Answer filed March 20. 1855

No 3

Heirs of R. Gomez
ads
The United States

Index of Case