

CASE No.

35

SOUTHERN DISTRICT

BOISA DE SAN CAYETANO GRANT

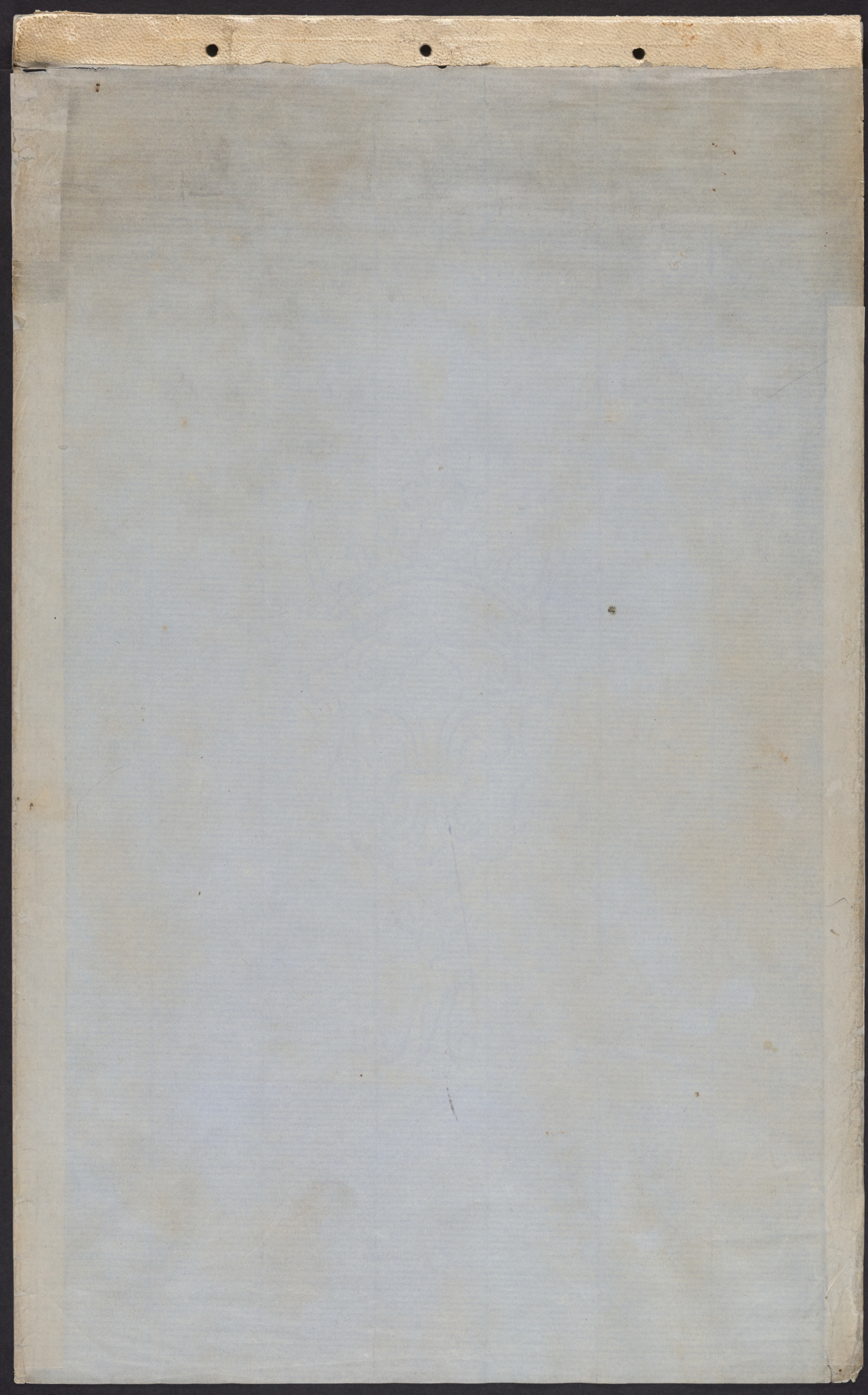
JOSE DE JESUS VALLEJO

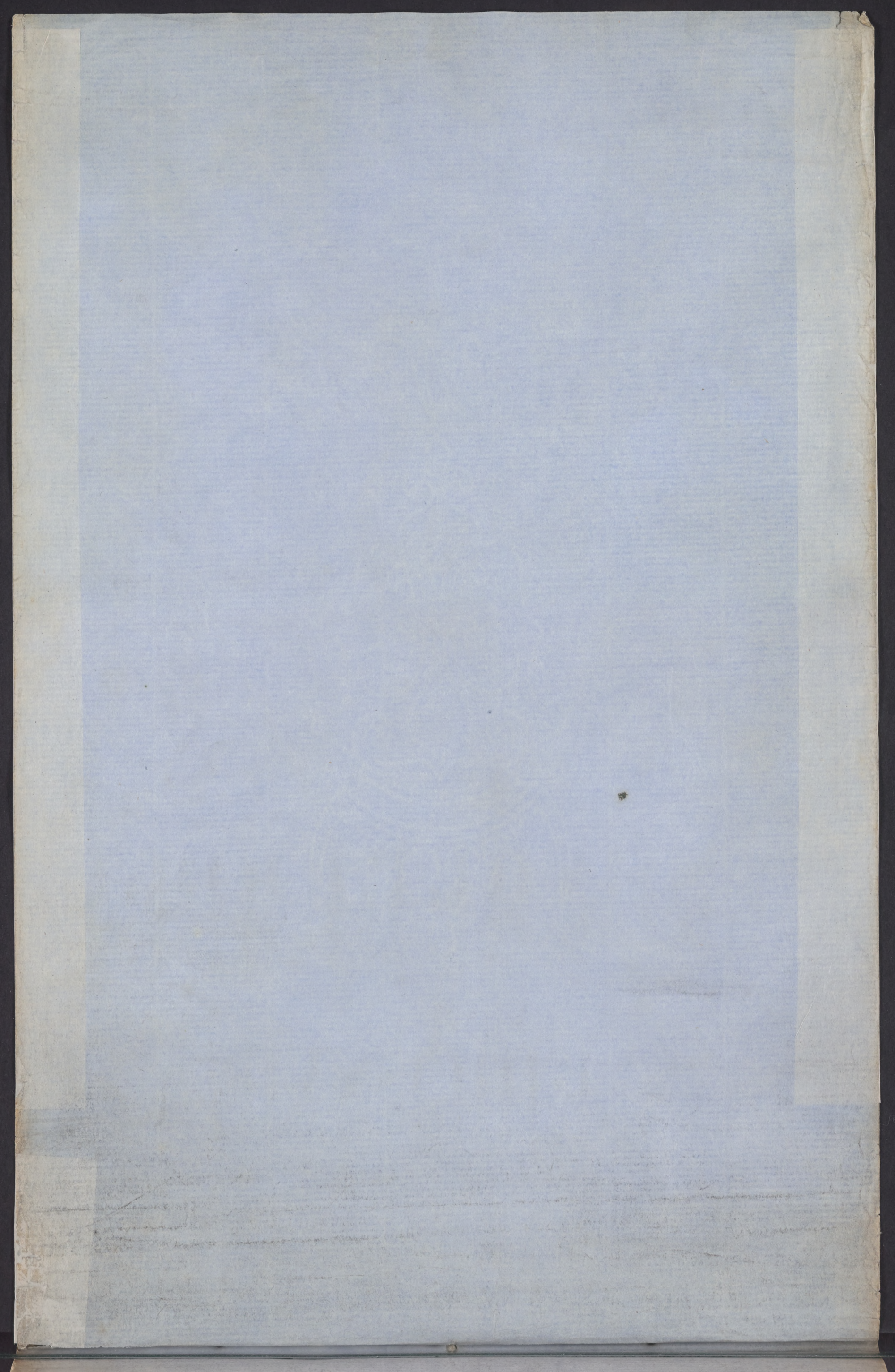
CLAIMANT

LAND CASE 35 SD PAGES 113

FEB 13 1963

124
SPRAY-COLORED
BROOKS BOND
Baltimore





TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO.

85

José de Jesus Vallejo

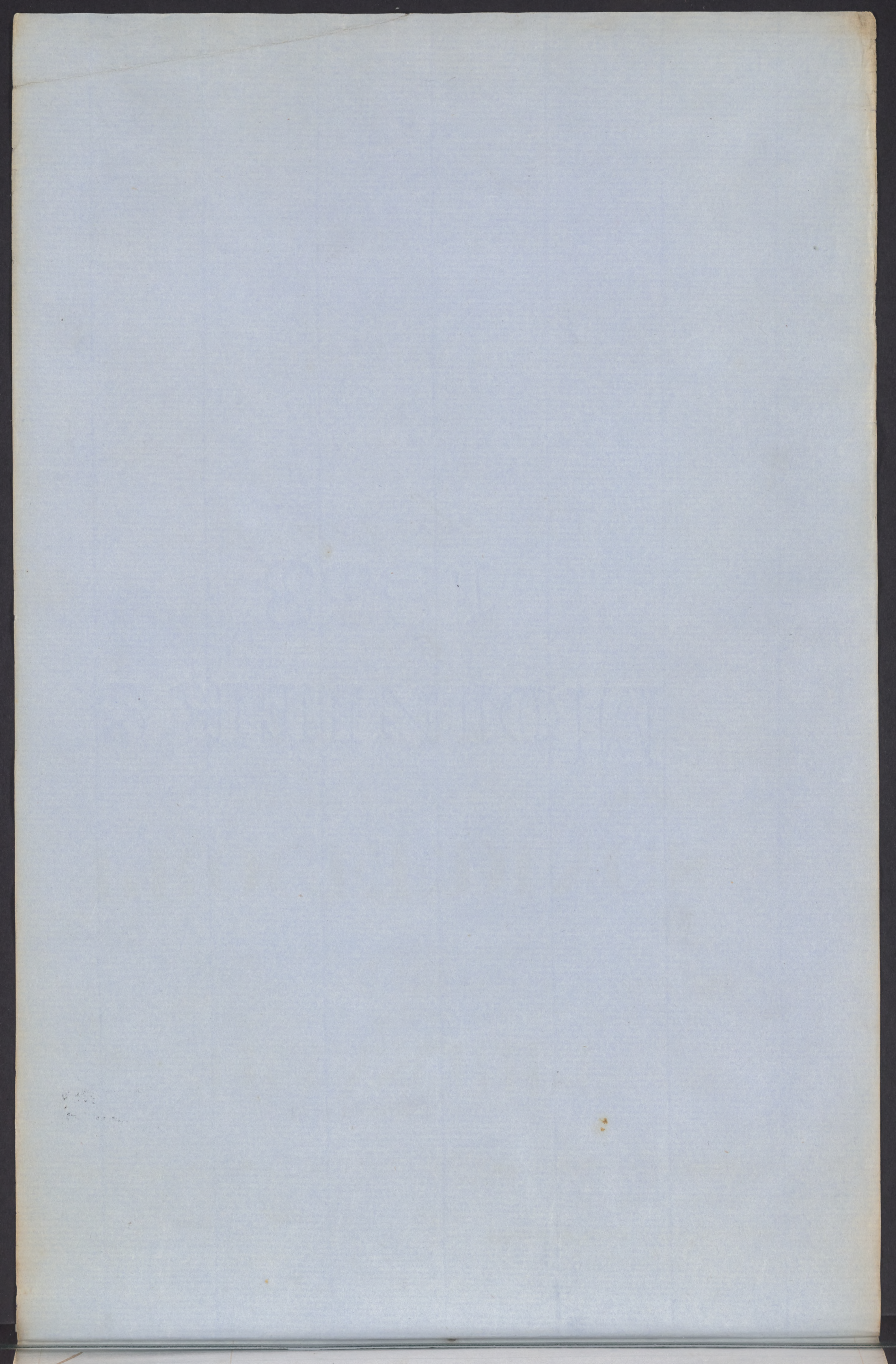
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Bolsa de San Cayetano."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this *second day of March*, 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 *José de Jesus Vallejo* for the Place named *Bolsa de San Cayetano* was presented, and ordered to be filed and docketed with No. 85 and is as follows, to wit;

(Vide page 3 of this Transcript.)

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

San Francisco March 17th 1853.
In case no. 85 José de Jesus Vallejo for the place named "Bolsa de San Cayetano" the deposition of William A. Richardson, a witness in behalf of the Claimant taken before Commissioner Mary J. Thimmon with documents marked H. J. J. nos. 1, 2, & 3 annexed thereto, was filed;
(Vide page 5 of this Transcript.)

San Francisco Aug. 9th 1853.
On motion of the United States Law Agent case no. 85 was ordered to be placed on the Trial Docket.

Case no. 85 called: The Counsel for the Claimant read the evidence and opened the Argument; Answered by the United States Law Agent

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And closed by Claimant; Submitted and
taken under advisement.

San Francisco Dec. 6 1853.

In the same case Commissioner Robert A.
Thompson delivered the opinion of the
Board confirming the Claim;
(See page 18 of this Transcript)

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To the Honorable the Commissioners for settling private Land claims in California.

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The petition of José de Jesús Vallejo respectfully sheweth, that on the 28th day of October 1824 Don Ignacio Vallejo made & presented his petition to the Most Excellent Deputation of California, praying for the confirmation of a certain grant, made to him, the said Ignacio Vallejo by Governor Pablo Vicente in the name of the King of Spain, of a tract of land called the Bolsa de San Cayetano & situate in the present County of Monterey. That on the 23rd day of October 1824 said Departmental Assembly at Monterey by a decree under the signature of Don Arguella & of José Joaquín de la Torre, acknowledged, confirmed & ratified said grant of Pablo Vicente to Ignacio Vallejo and declared him to be the lawful owner of said land. That afterwards in the year 1834 & after the death of said Ignacio Vallejo, your petitioner testamentary executor of the late Ignacio Vallejo, deeming it advisable for the interests of the heirs, to obtain a grant more in accordance with all the formalities of the Mexican Law, than the decree above referred to, presented all the papers & documents relative to said matter, to José Figueroa, acting Governor of California, & obtained of him a full & perfect grant of all said tract of land, known as Bolsa de San Cayetano, on the 13th day of October 1834. That said petition of Ignacio Vallejo to the Departmental Assembly, the decree of the same, & a copy of Governor Figueroa's grant are now on file in the archives of California, at present in the possession of the Surveyor General of the United States of America for the State of California, & that duly certified copies of the same together with the respective translations are herewith submitted, & prayed to be made a part to this petition. That the last mentioned grant of Figueroa is now in the hands of your petitioner & ready to be offered in evidence, whenever required. That said land is situated in the present County of Monterey, is known under the name of Bolsa de

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Petition.

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San Cayetano, & that the boundaries of the same, according to the terms of said grant are as follows. The beach, the highway leading from the Presidio of Monterey to the town of San Francisco, on the Rio del Pajaro, or Rio de San Pedro & the Estuary of the South. Containing altogether two square leagues more or less - And your petitioner further saith, that said Don Ignacio Vallejo took possession immediately after obtaining said first grant of Pablo Vicente in the name of the King of Spain & that he during his life time, & his heirs afterwards, among whom your petitioner, have up to this time held full & undisputed possession of said land, & have exercised acknowledged & exclusive ownership over the same.

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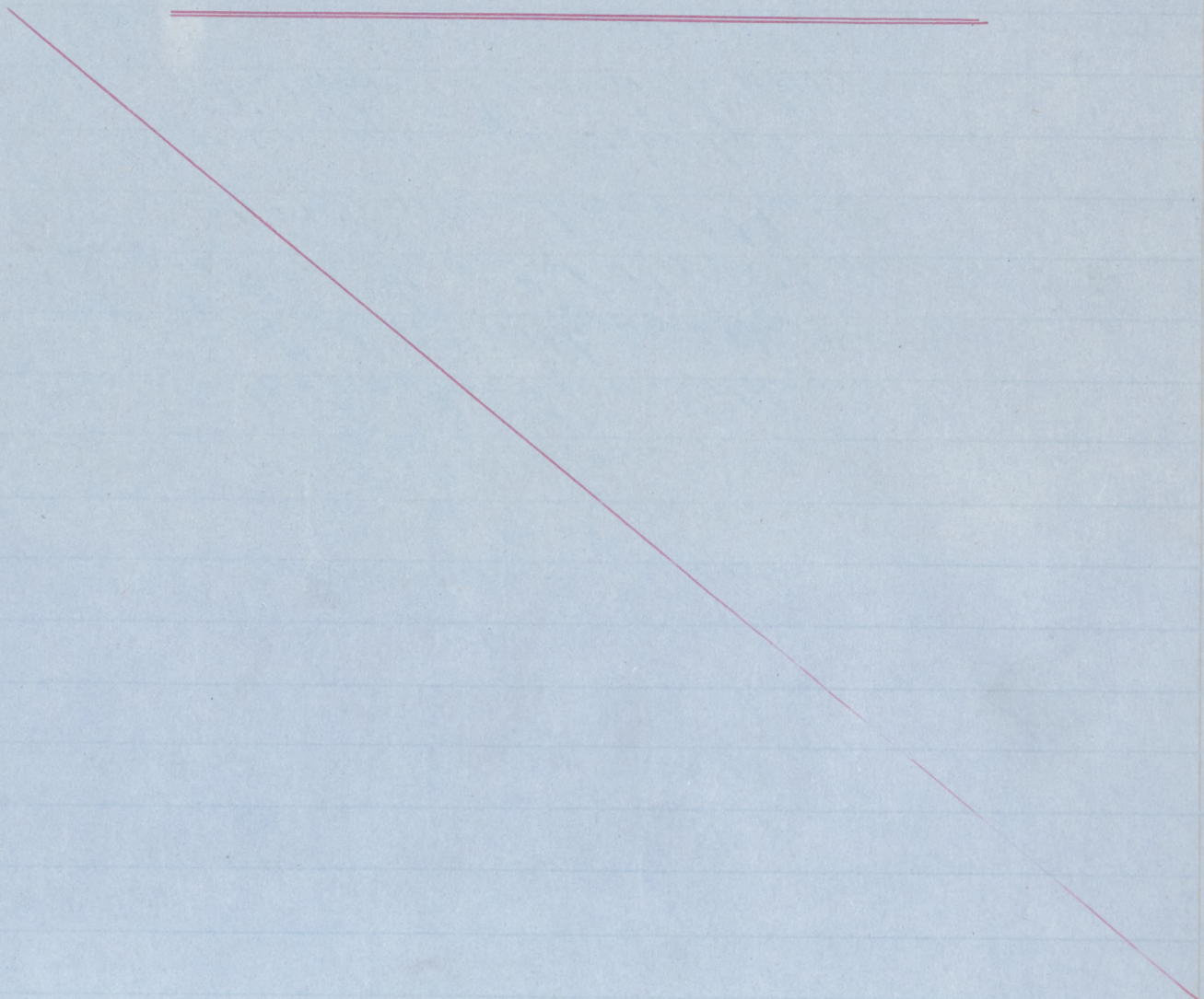
He therefore claims to be the lawful owner of said land & prays that your Honorable body will confirm his claim & title thereto.

Blake, Taylor & Beckwith
Attorneys for Pts.

Filed in Office March 2^d, 1832.

Geo. Fisher. Secy.

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San Francisco March 17 1853.

On this day before Comr H. J. Thomson came
W^m A. Richardson, a witness in behalf of the claimant
Don de Jesus Vallejo, petition No 83. & was duly sworn,
his evidence being given in English.

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Questions by Claimant.

Deposition of
W^m A. Richardson.

Quest 1st. What is your name, age & place of residence?

Ans. My name is William A. Richardson, my age,
fifty eight years, & I reside on my rancho at San Mateo,
in Marin County.

Quest. Look upon the original documents in Spanish
marked Exhibits 1, 2, & 3, now attached to your deposi-
-tion & filed in this case. State what you know in
regard to their genuineness.

Ans. I am well acquainted with the handwriting
of Pablo Vicente Sola, of José Figueroa, of Agustín
W. Zamorano, & of Luis Antonio Arguñello, having often
seen them write. Their signatures whenever they appear
on said documents are genuine.

Quest 3^d. State what you know in regard to the occupation
of said Rancho.

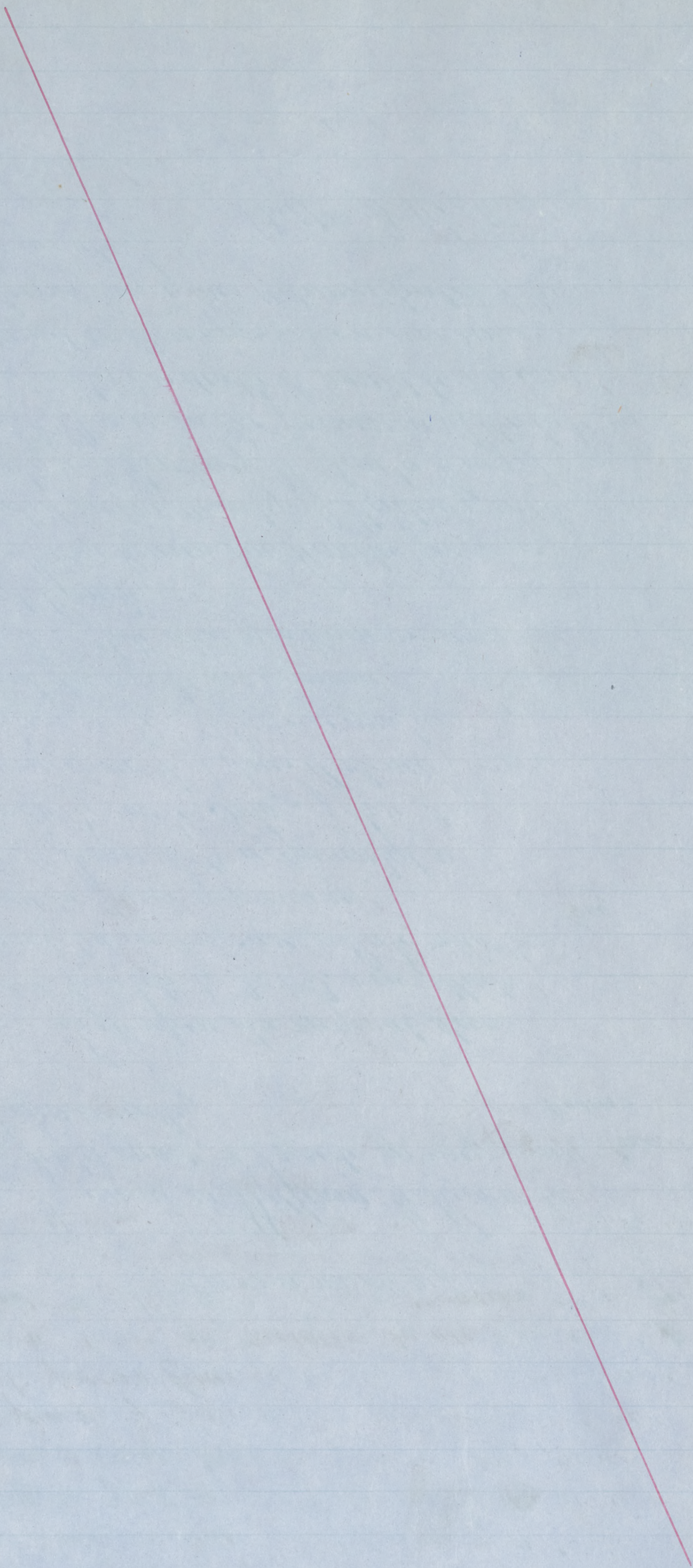
Ans. I have known the Rancho for many years; it is
situated in the County of Monterey, on the road from
the city of Monterey to Santa Cruz. When I first
knew it, it was in the possession of the late Ignacio
Vallejo; after his death it passed to his family & has re-
-mained in their possession ever since, the present
petitioner being his administrator & the general agent
of the family.

William A. Richardson.

U. S. Law Agent

Sworn to & acknowledged before me this
17th of March 1853.

Harry J. Thomson. Comr.
Filed in Office March 17 1853. Geo: Fisher. Secy.



7
Monty 12 de Octubre
de 1822.
Se le concedio el en Decreto ya le tiene V. S. Concedido a este
Suplicante el permiso para Eniar Ganado por su muy precia esto para
q. Solicitaba de el resguardo y abejo de los que cuidan el Ganado
hacer casa.

Sor Coronel y Gaspar Dn Pablo hi'erte de sola. Don
y gnaio Vallego Sanyte distinguido de la Compañia
de Caballeria del Presidio de Monterey ante V. S. con
el respeto que merez puede. V. S. y Suplica le conceda licencia
para fabricar casa en el paraje y Bolsa de Mlaytano
de todo resulta toda la mantencion de su familia
a lo que queotruvas sumunte agradece los. y. P. S.

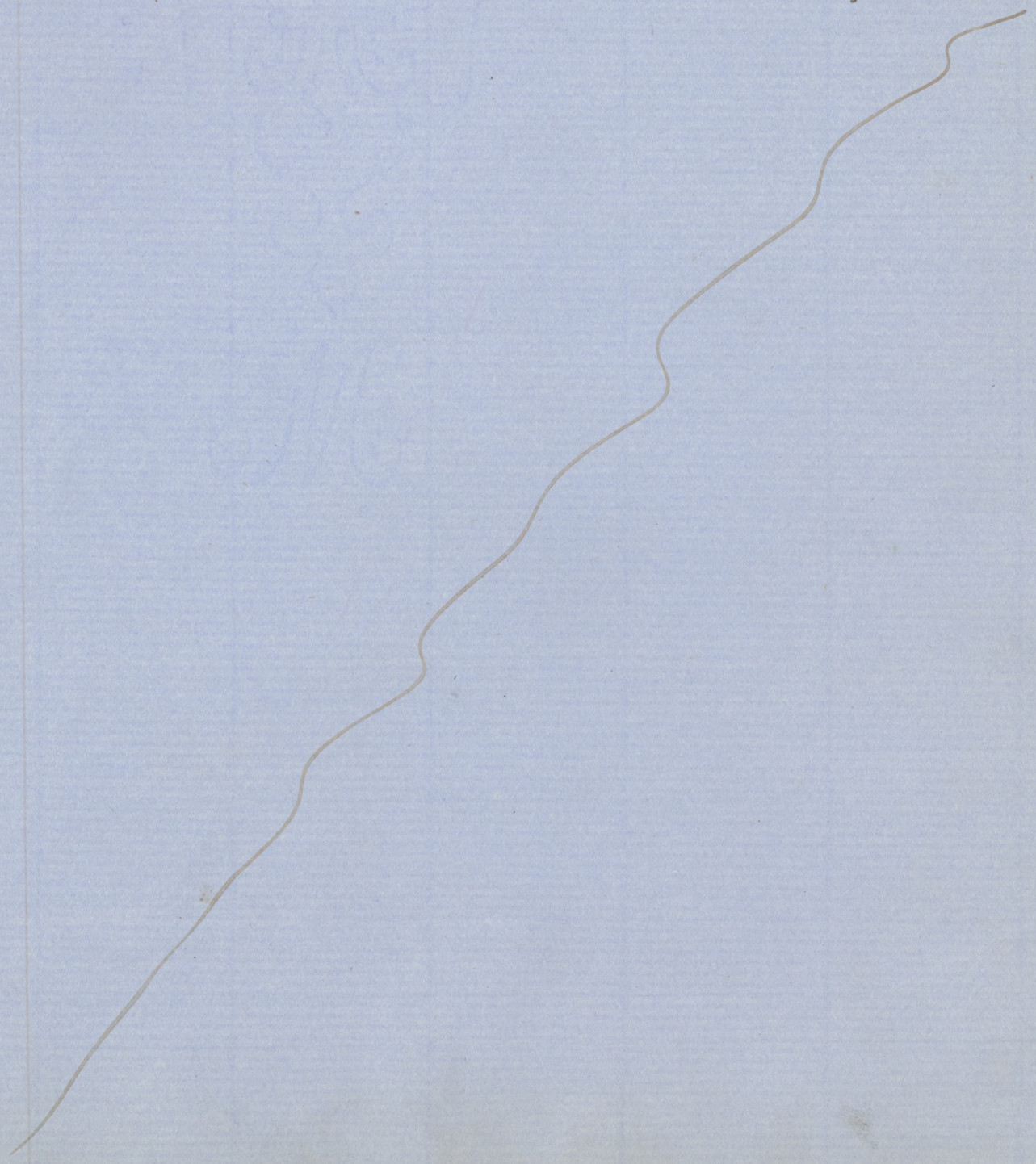
Sola.
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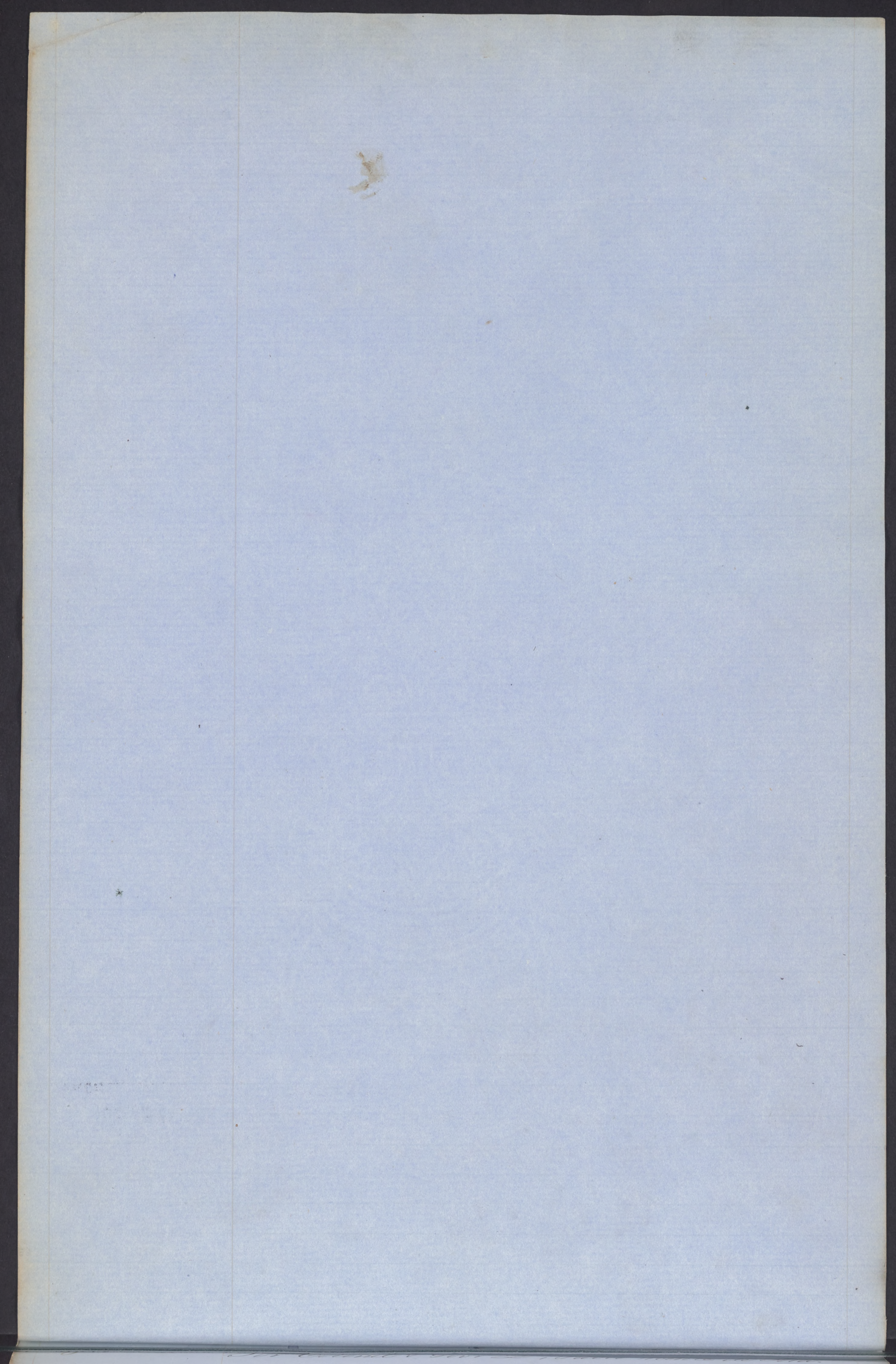
At. S. pide y Suplica le Conceda lo q. pide en que
recibire gracia y merced.

Monterey. 9 de Junio 1831.
y gno Vallego.

Piled in office. March. 14th. 1833.

Geo. Fisher.
Secy.





Sr Colonel & Govr Dⁿ Pablo Vicente de Solá.

Monterey 12^o Oct^r 1822. Don Ignacio Vallejo, distinguished
Leave is granted to the petitioner as he has
prayed to build a house.
with due respect begs & prays Y. E. will grant him leave to build
a house on the place & place
(Puro) of San Calitane, where

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Translation of
Doc No. 13 No
annexed to the dep-
osition of W^m
A. Richardson.

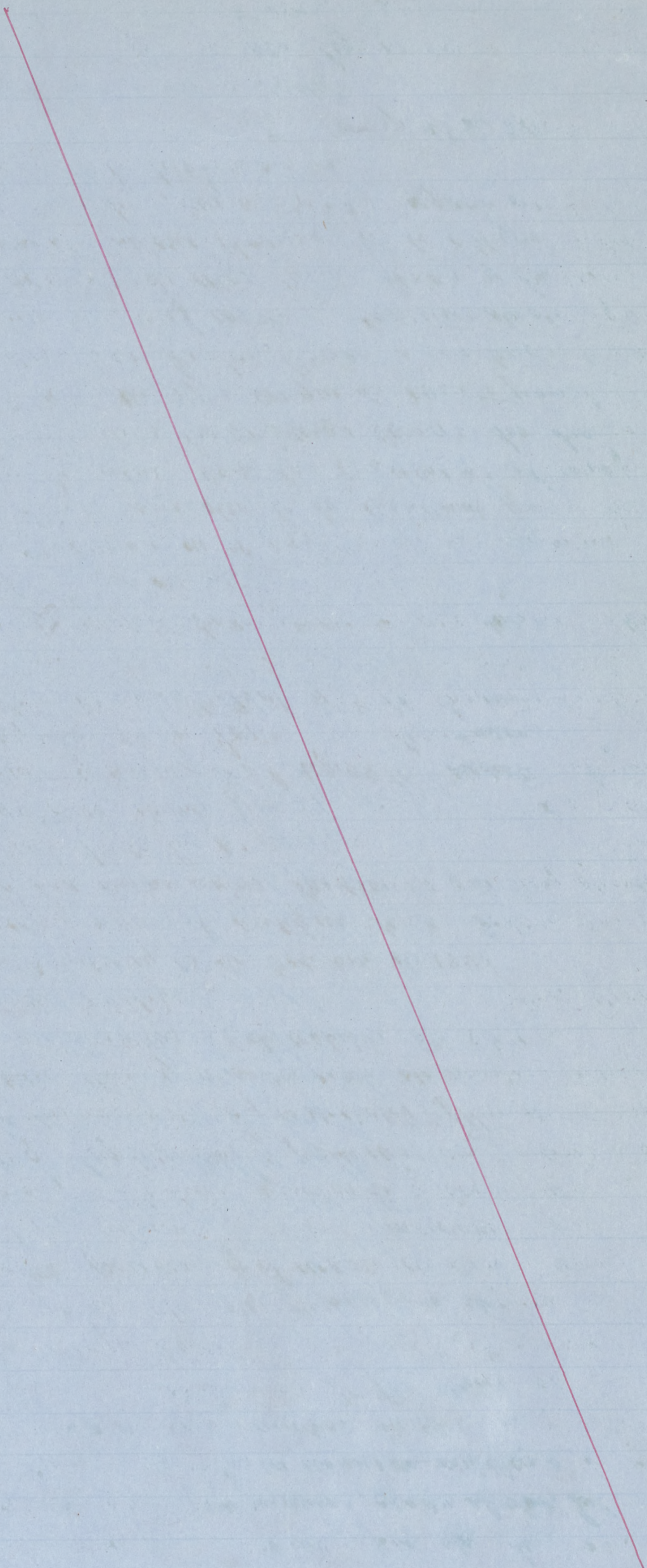
Y. E. has already allowed him from the year 1817
to breed cattle; for this (house) being entirely necessary
for the protection & shelter of those who take care of
the cattle, it being necessary to be built in this com-
munit from the season being advancing that is the
cause of troubling Y. E. For from all this the support
of his family comes (resulta). Whereby he shall be
extremely grateful.

Therefore he prays Y. E. will grant
his prayer - whereby he shall receive favour &c.
Monterey June 2^o 1822.
(Sgd) Ign^o Vallejo.

Filed in Office March 17^o 1834.
Geo. Fisher. Secy.

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Rancho de la Bola de S^{to} Cayetano.

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En mi suplicacion. D. Ygnacio Vallejo Sargento distinguido de la Compania del Presidio de Monterey, hace N. E. presente que habiendome, alado el Sr. Gobernador D. Pablo Vicente de Sola, a nombre del Rey o mi, y al Sargento Dolores Pico, ambos de oña. Compramos el paraje llamado Bola de S^{to} Cayetano. que se contiene desde la Playa hasta el camino real que va de este Presidio pa la villa de Aramapoto segun consta por nuestra peticion y el decreto de dicho Senor Gobernador el que adjunto con este memorial pido me sea dev. E. para que se lea y aprobarlo y confirmarlo por nuestro loq. Suplicamos y pedimos en Justicia o loq. desemos juramente agradesidos, pues de esto resultan misas bien estar y manencion de nuestras familias. Monterey. 18 de octubre de 1824.

Decret.

Ygnacio Vallejo.

Jose Pico.

Monterey. 25 de octubre de 1824.

En atencion a que el antiguo Senor Gobernador concebio a las interesadas las tierras que hoy ocupa el camino real hasta la playa que comprende la Bola de S^{to} Cayetano, devesa preservar los fin q^e nadie supiere perjudicar y atenderse al repetido decreto. Arguillo. Jose Saaguin de la Torre. Secretario.

Registro.

Pierrro.

Sr Comandte Genl. y Jefe Superior Politico El ciudadano Jose de Jesus Vallejo ante V. S. con el mas debido respeto hace presente que teniendo Senientas Cabezas de Ganado Mayor y Ciento ochenta de yeguas Cortas y Cortanas en el rancho de San Cayetano, suplico N. E. se lea concederle la facultad para hacer ventear y señalar con las maneras q^e al margen se expresan y son las mismas con que ha vendido desde el año de 1790 en que se decreto por el Sr. Gobernador Don Pedro Payer a mi Senor Padre y pervenis de verificarlo, y continuo desde aquella fecha, usando de ellas hasta ahora y habiendolo de entrasido dicho documento le obligan solicitar numero registro, cuya gracia espera dev. E. se lea concederle si lo tubiere abien.

Recibo.

Señal de enclavado en cada oreja.

Monterey. 25 de octubre de 1824.

Jose de Jesus Vallejo.

Este sitio comprende dos leguas mas o menos de largo de ancho en parte una legua hasta una orilla real a la boca o paso del arroyo del Sapero camino

//
de la Villa de San Francisco en cuyo Sitio tiene las hebras
hasta la boca de Sto. Sitio el cual forma una bolsa
que desemboca en la mar, y abunde de la Lo Sallan
pastas abundantes y aguas con alas lagunas permanen-
-tes, manteniendose en total seguridad el ganado. Hay
un Coto Ineial en el Sitio y solo el Baque que forma
el Rio o Arroyo del Bayano que Desciende en la mar.

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Office of the Surveyor General of the United States for Calif^a

I Samuel Dikmg, Surveyor G^l of the United States
for the State of Calif^a 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 in Department of Upper California do hereby
Certify that the two preceding and hereunto annexed
pages of tracing paper numbered one and two
and each of which is verified by my initials (S. D. M.)
are truly and accurately copied from two pages of
writing in an unbound book, described as Cuaderno
del Registro de las Sitias' preoras y terrenos que poseen
los habitantes del Territorio de la Alta California
which is on file as 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 this twentieth Day of February, A. D.
1852.

Samuel Dikmg.

Surveyor Genl.
Cal.

Filed in office. March. 2nd 1852.

J. Fisher.
Secy.

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Sello Primero (Sul.) Seis Pesos.
Para los años de mil ochocientos treinta y dos
y ochocientos treinta y tres.

Gobierno Político de la Mta Califor.

José Figueroa General de Brigada de la Republica Mexicana, Comandante General y Inspector y Jefe Superior Político del Territorio de la Mta California.

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Por cuanto don José de Jesús Vallejo, Abogado de la toda mencionada del finado don Ignacio Vallejo, su prescrito para su beneficio personal de las herederas de dicha testamentaria, el terreno conserido con el nombre de Bolsa de San Cayetano, colindante con el Rio de San Joaquin Camino principal de la Villa de Oraniforte, el estero del Sur de la Costa: practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, y atendido a la sustancia autogenerada con que ha poseido el mencionado terreno; usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he venido por decreto de once del corriente en concederle a la expresada testamentaria el terreno mencionado en virtud de la concesion hecha por el Senor Gobernador don Pablo Vicente de Solá en veinte y tres de Febrero de mil ochocientos veinte y tres, declarandole la propiedad de el por las presentes letras entendandase dicha concesion con entera conformidad a lo dispuesto por las leyes y bajo las condiciones siguientes.

dos

1.ª Que se sometera a las que establece el aumento que se ha de formar para la distribucion de terrenos baldios y que entretanto ni el agraciado ni sus herederas podrán alienar ni enajenar el que se le adjudica: imponer Seguro, ni censu, fianza hipoteca, ni otro gravamen con que se ponga en su poder, ni pasarlo a manos muertas.

2.ª Que para cercarlo sin perjudicar las haciendas lamiadas y serriales, lo delimitará libre y exclusivamente destinandole al uso o cultivo que masle acomode, pero dentro de un año o lo mas fabricará las o estará habitadas.

3.ª Que el Jefe respectivo que le otorga la posesion Judicial en virtud de este despacho el cual se demarcaran los limites en cuyos limites por ahora o mas de las maderas algunas arboles frutales o silvestres de alguna utilidad.

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1º El terreno de que se hace donación es de las Sietes
de Sanato Mayor por lo mas ó menos segun es pl'co
el abic'cto que corre en el expediente. El Juey quedara
la posesion lo hara medir conforme á ordenanza
questando el Sohamite que resulte á la nacion para las
convenientes.

3. Si contraviniere a estas condiciones perderá
La atencho al terreno y sera denunciado por otro.

En consecuencia mando que se le entregue el titulo
el presente y teniendose por firme y valedero lo tome
razon en el libro respectivo y se entregue al subscrito
para su resguardo y demas fines. Dado en Mont
orey a trece de Octubre de mil ochocientos
treinta y cuatro.

José Figueroa.

Agustin V. Zamorano.

Que esta tomada razon de este despacho sobre adjudicacion
de terrenos a fojas cincuenta y cinco. Numero cincuenta
y seis y obra en la Secretaria de mi cargo.

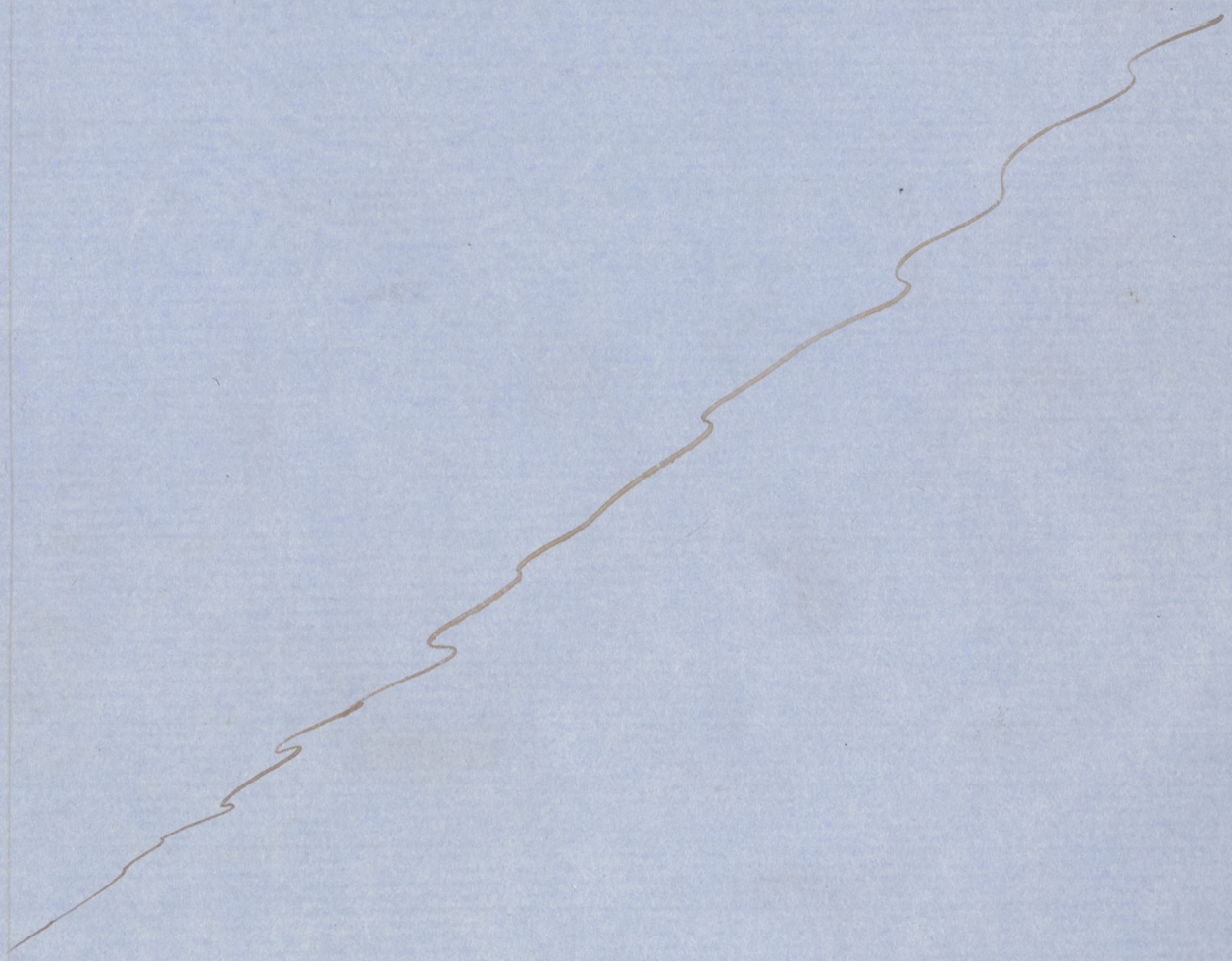
Montorey. 13 de Octubre de 1834.

Zamorano.

Filed in office. March. 17. 1853.

Geo. Fisher.

Secretary.



Registered.
Iron or brand
E

Iron or brand showing with a signal, with the iron & sale by first owner.
H

pleased to grant to him the favor-
-ty of branding, branding with a
brand indicating sale, & marking

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a mark: a cut which leaves part of the ear hanging, (literally) and by means of a decree the permission car sing.

which appear in the margin, which are the very same that have been in use ever since 1790, at which epoch the Honr Governor D.ⁿ Pedro Fages allowed my father to do so, & he continued using them

ever since that time to this day, & said document having been lost, he is now obliged to solicit a new register which favor he expects to obtain of your Honor if it should appear convenient to your Honor.

Monterey October the 25th 1827.
(Signed) José de Jesus Vallejo.

This site comprises two leagues more or less in length, & as to the width it is in parts one league decreasing to one mile always reckoning more or less from the high road by the mouth or passage of the Arroyo del Pajaro (Bird's mouth) on the road of the town of Brandeforte, on which location he has his marriage, up to the mouth of said site which forms a "Cobra" purse or hollow ending in the sea, & within it are to be found abundant pastures & water with two permanent Lagunas, lagoons, the cattle remaining in complete safety in said place. There is a small oak-thicket on the Estuary, & only the coppice (or brushwood) that forms the rivulet of the Birds which empties into the sea.

Number 93.

José Figueroa, General of Brigade of the Mexican Republic, Commandant General, Inspector & Superior Political Chief of the Territory of Upper California.

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Thomas Don José de Jesus Vallejo, testamontary

Executor of the late Dⁿ Ignacio Vallejo, has pretended, for the funeral benefit of the heirs of said testator, the tract of land known by the name of *Parcela de San Cayetano*, bordering on the *Rio del Pajaro*, or *Bird river*, on the high road of the town of *San Francisco*, on the Estuary of the South & on the East, after having previously, the legal steps & investigations concerning the subject, according to the tenor of the laws & regulations, & taking in consideration the notorious antiquity of his possession of the land, by virtue of the powers conferred on me, in the name of the Mexican Nation, I have found it fit, by a decree of the 11th instant to grant to the aforesaid testamentary executor the tract of land mentioned in confirmation of the grant made by the Honorable Governor Don Pablo Vicente de Solá on the twenty third day of February 1823, declaring it to be his property by the present letters -; said grant to be understood in entire conformity with the provisions of the laws & under the following conditions.

1^o. That he must submit to such conditions as shall be established by the regulations to be formed for the distribution of common lands, & that meanwhile neither the grantee nor his heirs shall have power to divide nor alienate that which is granted to him, nor to burden it with any annuity, entail, bond, mortgage, or any other burthen, though it may be for a pious cause, nor shall he be able to transfer it to *manos muertas* most main.

2^o. He may enclose it without prejudicing the paths, roads, & routes, he shall enjoy it fully & exclusively appropriating it to the use & cultivation that may best suit him, but within a year at the utmost, he shall build a house, & it shall be inhabited.

3^o. He shall solicit of the respective judge to give him the judicial possession by virtue of the patent by whom the boundaries shall be traced, on the limits of which he shall plant, besides the land-marks, some fruit trees or fruit trees of some

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usefulness.

4th. The tract of land granted is of two square leagues, more or less, as the sketch accompanying the preceding shows, the judge who should give the possession shall cause it to be measured according to ordinance in order to mark the boundaries; the surplus remaining at the disposal of the Nation for common use.

5th. If he should contravene any of these conditions he shall lose his right to the land, & it shall become liable to denunciation by any other party.

Consequently I order that the present writing being as a title deed to him & being held as valid & firm, the same be entered in the corresponding book, & be delivered to the party concerned for his own security & other purposes.

Given in Monterey this 13th day of October 1834.

(Signed) Don J. Figueroa.

(Signed) Agustín V. Tamorano. Secy.

A proper entry of this patent on adjudication of land was made; leaf 35, no 36, which is lodged in the Secretarial Office under my charge.

Monterey October the 13th 1834.

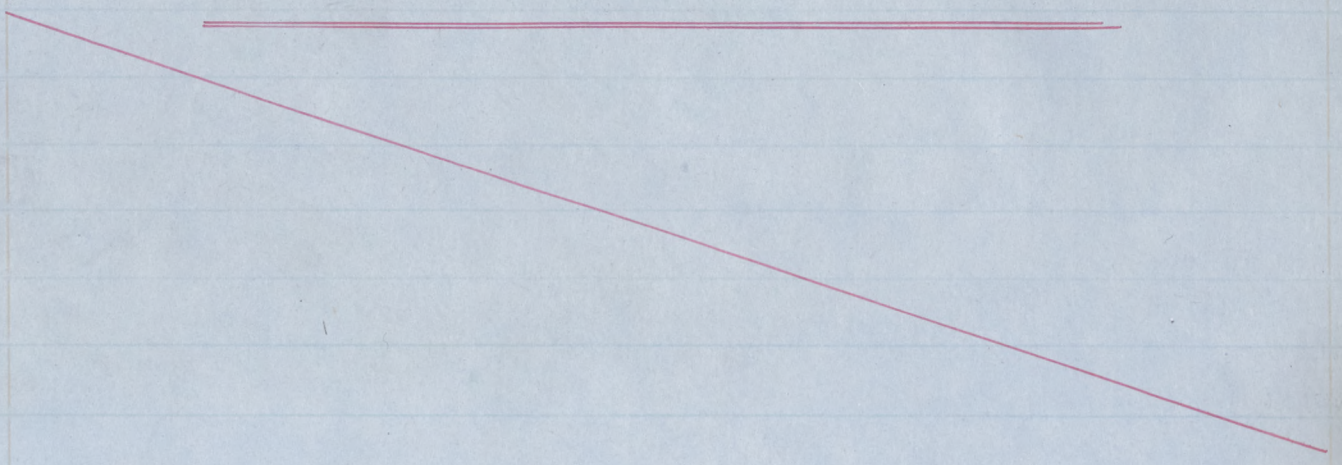
(Signed) Tamorano.

E. C.
R. P.

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Filed in Office March 2^d 1839.

Geo: Fisher. Secy.



José de Jesus Vallejo

The United States.

Bolsa de San Cayetano.

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The petition in this case recites that on the 18th day of October 1824 Don Ignacio Vallejo presented his petition to the Territorial Deputation of N. Mex. California, praying for the confirmation of a certain grant made to him by Governor Don Pablo Vicente in the name of the King of Spain, of a tract of land called Bolsa de San Cayetano, situate in the present County of Monterey. That on the 25th day of the same month in the year 1824. The said deputation, confirmed & ratified said grant & declared him to be the lawful owner of the said tract of land. That afterwards in the year 1834 & after the death of the said Ignacio Vallejo, the present claimant as his testamentary executor, deeming it advisable for the interests of the heirs, to obtain a grant more in accordance with all the formalities of the Mexican Law, presented all the documents relative to the matter to José Figueroa acting Governor of California, & obtained of him a full & perfect grant of all said tract of land known as the Bolsa de San Cayetano, on the 13th day of October 1834. That the said petition of Ignacio Vallejo to the departmental Assembly (Territorial Deputation) the decree of the same, & a copy of Governor Figueroa's grant are on file in the Archives of California, now in the possession of the United States Surveyor General for the State of California, duly certified copies of which are filed with the petition. That the original grant is in his possession ready to be offered in evidence. It then sets out the boundaries of the land as contained in the grant & that Ignacio Vallejo took possession immediately after he obtained the first grant from Pablo Vicente, that during his life time, he, & since his death his heirs among whom is the petitioner have held full & undisputed possession of said land, & have exercised

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acknowledged & exclusive ownership over the same.
 The documentary evidence filed in support of the claim thus
 presented consists, in the order of date of an original peti-
 tion from Ignacio Vallejo a distinguished sergeant
 of the Cavalry Company of the port of Monterey
 to Governor Don Pablo Vicente de Sola dated June 2^o
 1822, praying for permission to build a house on
 the place of Bolza de San Cayetano where said Go-
 vernor had already allowed him to breed cattle since the
 year 1817, & a marginal decree in the same dated Oct
 12th 1822 signed "Sola" awarding the permission
 prayed for; second a petition addressed to the Most Ex-
 cellent Territorial Deputation by Ignacio Vallejo &
 Jose Pico dated Oct 18^o 1824 setting out that in as
 much as Don Pablo Vicente de Sola had given to the
 said Vallejo & Dolores Pico, both sergeants of the Company
 of Monterey in the name of the King of Spain the site
 named Bolza de San Cayetano, they therefore prayed
 the Deputation to approve & confirm it to them, -
 On this petition there is a marginal decree signed
 "Arguilla" & "Saaguis de la Fera" Secretary dated Oct
 23th 1824 declaring that in consideration of the fact
 that the former Honorable Governor granted to the two
 parties the lands lying from the highway to the back
 comprising the Bolza de San Cayetano they ought
 to possess them without any body being allowed to
 prejudice them; Should the original grant from
 Gov Figueroa dated Oct 13^o 1834 granting the land
 to the present claimant as the testamentary Executor
 of the late Don Ignacio Vallejo, who has solicited it
 for the personal benefit of the heirs of said testamentary
 executor & describing the boundaries. This grant is
 in the usual form & contains the customary conditions
 except that it is declared to be in consideration of the
 ambiguity of the possession & in reaffirmation, or revali-
 -dation (revalidacion) of the grant made by Gov Don
 Pablo Vicente de Sola on the 23^o day of Feb 1823 & is
 not made subject to the approval of the Territorial
 Deputation or Supreme Government although the land

was situated immediately on the coast & was consequently within the ten littoral leagues. The authenticity of all the original documents, & the genuineness of the signatures of Don Pablo Vicente de Solá, José Figueroa, Agustín N. Llanusa & of Luis Antonio Arguilla when they appear thereon are duly proven by the testimony of William A. Richardson, who also proves the occupation of the land from his earliest knowledge of it many years since, first by the original grantee Ignacio Vallejo, the continuation of that occupation by his family ever since his death up to the present time, & that the present claimant is the Administrator, general agent of the family. The traced copy of the Expediente from the Archives in the office of the Surveyor General - contains copies of all the original documents except the first mentioned, & in addition a petition from the present claimant dated 23 Oct 1827 for a renewal of the bounds and marks for cattle which he states were allowed his father by a decree of Gov Fages in 1790, to which is appended a description of the land from which it appears to contain something less than two square leagues, being two leagues a little more or less in length, & one league, diminishing to one mile a little more or less in breadth. There are some facts presented in this case, which although they do not materially affect the result, yet are important in themselves, & worthy of consideration as illustrating the views of the Mexican Authorities in California in relation to grants made under the authority of the King of Spain, & by the Mexican Governors prior to the passage of the Colonization law of 1824 & the regulations of 1828. These facts are entitled to more weight, from their occurrence under the administration of Gov Figueroa one of the earliest & certainly one of the most intelligent of the Mexican Governors to whom the Administration of his Colonization laws was committed. It appears from the original draft of the grant issued by on the 13th of Oct 1834 contained in the traced copy from the archives that the words "in validation of the grant made by the Sr Governor Don Pablo Vicente de Solá the 23rd day of Feb 1823"

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were inserted in the document delivered to the party to
 serve as a title, from a marginal note made on the
 original draft, & that the words requiring the approba-
 -tion or disapprobation of the Most Excellent the Sim-
 -linal Deputation & of the Supreme Government
 were stricken out of it, & not contained in the original
 title at all, - The presumption arises from these facts
 is very strong that Gov Figueroa recognized the grant of
 Gov Sola as made by legal & competent authority, &
 therefore conveyed a good & valid title to the grantee, but
 being made prior to the passage of the law of the 18th of
 August 1824 it was not subject to the restriction
 imposed by that law in relation to the letteral lea-
 -grees no to the provision requiring the approval of the
 Simlinal Deputation confirmed by the regulation
 of the 21st of Nov 1828. Consequently in the new title
 which he issued in revalidation of the last one those
 provisions were entirely omitted. Whether this
 presumption however be correct or not, there can
 be no doubt that the grant of Gov Figueroa confers
 such a title on the party, as will entitle him to a
 confirmation according to the principles settled
 by the board in other cases, provided the boundaries
 are sufficiently well defined, to identify the
 same & fix its location. Upon this point the case
 presents no difficulty: It is true there has been
 no act of juridical measurement or possession
 proven, but there are four boundaries given within
 which the land is situated - three of these bounda-
 -ries are natural objects, being a river on one side,
 the ocean on the other, & an estuary or arm run-
 -ning up from the sea on the other, the fourth
 is the line of an ancient highway the position of
 which can doubtless be easily established & its point
 of intersection with the river, or that of the river with
 the ocean furnish points of identification by which
 the land may be readily located & surveyed. The
 question of occupation or cultivation as required by
 the grant are equally clear. The documentary evidence

as well as the deposition of Richardson prove that the claimant or his ancestor have occupied the land for thirty years & although there is no proof that a house was built after the issuing of the new grant according to one of its conditions, it would seem to be a harsh measure of justice to reject a claim in all other respects meritorious, & where the requirements of the law had been substantially complied with long prior to the issuing of the grant, on account of the non performance of a condition, the right of the Governor to insert which is in my opinion to say the least doubtful, & which in the present case is clearly more a matter of form than substance. There is in this case also the usual reservation of the sobrante or surplus for the use of the nation. The description of the land however shows it clearly to be a grant of all the land within the limits given in the grant & other papers in the case show that the quantity does not exceed much, if any, the two square leagues it was supposed to contain. A question is raised by the Law Agent in relation to the rights of Dolores Pico who it appears was the co-grantee with Ignacia Valleyo in the original grant. This is shown by the petition to the Provincial Deputation in 1824 which was presented in the names of the two parties, & the confirmation of the grant made to them jointly. The proceedings upon the application for the new title in the year 1834 were instituted & carried on in the name of the Executor, & for the benefit of the heirs of Ignacia Valleyo alone. As Gov. Figueroa had all the evidence before him, & doubtless entered into a full investigation of all the facts presented in the record, we can hardly presume that he would have overlooked so important a point as that presented by right of the co-grantee to one half of the premises, had that right have been then a subsisting one. — No reference is made whatever to any such right in the proceedings before him, & the whole tract is granted to the legal representatives of Ignacia Valleyo. In the absence then of any claim on the part of Pico or his representatives to any part of the land either

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before or since the inference is conclusive that he had either transferred his rights to his co-grantee, or had abandoned them altogether. The petitioner in this case asks for a confirmation of the claim in his own name, but it is very evident both from the language of the petition as well as from the evidence in the case, that it was intended to be in his fiduciary character as the Executor of his father & trustee for his co-heirs. According therefore to the principle settled in case No. 100 therefore decided by the board a decree of confirmation will be entered in favour of the claimant as trustee for the benefit of the legal representatives of Ignacio Vallejo decd.

Filed in Office Decr 6' 1833.

Geo: Fisher. Secy.

Case No 83-

Decree of Confirmation *José de Jesús Vallejo* vs *Botza de San Cayetano.*
The United States.

In this case on hearing the proofs & allegations it is adjudged by the Commission that the claim of the said José de Jesús Vallejo, is valid & it is therefore hereby decreed that the same be confirmed to him as testamentary executor of the late Don Ignacio Vallejo deceased & for the benefit of the heirs, devisees, or legal representatives of the said testator. The land hereby confirmed is known by the name of Botza de San Cayetano, is situate in the county of Monterey on the road leading from the city of Monterey to Santa Cruz, being the same now held & occupied by the family & legal representatives of the said Ignacio

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PAGE 23

Valley de?, forming a Bolza or piece extending to the sea - & is bounded as follows - By the Rio del Pejaro or Bird River by the line of the road leading from the ancient Presidio of Monterey by the town of Branciforte, by the Estuary of the South, & by the coast, as held & occupied by the parties aforesaid, & containing two square leagues, more or less: reference for a more particular description to be had to the grant and other papers on file in the case.

Alphens Felch. }
Thompson Campbell. }
R. Aug. Thompson. } Comrs.

Filed in Office Dec 6th A.D. 1853.
Geo: Fisher. Secy.

100

4495 = 45 folios



Office of the Board of Commissioners,

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

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *Twenty-four* pages, numbered from 1 to *24*, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. *85* on the Docket of the said Board, wherein *José de Jesús Vallijo* is

the Claimant against the United States, for the place known by the name of *"Bolsa de San Cayetano."*



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

G. Fisher
G. Fisher
Sey.

35

U. S. DISTRICT

Southern Dist

No. ~~35~~ 35

THE UNITED

35^{us.}

*Pose de Jesus, Vallejo
For Bolsa de San Cayetano
24 Leagues in Monterey Co*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 85

Rec^d 25 Aug.

Filed 26

35

On appeal from the Board of U. S. Land Commissioners,
Case No. 35, } In the Southern District.

35 SD
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Sir,

Please to take notice,
that the claimant in the above case
will prosecute the appeal therein.

San Francisco
Dec. 8th 1854.

Yours respectfully,
Campbell, Taylor & Beckwith
Attys. for Claimant

To the Clerk of the
U. S. District Court
Southern District of California

U. S. District Court
Southern District
of California. —
—

Case No 35. —
—

Notice of
Appeal from the
Boards of U. S. —
Land-Commissioners.

Filed Dec 12. 1854.

J. C. Carr.
clk.

On appeal from the Board of U. S. Land-Commissioners,
Case No. 35. } In the Southern District.

Sir,

35 SD
PAGE 27

Please to take notice
that the claimant in the above
case will prosecute the appeal
therein. —

San Francisco
Dec. 8th 1854,

Yours respectfully,
Campbell, Taylor & Beckwith
Atty. for claimant

To the Clerk of
the U. S. District-Court
Southern District of California.

U. S. District Court
Southern District of
California.

~~35~~

Case No. 35.

~~AD~~

Notice of appeal
from the Board of
U. S. Land Commissioners,

Filed Dec 18. 1854.

J. S. Love,
Clerk.

35 SD

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Office of the Attorney General of the United States,
Washington, 30th November 1854.

Jose de Jesus Vallejo }
vs. } 85.
The United States }

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of August 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

N^o 35.

U. S. District Court
Southern District

The United States

vs —

José de Jesús Vallejo

Appeal notice —

Filed Jan'y 10th 1855.

J. E. Farr.
clk.

35 SD

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35.

Office of the Attorney General of the United States,
Washington, 30th November 1854.

José de Jesus Vallejo }
vs. } 85.
The United States.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of August 1854 the appeal in the district court of the United States for the Southern - district of California will be prosecuted by the United States.

Andrew

Attorney General.

35. Duplicate

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85

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

Los Angeles County, State of California.

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José de Jesus Vallejo }

adv.

Nº 35 (Transcript No. 85)

The United States }

To the Honorable Isaac S. H. Ogier, Judge of the Dis-
trict Court of the United States for the Southern Dis-
trict of California.

The petition of Pacificus Ord (of Los Angeles County)
Attorney of the United States for the Southern District
of California, who petitions in this behalf for the
United States; and being present here in Court in
his proper person, in the name and behalf of the
United States, represents as follows.

That heretofore, to wit, on or about the 2nd day
of March A.D. 1852, José de Jesus Vallejo presented
a petition to the Commissioners to ascertain and settle
the private land claims in the State of California,
claiming the tract of land called Bolsa de San
Bayetano in the County of Monterey in the words
and figures following, to wit:

"The petition of José de Jesus Vallejo respectfully
showeth, that on the 28th day of October 1824 Don Ig-
nacio Vallejo made & presented his petition to the

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"Most Excellent Deputation of California, praying
 "for the confirmation of a certain grant, made to
 "him, the said Ignacio Vallejo by Governor Pablo Vin-
 "cente in the name of the King of Spain, of a tract
 "of land called the Bolsa de San Cayetano & situ-
 "ate in the present County of Monterey. That on the
 "25th day of October 1824 said Departmental Af-
 "sembly at Monterey by a decree under the signa-
 "ture of Don Arguello & of José Joaquin de la Torre,
 "acknowledged, confirmed & ratified said grant of
 "Pablo Vincente to Ignacio Vallejo and declared him
 "to be the lawful owner of said land."

"That afterwards in the year 1834 & after the de-
 "ath of said Ignacio Vallejo, your petitioner testa-
 "mentary executor of the late Ignacio Vallejo, deem-
 "ing it advisable for the interests of the heirs, to obtain
 "a grant more in accordance with all the formali-
 "ties of the Mexican law, than the decree above referred
 "to, presented all the papers & documents relative to
 "said matter, to José Figueroa, acting Governor of
 "California, & obtained of him a full & perfect grant
 "of all said tract of land, known as Bolsa de San
 "Cayetano, on the 13th day of October 1834. That said
 "petition of Ignacio Vallejo to the Departmental As-
 "sembly, the decree of the same, & a copy of Governor
 "Figueroa's grant are now on file in the archives of
 "California, at present in the possession of the

35 SD
PAGE 33

"Surveyor General of the United States of America
 "for the state of California, & that duly certified
 "copies of the same together with the respective trans-
 "lation are herewith submitted, and prayed to be
 "made a part to this petition. That the last men-
 "tioned grant of Figueroa is now in the hands of
 "your petitioner & ready to be offered in evidence,
 "whenever required".

"That said land is situated in the pre-
 "sent County of Monterey, is known under the name
 "of Bolsa de San Cayetano, & that the boundaries of
 "the same, according to the terms of said grant are
 "as follows. The beach, the highway leading from
 "the Presidio of Monterey to the town of Branciforte,
 "on the Rio del Pajaro, or Birds River & the Estuary of
 "the South. Containing altogether two square lea-
 "gues more or less - and your petitioner further
 "saith, that said Don Ignacio Vallejo took posses-
 "sion immediately after obtaining said first grant
 "of Pablo Vincente in the name of the King of
 "Spain & that he during his life time, & his heirs af-
 "terwards, among whom your petitioner, have up to
 "this time held full & undisputed possession of
 "said land & have exercised acknowledged & exclu-
 "sive ownership over the same."

"He therefore claims to be the law-
 "ful owner of said land & prays that your Hon-

"orable body will confirm his claim & title thereto."
 "You petitioner further represents that thereafter, to
 wit on the 6th day of December A.D. 1853 the said
 Commissioners confirmed, by final decree, the said
 claim of the said José de Jesus Vallejo in the words,
 and figures following, to wit.

"In this case on hear-
 "ing the proofs & allegations it is adjudged by
 "the Commission that the claim of the said José
 "de Jesus Vallejo, is valid & it is therefore hereby
 "decree'd that the same be confirmed to him as tes-
 "tamentary executor of the late Don Ignacio Vallejo
 "deceased & for the benefit of the heirs, devisees, or le-
 "gal representatives of the said testator. The land
 "hereby confirmed is known by the name of Bolso
 "de San Cayetano, is situate in the County of Mon-
 "terey on the road leading from the city of Mon-
 "terey to Santa Cruz, being the same now held &
 "occupied by the family & legal representatives
 "of the said Ignacio Vallejo dec'd, forming a
 "Bolso or purse extending to the sea - & is bounded
 "as follows - By the Rio del Pejaro or Bird River
 "by the line of the road leading from the ancient
 "Presidio of Monterey to the town of Manicforte, by
 "the Estuary of the south, & by the Coast, as held &
 "occupied by the parties aforesaid, & containing
 "two square leagues, more or less: reference for a

"more particular description to be had to the grant
"and other papers on file in the case."

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"Alpheus Selek" }
"Thompson Campbell" } Com^r
"R. Aug. Thompson" }

"Filed in office Dec. 6th A.D. 1853"

"Geo. Fisher Leay"

That thereafter, to wit, on the 26th day of August
A.D. 1854 a duly certified transcript of the said
decree, and proceedings, and the papers and evi-
dence on which it was founded in said cause,
was filed in the office of the clerk of the District
Court of the United States for the Southern Dis-
trict of California and marked No. 35 (Transcript
No. 85) reference to which it is prayed may be
had and made a part of this petition.

That on the 18th day of August A.D. 1854, the Hono-
rable Caleb Cushing Attorney General of the United
States received a duly certified duplicate of said
transcript of said final decree and proceedings
of said Commissioners in said cause (No. 35) and
the papers and evidence on which said decree
was founded.

That thereafter, to wit, on the 10th
day of January A.D. 1855, the said Attorney General
of the United States, filed or caused to be filed,
on behalf of the United States, a notice with

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the said clerk of said District Court for the Southern District of California, that the appeal, in said cause of Jose de Jesus Vallijo, vs. the United States, from the decision of the said Commissioners to ascertain and settle the private land claims in the state of California, in the District Court of the United States for the Southern District of California would be prosecuted by the United States.

Your petitioner further represents that the said land claimed as aforesaid is within the jurisdiction of this Honorable Court.

And your petitioner further represents, and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now in appeal from said Commissioners to this Honorable Court.

And your petitioner further represents that the said claim is invalid, and the said decree erroneous, on the following grounds.

I. And the said Attorney denies all and singular each and every allegation in the said petition of said claimant, to said Commissioners of said date. And he further denies that any grant or titles for said land were ever made as alleged in said

7.
petition. And he denies further that the said claimant has shown any, or sufficient evidence of the validity of the said claims.

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II. That the said alleged grants of Pablo Vicente Sola, and José Figueroa were unlawful; and the latter was made in violation of the 4th Article of the Colonization law of Mexico of the 18th of August A.D. 1824, in this; that the land granted, as alleged by Claimant, was and is within ten leagues of the Sea Coast; and there is no evidence shown by claimant, that the Supreme General Executive power of Mexico, previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea Coast. And it is denied that such previous consent of the said Supreme General Executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grants, the said lands claimed as aforesaid, were occupied ^{by} and in the possession of the Missions of the territory of Upper California; and they were held and occupied, particularly, by the Mission of Santa Cruz; and could not therefore be colonized.

IV. That the said alleged grants ^{of José Figueroa has} have not the conditions required by, and ^{is} ~~was~~ not made in ^{entire} conformity with the laws of Mexico of the 18th day of August A.D. 1824, and the regulations for the colonization of the Territories of Mexico of the 31st November A.D. 1828.

V. That there is no sufficient evidence of the death of Ignacio Vallejo as alleged in Claimant's petition.

VI. That there is no evidence that the said claimant was or is the Testamentary Executor of said Ignacio Vallejo, as alleged by said claimant; and he fails to show the last will and testament of said Ignacio Vallejo.

VII. That there is no evidence that the name of Ignacio Vallejo, appearing upon the document purporting to be a petition of Ignacio Vallejo to the Col. and Governor Pablo Vicente de Sola, dated 2nd June 1823, is the genuine signature of said Ignacio Vallejo.

VIII. That the alleged grant of Governor Figueroa, dated 13th October 1834, purports to be a revalidation of a previous concession to Ignacio Vallejo, by Pablo Vicente de Sola, dated 23rd February 1823. And it is denied that said Sola ever made a concession of said land, to said Vallejo, of said date. And it is further denied that said Sola ever had any lawful authority to make a grant or concession of public lands in California. And it is also denied, that the said Governor Figueroa had any lawful authority to revalidate, renew, or make a grant of said land of said date to said José de Jesus Vallejo, in manner and form, as alleged.

IX. That the said alleged grant of Governor Figueroa is not made subject to the approbation of the Territorial Deputation of California, or the Supreme

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Government of Mexico, as required by law.

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X. That the alleged concession, or grant of Pablo Vicente de Sola, of the date of the 23rd of February 1823, referred to in said petition of said Claimant and in the said alleged grant of Governor Figueroa, is not shown by Claimant, nor its absence accounted for.

XI. That there is no evidence that the said alleged grant of Governor Figueroa of said land to said José de Jesús Vallejo of said date of the 13th of October 1834, was ever approved by the Territorial Deputation or Assembly of California, or by the Supreme General Executive power or Government of Mexico. And it is denied that said grant was ever so approved by said Deputation or Assembly, or said Executive Power, or Government.

XII. That the said alleged grant of Governor Figueroa, does not sufficiently describe the tract of land of two square leagues a little more or less, so that it can be, with certainty, identified, located, and surveyed.

XIII. That the said claimant shows no definitive title for said land claimed by him.

XIV. That the said claimant fails to show a full and perfect grant obtained from Governor Figueroa for the land he claims, as alleged.

He fails to show his petition to ^{said} Governor Figueroa

35 SD
PAGE 40

for said land. He fails to show the original, or an authentic copy of ~~the~~ expediente, or proceedings thereon. And he has not produced the map, or an authentic copy thereof, of the tract of land called Bolso de San Cayetano, referred to in the said alleged grant of Governor Figueroa, and no cause for its absence is shown by said claimant.

XV. That the said map referred to in said alleged grant of Governor Figueroa, is an essential part thereof; without ^{the aid of} which the limits and extent of said tract of land called Bolsa de San Cayetano, cannot, with certainty, be determined.

XVI. That there is no evidence that the said Ignacio Vallejo, or said claimant ever asked for or received the juridical possession of the said tract of land, as required by law, and by the 3rd condition of the said alleged grant of said Governor Figueroa; or that the said tract of land was ever segregated from the public domain of ^{Spain or} Mexico.

XVII. That there is no evidence that the said claimant ever performed the second condition of the said alleged grant of Governor Figueroa, by building a house on the said land within in one year from the date of the said grant,

and having it occupied. And it is denied that this said condition was ever performed by ^{said alleged grantee, or} Claimant.

XVIII. That there is no evidence that Ignacio Vallejo took possession of the place called Bolsa de San Cayetano immediately after he obtained the alleged grant from Pablo Vicente (de Sola) as alleged by said claimant. And there is no evidence that he ever lived upon and occupied said place.

XIX. And there is no evidence showing who are the testamentary or other heirs of said Ignacio Vallejo.

And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made, or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said Commissioners, upon the grounds aforesaid.

And the said claimant having no valid right or title, derived from the Spanish, or Mexican Government, to the said land claimed by him, as aforesaid, the lawful right, or title in and to the said land, was acquired by, and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits, and settlements, with the Republic

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of Mexico, dated at the City of Guadalupe Hidalgo, February 2nd A.D. 1848.

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Wherefore the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "an act to ascertain, and settle the private land claims in the State of California", approved March 3rd A.D. 1851, and the laws and statutes in such case made and provided, prays that the said José de Jesus Vallijo may be served with a copy of this petition, and that this Honorable Court will review the said decision or final decree of confirmation, of said Commissioners, to ascertain and settle the private land claims in the state of California, and decide on the validity of the said claim of said José de Jesus Vallejo, for said land claimed and confirmed as aforesaid; and that the same may be deemed invalid. And all such other orders, judgements, or decrees as may be just, with costs and general relief.

F. Ord

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

No 35

U. S. Dist Court
S. Dist of Cal^a

Jose de Jesus Vallejo

vs

The United States

Petition of U. States
for review

Filed August 13th 1855

J. E. San
cik

35 SD

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P. P. P. P. P.

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

TO

The President of the United States,

Jose de Jesus Vallejo

35 SD

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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 *thirteenth* day of *August* 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 Board of U. S. Land Commissioners to ascertain and settle the private land claims in the State of California, to the Claims of Jose de Jesus Vallejo for a tract of land called Dolosa de San Cayetano in the County of Monterey California, & presented by you to said Commissioners on or about the 2nd day of March A.D. 1852 and by them confirmed on the 6th day of December A.D. 1853.

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

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

C. E. Jan.
Clerk.

Marshals Cost
Copying summons - 60
Serving - P. P. S. 6. 00
350 miles on each 63. 00
869. 00

I served this summons along with the proper copy of the petition upon Juan A Vallejo by delivering to him a true copy of the original summons in the county of Monterey at the Mission of Soledad in the Southern District of California on the 29th day of Nov 1855.

Sworn to and subscribed before me this 10th of Dec. 1855. *Wm. C. Clark*

E Hunter
U.S. Marshall
Per J. Adams Dept

No 35

United States of America,
Southern District of California,
U. S. District Court.

José de Jesus Vallejo

ads
35 SD

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The United States.

SUMMONS.

Revised Sept. 12th 1855

Edward Hunter
U.S. Marshall.

Served Nov. 29th 1855

~~I served this summons along with the proper copy of the petition upon~~ *The Party*
~~maintained in the within summons~~
~~is dead.~~

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

Sworn to and subscribed before me,

Clerk.

E Hunter
U.S. Marshal.

Per J. Adams Dept

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

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The United States.

vs.

José de Jesus Vallejo

Court Docket No. 35

(Transcript No 85.)

This Respondent for answer to the petition filed in this
Case, answers and says. It is true that the lands
mentioned in said petition and in said transcript of
the proceedings before the said Board of Land Commissioners
lie within the said Southern District of California
and within the jurisdiction of this Court. But
this Respondent denies that his title to the said
land is invalid, and avers that the same is valid
and prays that the decision of the said Board
be affirmed and that his title be decreed to
be valid.

José de Jesus Vallejo

by
Marty King

his Attorney

N^o 35-

In the U.S. District Court

The United States

vs

José de Jesus Vallijo

Filed July 9th 1856.

Answer C. Fay

I admit because
of the within answer
a copy of which I have
received
July 7th 1856 ~~Wm. H. ...~~

35 SD

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U.S. attorney

Sturdy & Hurlburt

attys for def^t

The Clerk will not make out a
Certified Copy of this answer a
Copy having been served upon Post
U.S. atty

A Thomas
attly for app^r

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

35 SD

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José de Jesus Vallejo

APPELLEE,

VS.

UNITED STATES,

APPELLANT.

No. *35.*

(No. *85.* of Transcript.)

On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 1st day of February A. D. 1856.

P. Ord
dist atty.

No. 35.

U.S. District Court
Southern District of California

Jose Juan Vallejo
Appellee
vs
The United States
Appellants

Court of Appeals S.C.

Wm Mich. 27th 1856

C. E. Canham

By A. Morgan Deput

José de Jesus Vallejo Appellee }
 ad } "Bolsa de San Cayetano"
 The United States Appellant } December Term A.D. 1855

United States District Court for the Southern District
 of California

35 SD
 PAGE 50

This cause coming on to be heard on
 an appeal from the decision of the Commissioners
 to ascertain and settle private land claims in
 the State of California, under the act of Congress
 approved on the 3^d of March 1851 upon the Trans-
 -script of the proceedings and decision and papers
 and evidence on which said decision was founded,
 and it appearing that said Transcript was filed
 according to law, and counsel for the respective
 parties having been heard, It is ordered adjudged
 and decreed that the claim decision of the said
 Commissioners be and the same is hereby affirmed
 and it is further adjudged and decreed that the
 claim of the above mentioned appellee is good
 and valid and the same is hereby ^{con} affirmed
 to the extent of two square leagues of land within
 the limits described in the grant. Provided that
 should the quantity of land within said limits
 be less than two leagues, then confirmation is
 hereby made of such less quantity.

James M. Hoge
 U.S. Dist. Judge

No 35

U.S. Dist. Court
South West of Calif.

San Luis Valley
appellee
vs

The United States
appellants

Deer

Recorded Feb 14th 1857
~~1857~~

Filed March 7 1856

C. E. Carr
clerk
by Morgan
Def^y

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Jose de Jesus Vallejo Appellant } N° 35
ad }
United States Appellant }

Boleta de San Felipe

In the United States Dist. Court
for the Southern Dist. of Cal.

35 SD

Dec 2^d Jan 1856

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In pursuance of a letter from
the Attorney General of the United
States herewith annexed saying
that it is not the intention of the
United States to prosecute the
Appeal in said cause; it is
hereby stipulated by and between
the parties, that an order be
of record be entered vacating the
order of appeal heretofore granted
and the claimant have leave to
proceed under the decree heretofore
rendered in his favor as a final
decree

Los Angeles
Jan 9 1857

J. O. M. Dist. Atty.

Hancock and
Stanley & King
attys of claimant

California Land Claims.

Attorney General's Office,

25 September 1856,

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Sir:

In the case of the claim of José de Jesús Vallejo, confirmed to the claimant by the Commissioner, Case no. eighty-five (85), 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

Yours truly

Jacifians Ord Esq.

U.S. Attorney

San Angeles.

35

Filed this 9th January
A.D. 1857
C. Lewis clerk
J. M. Coleman
Scrip

35 SD

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35

Jose de Jesus Vallejo

83

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PAGE 55

Recd Nov 4 1836

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

35 SD

PAGE 56

The United States } In District Court No 35
 } "Pueblo de San Benito"
Jose Luis Maligo } In Land Commission No 85

Now at this time comes J. R. Mitchell United States
District Attorney and shews to the Court here
that there is error in the location of the grant,
and the survey made by the Surveyor General
of the United States for the State of California,
of the premises claimed in this case by the
claimant, in this, to wit,

- 1st That said grant has been improperly located
by said Surveyor General.
- 2nd That said location of grant and survey
has not been made according to the calls
of the grant, and the deed of this Court.
- 3rd That the location of said grant and sur-
vey of said lands by said Surveyor Gen-
eral, gives to said claimant a much great-
er quantity of land, to wit, two acres, more
than said grant calls for.
- 4th That said grant has been in other respects
unlawfully and fraudulently located as
against the United States.

Wherefore the said United States by the District

Attorney aforesaid prays the Court for an order
upon the said Managers General, that he re-
turn into this ^{court} in a convenient and reason-
able time, a correct plan of the survey of the
lands aforesaid in order to which the further
actions of this Court things

J. P. Mitchell
Clerk of the Court

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PAGE 57

No 35-

In S. U. C. L. S

Ever Dear Mulligo

at

The United States

 "
Motion for Order upon
Sumner's General to re-
-turn plus of Sumner's
 "

Filed in Office this
13th Sept 1859

Cross
et al

35 SD

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Case Jesus Valles vs
The United States No 35

35 SD
PAGE 59

On motion of
J. M. Gitchell atty for the United
States and upon filing his motion
that the Surveyor General of the
United States for the State of Californ-
-nia return to this Court in a con-
venient and reasonable time the
Plat of the Survey heretofore made
by him of the premises claimed
in the above entitled Cause,

It is ordered that
the hearing of said motion be set
down for the first Tuesday in
October next. and it is further
ordered that the United States
serve upon the Claimant or his
attorney a copy of this order ten
days before the hearing of said
motion

J. M. Coffin Judge
U.S. Dist. Court - Southern,
Dist. of Cal.

United States of America
Southern District of California
County of Los Angeles

35 SD

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I, James Clark of the
United States Dist Court for
the Southern Dist. of California
do hereby Certify that the foregoing
is a full, true and correct copy
of the original order made in
said cause as appears of Record
on file in my Office



In Witness Whereof I
have to set my hand and
affix the seal said Court
this the 15th day of Sept
ad 1859
James Clark

I served the within Notice by delivering
a copy of the same to S. D. King Attorney for
Claimants on September 30th 1859

35 SD

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James C. Purvis
U. S. Marshal
for the Southern Dist
of California

No 35

U S Dist Court
Southern Dist Cal

Jose Luis Vallejo
alias
The United States

Certified Copy of Order
Filed 31st Oct 1859
C. J. P. M. R.

Recd this 18th day Sep 1859

J C Penne
U S Marshal
S Dist Cal

35 SD

Case Jesus Valles vs U.S. Dist. Court
The United States vs No 35
Southern Dist of Calif

35 SD
PAGE 63

It being suggested to the Court that the Survey of the Land claimed in this case, made under final decree and approved by the U.S. Surveyor General for California does not conform to said decree and is erroneous and that said survey will be to the injury of the United States, the party applicant, on application of J. H. Ditcher U.S. Dist. Attorney.

It is ordered that the said Surveyor General return ^{forthwith} to this Court the plat of said Survey and that the United States be allowed _____ days from and after the return to file 2 captions thereto and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

Isaac H. Offer Judge
U.S. Dist. Court, Southern
Dist of California

United States of America
Southern Dist of California
County of San Diego

J. C. Jones Clerk
of the United States Dist Court for the Southern
Dist of California do hereby certify that the
 foregoing is a full true and correct copy
 of the original Order made in said case
 No 35 on the docket of said Court wherein
 Case Jesus Valles is claimant against the U
 States, on the 7th day of November A.D. 1859
 as appears of Record on file in my office.

By Petrus Wherofore
I have set my hand and
Affix the Seal of said Court this
the 6th day of January and
1860

C. J. Clark

35 SD

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The President of the United States
To J. W. Maudslove U. S. Attorney
General for California - Monterey

You are hereby notified
that the United States Dist Court for
the Southern Dist of California in open Court
made on the 7th day of November and 1859
in Case No 35 on the Docket of said Court
wherein Luis Jesus Valles is Claimant
Against the U. States, and whereof which
the above and foregoing is a Certified Copy
I have transmitted to you for your in-
formation and you are hereby required
to take notice of the same

Witness the Hon U. S. Office
Judge of the U. States Dist
Court for the Southern Dist of
California this the 6th day
of January and 1860
Attest my hand and Seal of
said Court the day and
year last above written

C. J. Clark

I served the within personally on J. W. Mandeville by
delivering a copy of the same to him in the City of San Francisco
on January 13th 1860

35 SD

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James C Penne
W. S. Marshal
by A. M. Buchanan Dept

No 35-
U S Dist Court
S Dist Calus

Case Julius Wallace

vs
The United States

Certified Copy Order

Filed January 20th
1860
C Sims CR

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

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The United States
Appellants

vs
Jose de Jesus Vallejo et. al.
Appellees

No 35 In District Court

"Bolsa de San Cayetano"

No 85 In Land Court.

Now comes J. R. Hitchel U.S. District Attorney for
the Southern District of California, and excepts
to the final survey, made by the United States
Surveyor General for the State of California, of
the lands claimed by the Appellees in the above
entitled cause.

The lines of said survey to which exceptions
are hereby made, are designated upon the map
of said survey now on file in this Court as
follows.

1. The line commencing at corner T. P. 2. S. 3. S. 62,
thence running to corner S. S. 69.
2. The line commencing from a point equidistant
between 17 and 18. thence running to post
S. S. 610 sec 4.

3. The line commencing at post 83.5. 0 10 Sec 4.
thence running to post 83.5. 0 11 on Pajaro river

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4. The line commencing at post 83.5. 0 11 on Pa-
jaro river, thence running to about a point
on Pajaro river where the figures ⁴⁵⁷ 45, 46, 47
are marked on the map

J. R. Mitchell U.S. District Attorney for the South-
ern District of California being duly sworn upon
his oath says that the foregoing exceptions are
true as he is informed and verily believes.

J. R. Mitchell
U.S. Dist. Atty

Sworn to and subscribed before me this 8th
day of February A.D. 1860

C. J. F. [Signature]
U.S. Dist. Clerk for
the Southern District of Cal.

To the Appellants or their Attorneys in the above
entitled cause.

You are hereby notified that
the hearing of the above and foregoing exceptions
in the above entitled cause will be brought

as to a hearing before said Court in thirty
days after the service upon you of a copy of
the same, or as soon thereafter as counsel can
be heard.

Los Angeles, February 18 A.D. 1860

H. R. Mitchell
at San Diego

I served a copy of the within personally on W.M. Stou
Attorney for Appellee in the City of San Francisco in the
State of California on the 13th day of May 1860

James E. Penne
U.S. Marshal
J. W. Buchanan
U.S. Marshal

No 35

The United States

vs

José de Jesus Bellegio

— " —

Warrant to arrest

notice

— " —

Federal Office

This 15th February

and Geo. C. Fox etc

In the District Court of the *United States* ^{for the Southern} ~~Judicial~~ District,
OF THE STATE OF CALIFORNIA,

IN AND FOR THE

COUNTY OF _____

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United States

VS.

SUBPOENA.

Assessor

No. 35.

President of the United States of America,
The People of the State of California, send Greeting: to

J. E. Ferrell

WE COMMAND YOU, That all and singular business and excuses being laid aside, you appear and attend

before me *G. L. Mix* United States Commissioner

at our District Court of the *United States* ^{of the Southern} ~~Judicial~~ District of the State of California, ~~at a~~
~~term of said Court to be held~~ at the Court House in the County of *Los Angeles*
on the *forthwith* day of *A. D. 186*, at ~~o'clock.~~

M., then and there to testify in the above stated cause, now pending in said District Court, on the part of
United States and for a failure to attend you will be deemed
guilty of a contempt of Court, and liable to pay all loss and damages sustained thereby to the party aggrieved,
and forfeit one hundred dollars in addition thereto.

WITNESS, Hon. *Isaac S. K. Ogier* Judge of the
U. S. Dist Court for ^{of the Southern} ~~Judicial~~ District, at the Court House in the
County of *Los Angeles Cal* and the seal of said
Dist Court, this *16th* day of *March*
A. D. 1861



ATTEST, my hand and the Seal of said Court, the day and year last above written.

G. L. Mix CLERK.
DEPUTY CLERK.

No. 35

**IN THE DISTRICT COURT,
OF THE
Judicial District.**

United States

vs.

Valley

SUBPENA.

*91
Filed March 16/61*

G. L. Mills Clk

J. John W. Wheeler Secy

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

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The United States)
vs. W.P.) "Barro de San Cayetano"
Joaquín Vallejo) In the matter of the Survey
Supt.) of said Rancho

It is stipulated herein as matter of proof, that the land embraced in the final survey on file in this Court was selected by the claimants and that it lies within the Exterior boundaries of the grant, but that it abuts upon all of the calls in the grant though not in their entire extent, as shown in the plat on file.

It is further stipulated that there are two old adobe houses within the location and section which were built by the claimants more than twenty years ago.

Dated July 4th 1861

W.P. Snow
of counsel for claimants
James W. Bennett
Jas. S. R. Mitchell
U.S. Dist. Ct.

The above stipulation is filed and can be used by either party subject to the modification of the deposition of J. G. Ferrill relating to the fact that the line marked "y" does not abut on the Pacific Ocean
J. R. Mitchell
U.S. Dist. Ct.

U.S. Dist. Court

The United States
vs
Jose de Jesus Vallejo
Resp.

Stipulation

Filed March 16, 1861

J. M. Clark
J. John. Whelan Clerk

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

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Rede Jesus Vallejo, app^l

vs.

The United States app^t

In Land Cases.

Dist Court No. 35

Land Com^r

Be it remembered that on this 16th day of March
A. D. 1861 at the City of Los Angeles, in the District
aforesaid, before me G. L. Meix United States
Commissioner for the Districts of California to
take acknowledgements of bail and affidavits,
and also to take depositions of witnesses, in civil
causes pending in the Courts of the United States,
pursuant to the Acts of Congress in that behalf,
personally appeared J. E. Ferrell,
a witness produced on behalf of the United States
in the above entitled cause, now pending in said
Court under Act of Congress to ascertain and
settle the private land claims in the State of
California, who being duly sworn, testified as
follows; ~~his evidence being interpreted by~~
~~a sworn interpreter.~~

Present J. Mitchell U. S. Dis. atty - attorneys for
United States & J. B. Grant by atty for claimant
Questioned on behalf of United States

Ques. What is your name, age, occupation & place of residence.

Ans. Name is J. E. Serret, age 31 years, am a lawyer & now a United States Deputy Surveyor, & at present I reside in Traquelet county.

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Ques. Are you acquainted with a Rancho called Pineda de San Cayetano in Monterey County?

Ans. I am.

Ques. Look upon the map here shown you marked "T. S. W. No. 1," & being the map on file in this case & state what it represents & what knowledge you have of the same.

Ans. It represents the survey of the Rancho Pineda de San Cayetano before mentioned as made by me.

Ques. State at whose instance and under whose direction you made the location as represented by this map.

Ans. Before entering upon the survey I had been furnished by the Surveyor General with a sketch of a previous survey of the same Rancho, which showed me that there was ^{land} more ~~within~~ the former boundaries than was confirmed to the Claimant. My general instructions from the Surveyor General directed me to allow the Claimant in such cases to make a selection of his quantity within the boundaries, under those instructions.

This location was made under the direction of Jesus Vallejo the Claimant. He pointed out to me the place in which he wanted the quantity located

Ques. Look upon map here showing marked "TOWN, No 2" & state whether the same represents truly the sketch of the former survey of which you have spoken & which is now before you.

Ans. Yes it does.

Ques. Please delineate upon this map by pen or pencil marks as nearly as you can the survey as made by you

Ans. This survey is delineated by the lines designated V. W. X. Y. Z. lines W & Y drawn in blue pencil are merely approximations

Ques. State what is the character of the land or country lying between lines W - the line marked "old road" from Monterey to Santa Cruz, and the line running along the slough or Estero as shown on map marked "TOWN, No 2"

Ans. This is partly hilly & partly mountainous. Covered with timber, some little Chamisal, but on the whole very good grazing land - but not fit for cultivation

Ques. How does this land compare in quality and

value with the land included within the lines of
your survey.

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Ans. A part of the land included within
the survey say 25 to acres - is of the same
Character as to the rest, it is greatly
^{superior} inferior for purposes of Cultivation - for
grazing purposes it is inferior but far less so
but not so much so superior for grazing purposes

Ques. State what the character or quality of the land
is ^{southerly} that of the line marked X. & between the
Eastern Pacific Ocean

Ans. It is first class table land, & good as any
in any portion of the survey - except the valley land
proper

Ques. State whether you found any lagoons within
the survey you made

Ans. I remember of seeing one & there may have
been more but I am not positive as I saw
the Exterior lines only - One of these Lagoons
is correctly laid down & represented by the Lagoon
- (large lagoon) on the map marked "T O W No 2"

Ques. State if you remember the locality of the old
Adobe Houses, upon this tract and ^{relatively} ~~with respect to~~
the survey you made

Ans. I don't remember any house particularly other

than the one Valley lived in - there are a great many houses on the tract, but I know nothing about them

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Ques. State the relative situation of the land marked Y. on map "T & W No 2" to the Pacific Ocean

Ans It is some distance north of the ocean and does not abut upon the ocean at any point

The Claimants objected to all questions concerning the previous survey - to the production of the map, to questions concerning the ^{value} area & description of lands excluded from - and included in the official survey, as irrelevant

Cross Examination by atty for Claimant

Ques. State if there are any natural objects where station 2. on the official map is established

Ans It was established at the foot of a large range of hills & near the old road, the same being an agreed point between the owners of the Rancho of Santa ^{Cristina} ~~Clara~~ & the Rancho of Rio Vega del Rio del Pajaros - which Rancho was also surveyed by me - so as to adjoin upon the Rancho of San Cristina up to station No 4. about, thence running south east, about

Which survey of mine was finally approved
by the Survey Genl.

This answer objected to so far as relates to the Survey of the Rancho Yegre del Rio del Payson -

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Ques State what ^{proportion} of this hilly timbered
land that you speak of, is included within and
excluded from the official survey of the Rancho of
San Cayetano.

Ans About equal proportions as near as I could judge
from an observation of the Country - It was my intention
to divide it about equally

Ques Look upon the map marked TOWN No 2
& state what would be the position of the point
marked "Old Adobe house" if the survey was forced
to abut upon the ocean and to be limited to two
Leagues, & taken in a compact form, according to
the instructions & Customs of the Survey Genl's Office

Ans It would be excluded from the survey of
the Rancho entirely

Ques State if you saw that "Old Adobe house" marked
on that map, and if so, what was its appearance
as to age

Ans I did see it & below the appearance of
the generalty of Old Adobe houses in this Country
belonging to the Mexican period

Examined by N. S.

Ques. Do you remember the house marked on map
"TOW No 2" S. W. Valley - if so - state its ap-
-pearance as to age

Ans. I did not observe its appearance as to age
having seen it from a considerable distance -
It was an ~~adobe~~ had a shingle roof

Ques. All

J. E. Derrell

Sworn & subscribed to before me this 16th day
of March A. D. 1867 whereunto I have affixed
my private seal having no seal of Office

G. L. Mix
United States Commissioner



W 35

U. S. Sub Lib
South Dub Calif

United States

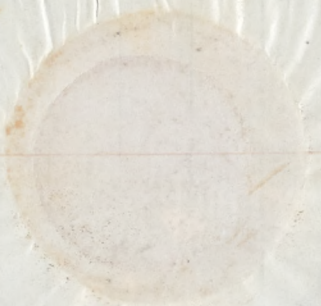
Greens Valley

Dep of Lumb

Field No 1661

G. L. Max

John W. Hensley



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

The United States
Appellants

No 35.

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PAGE 83

vs
Jose de Jesus Valliga &c. als.
Appellees

Wells de
San Cayetano

To the said Jose de Jesus Valliga &c. als.
as their Attorneys.

You are hereby notified
that on Monday the 24th inst, at an extra
term of said Court, to be held in Monterey
District aforesaid, commencing on the 22nd
inst, or as soon thereafter as the same can
be heard, the said United States will move
the Court for a re-argument of the except-
ions to the final decree in the above
entitled cause.

January 13. 1862.

Isaac Hartman
for the United States

Served the above notice upon W.W. Stow Attorney
for Appellees at San Francisco by delivering
personally to him a true copy of the same on
the 20th day of July 1862.

Henry D. Barrows
U.S. Marshal S.D. Cal.

No 35

U.S. Dis Court S. Dist

The United States

vs

José de Jesús Valligordias

~~~~~

Notice of re-argument

~~~~~

Filed January 29, 1862
John Whelan
Clerk

35 SD

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Washington

for U.S.

The United States } Survey of the Rancho
vs } Bolso de San Cayetano
Jose de Jesus Valleyo } Situated in Monterey Co
Cal

35 SD

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1. The grant is for two Litas Ganada Mayor, a little more or less, as Explained by the Plat. vs.
2. The decree of Confirmation is for two leagues.
3. The Survey Embraces less than two leagues.

The lands Surveyed are conceded, (Stipulated) to be within the Exterior boundaries called for by the grant. The Survey Embraces the two dwelling or rancho houses heretofore Erected and occupied by members of the Valleyo family.

The Surveyor General permitted the claimant to select the quantity confirmed within the Exterior boundaries.

Authorities in support of this practice.
Survey of the Honcut Rancho. Butte County.
Opinion of Hon. O. Hoffman. Feb. 15th 1862.

"It is an admitted rule, not only of this Court, but of the Executive department of the Government, that in locating a given quantity of land, granted to a claimant within Exterior boundaries containing a much larger quantity, the claimant has the right of Election as to the land to be surveyed." + + +

"If ^{by} the acts of the grantee, such as occupying and cultivating &c. + + +, the Election appears to have already been made, he will be Estopped to make a new Election, or to locate the grant to other parts of the Tract, than those which he has by his acts & declarations Selected." -

- In the Case under Consideration, we take in the Cultivation, and Ameliorations &c, and do not pretend that the grantees, have sold or conveyed any of the Rancho.

In the opinion of the same learned Judge, in the Case of the U.S. vs. Doaquin Carillo, decided Sept. 7. 1861. Upon the Confirmation of the Survey, we find this language:

"If this can be correct it follows that within the boundaries of the adjoining Ranchos as subsequently established

the claimant had a right to elect where his
three leagues should be taken. "ye + + + +"

35 SD
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Suprem Court of the U.S.
Yontz v U.S. 23 Howard. 498.
Berryessa " " " " 500

22 227
22. 173. the 1/4 of a

league to be surveyed within the out boundary represented
in the deson.

U.S. v. Fassett 20 Nov. 1827.

In the Instructions of the U.S. General. issued
Sept 1833. to the Dep. S. in California. - Instruction 5.

"When a Confirmed is limited to a less quantity
of land than is embraced within the boundaries of
his original Title paper. he may select out of
any portion of such larger Tract the quantity
to which he may be entitled."

The Survey includes (see official maps.)

8866 ⁴³/₁₀₀

League Contains (14. Instructions, U.S. Genl)

683
11438 1000

So that

Consequently we have less than two leagues

8977 ⁵⁶/₁₀₀

The decree of the Land Commission. - Confirmed the land is known by the name of the Balso de San Cayetano, + + + Bounded by the Rio del Pajar. - by the line of the road leading from the ancient Presidio of Monterey to the town of Branciforte, by the Estuary of the South, & by the Coast as held & occupied + + + and containing two square leagues, more or less. -

The decree of the District Court - "that the claim of the appellee is good & valid and the same is hereby confirmed to the extent of two square leagues of land within the limits described in the Grant."

That the Dmwy is within the Exterior limits is beyond Question.

We cannot conceive any objection to its Confirmation. -

W. H. Low,
Atty. for Appellant

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

The United States

VS

Jose de Jesus Vallejo.

Confirmation of final Survey.

Process for claimant

Filed, April 9, 1862

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PAGE 89

W. H. Stone
att. for C.

General Instructions from the U. S.
Surveyor General for California, to the
Deputy Surveyors engaged in Surveying the finally
Confirmed Land Claims in the State

35 SD

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Instructions

1st In making the survey of Ranchos that have been finally
Confirmed, you will not only use great diligence and precau-
-tion in ascertaining the true locality of each claim, but ex-
-ercise much care and discrimination in establishing the
boundary lines in such a manner as to preclude any rea-
-sonable ground of complaint or opposition on the part of
any person who may be interested in the same. A strict
adherence to this mode of procedure, is of paramount
importance, and is absolutely essential, in all cases, in
order to do justice to the proper owners of the land, as
well as to obviate the necessity of a resurvey, the ex-
-penses of which the Department would not be likely to
sanction.

2^d If other land claims, held under legitimate titles
adjoin any claim to be surveyed, you will before com-
-mencing operations, ascertain all the information you can
respecting such claims, and notify the claimants, in
writing of the time at which any lines, in which they
may be interested will be run; and if they them-
-selves, or their agents, are present at the time of run-
-ning such lines, that fact must be stated. In case
any line is run by you, between any such adjoining

- land claims, shall be agreed upon between the respective claimants of the lands. You will obtain their written assent to such agreements; and in case any of the claimants shall make a written protest against any such lines you may establish, you will note the same, and return all such agreements, protests, and other relevant documents, to this office, with your field notes.
3. With a view to ascertain the precise locality and boundaries of each claim, with as much accuracy as possible, you will consult the most reliable witnesses that can be obtained, who may have resided in the vicinity or have been more or less connected with the former Government officials, in the disposition of lands, and who may from personal knowledge be intimate with the boundaries and land marks mentioned in the grant and other documents relating thereto. You will enter in your field book all information that may have a tendency to throw light upon any matter in controversy, or to show the propriety of the course you adopt in making the survey.
 4. Upon making these preliminary examinations, should you have good reason to believe that, in any instance, by the phraseology of the final decree, lands are included therein which are clearly not embraced within the limits of the claim as originally granted, you will be particular in your endeavours to ascertain the exact nature and cause of such variance, and report all the facts to this office for further instructions.
 5. When a Conformer is limited to a less quantity of

land than is embraced within the boundaries of his original title papers. He may select out of any portion of such larger tract the quantity to which he is entitled; but the quantity thus selected must form a compact body of land; And if any portion of the original grant has been sold, as such, by the owner thereof, such portion is to be included within the limits of the claim thus selected, if practicable, without destroying the compactness of the survey.

It is required, in locating these claims, that the boundaries shall conform as near as the nature of each case will admit of, to the lines forming the legal subdivisions of the public lands; And hence, when the boundary is not the bed or bank of a river, or other water course, the margin of a swamp, or other overflowed land, or a line separating different claims, it should, if possible, be established by running to the Cardinal Points, so as to correspond to what otherwise would be the general course of such boundary line; and at the same time dispense with fractions of the legal subdivisions of sections, when the adjacent public lands are surveyed.

When a River, Creek, Arroyo, or other water course which is not navigable, or declared to be so by the laws of the State, forms a boundary of any tracts, you will run the line along the channel, or middle of the ^{bed of the} stream and not on either of its banks; And when swamp or other overflowed lands constitute the boundary, you will, unless otherwise specially instructed, if upon tide water

establish such boundary, so as to coincide with the line of ordinary high tide; but if not upon tide water, with the line of ~~ordinary~~ high tide when the land becomes of such a marshy or overflowed character as, in ordinary seasons, to prevent the proper cultivation of the soil, or the raising of planted crops.

8. These surveys must be connected with the nearest established corners on the lines of the adjacent public surveys, in order to indicate the precise locality of each claim, and a post must be established at the point where any such line is intersected by the boundary line of any claim. Properly marked with reference to the private grant as well as the public lands.
9. If, upon testing such intersections with the courses and distances of the lines of the public surveys, you find that the actual connections so made differ materially from what, by calculation, they should be, there must be some error, either in your own work, or in the reported public lines, and therefore, while in the field, you must critically enquire into the cause of the discrepancy, correct the error, if in your own work, and if in the public surveys, state the precise nature and extent of it.
10. The distances must be measured in chains and links, with a chain duly tested by the standard in this office, and the bearings taken with a transit, or other proper instrument, with due corrections for the declination of the magnetic needle, to ascertain which the necessary astronomical observations must be made.

... must be established in a

11. The "Corner monuments" must be established in a permanent manner, of durable materials, and conformably in all respects, to the instructions relative to the survey of the public lands, with the exception that the posts are to be marked with the initial letters of the name of the Rancho, and numbered in regular succession, instead of the sectional numbers.

12. The field book must be neatly kept, in the same manner as in the survey of the public lands, and furnish all the requisite information in regard to notable objects, and other matters specified in the instructions to the U. S. Deputy Surveyors. The field notes are to be made on the prescribed kind of paper, and to be accompanied by a neat and accurately protracted map, upon a convenient scale, say 20 or 40 Chains to the inch; and also by the proper tabling, showing the lines as run, with their latitudes and departures, the balancing of the work and the computation of the area of the survey.

13. The field notes must be verified by your own affidavit, and those of your assistants, in the same manner as is prescribed in the instructions for the survey of the public lands.

14. In all cases you will consider the Judicial league equal to 5000 Spanish lineal varas, ~~English Yards~~ 4,635 English Yards, or 210,6818 Chains, and consequently the vara equal to $33\frac{372}{1000}$ English inches, and the Sitio Mayor, or square league, containing $4,438\frac{183}{1000}$ Acres.

15. You are prohibited from receiving payments from

any party, other than the United States. For running the
terior lines of private land claims, and no survey
thereof will be approved in this office where such com-
-pensation has been received

16 A Rigid Compliance with these instructions, in every
particular will be invariably expected,

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addenda

Explanatory of the foregoing

In order that the foregoing may be clearly understood
by the Deputy Surveyors I have thought proper to make
some remarks on the same, based upon the experience of
the returns made during the past year, and you will con-
-sider these as part of the printed instructions, in all mat-
-ters herein set forth

You will, upon making a Contract for public surveys,
or upon receiving instructions for the survey of private land
claims, call upon the Examiner of Surveys for the form of
oath for Deputies, for this fiscal year, which, when duly
attested, and filed with the Examiner, will be the only pre-
-liminary oath required from yourself, until your appointment
is revoked. In the survey of private land claims the
oaths of your assistants, before entering on the work, and
after the completion thereof will be taken before yourself.
Your own final oath is required to each return

In return of public surveys, as each field book
becomes a separate record, it will be necessary, to have

of which a list of names and dates

the preliminary and final oaths of assistants, and your own final oath, in their respective places in each book. Your own oaths should be taken before a Notary Public or some Competent Officer with a seal.

Secs. 1, 2, 3. of the Printed Instructions; You are expected to place before this office, in your field notes, immediately after the preliminary oaths, a general summary of the steps taken by you to comply with these sections of the instructions, stating fully from whom you received protests, agreements as to boundaries &c &c. and return all original papers so received with your field notes.

Secs. 4 and 5. You will report all facts under these sections to this office, in your summary above alluded to.

Sec 6. You are required to comply with this section as set forth in the printed instructions.

Sec 7. Requires no explanation.

Sec 8. You cannot be too particular in obtaining correct information with regard to the lines of the public surveys, connected with your work, before leaving this office, and when in the field, a post must be established at all intersections, marked, &c, as specified required, and the whole matter set forth distinctly in your field notes.

Sec 9. You will be careful to comply with these instructions, and report in your field notes all discrepancies, or errors, found in the lines of previous surveys.

Sec 10. Requires no explanation.

with the modification to mark them with the initials of the Ranch, instead of the rule of marking them proscribed. A similar spot has to be established at the point where the actual boundary is taken up again by chaining. The Deputy is required to enter in his field book, all notes and calculations which he arrives at, the length and direction of any line not actually marked out and chained on the ground.

Any information you may require in the progress of your surveys, will be cheerfully given at all times upon application to this office.

It is my wish to have the work returned by the Deputies in such a manner as to preclude the possibility of a suspension thereof, either in this office or at Washington; and a strict attention to the foregoing instructions will cause the work to be forwarded with dispatch, and, as a consequence, the prompt settlement of the accounts of the Deputies will follow.

San Francisco, Sept 1st 1858

U. S. Survey Genl.

No. 35
U. S. Dist Court
Southⁿ Dist Cal^a

Ind. Gen. Valleys

vs

The United States

Instructions from the
S. Gen. for Cal^a to Deputy S.^s

Filed Apr 9. 1862

John Wheeler
Clerk

United States Surveyor General's
Office San Francisco Cal,

June 1. 1859

35 SD

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Sir

Whereas the claim of Jose de Jesus Vallejo to the tract of land hereinafter described has been confirmed by the Board of Land Commissioners and affirmed by a decree of the United States Court for the Southern District of California, and the said decisions have become final and conclusive by the United States having abandoned any appeal therefrom as appears by the evidence on file in this office, I have thought proper to appoint you my deputy in this special case for the execution of the final survey thereof.

In the decree of the Land Commissioners it is declared that the land hereby confirmed is known by the name of Bolsa de San Cayetano is situated in the County of Monterey on the road leading from the City of Monterey to Santa Cruz being the same now held and occupied by the family and legal Representatives of the said Ignacio Vallejo deceased forming a Bolsa or purse extending to the sea and is bounded as follows. By the Rio de Pajaro or Bird river by the line of the road leading from the Ancient Presidio of Monterey to the town of Branciforte, by the Estuary of the South and West, as held and occupied

(2)

by the parties aforesaid and containing two square leagues more or less reference for a more particular description to be had to the grant and other papers on file in this case"

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The District Court in the decree of affirmation says. "It is ordered adjudged and decreed that the decree of the said commissioners be and the same is hereby affirmed and it is further adjudged and decreed that the claim of the above mentioned Appellee is good and valid and the same is hereby confirmed to the extent of two square leagues of land within the limits described in the grant. Provided that should the quantity of land within said limits be less than two leagues then confirmation is hereby made of such less quantity".

Your survey must conform to the decree above mentioned and for a more particular description of the manner in which you are to proceed in the execution of the work and the standard of admeasurements I refer you to my general instructions to Deputy Surveyors dated September 1st 1858 a copy of which is herewith enclosed. Your compliance with the requisiments therein is strictly enjoined.

J. E. Ferrell Esq. }
Depy. Sur. }
}

Very respectfully
your obt. servt,
J. W. Maudville
U.S. Sur. Genl.

Office of the Surveyor General

Of the United States, for California.

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E. F. Peale

I, J. W. MANDEVILLE, Surveyor General of the United States for the State of California, by virtue of the power vested in me by law, Do hereby Certify, that the two preceding and hereunto annexed page, numbered from one to two inclusive, exhibit a true, full, and correct copy of Instructions issued to Gas. E. Serrell Deputy Surveyor for the Survey of the Rancho "Polder San Benetano" the original of which is on record in this office

EXAMINED AND FOUND CORRECT.

E. Conway
Chief Clerk.

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 ninth day of November 1861

E. F. Peale, U. S. Surveyor General, for California.

2561
No. 35

U. S. Dist Court for
South Dakota

Leadville Valley

ⁱⁿ
The United States

Specie instructions from
Suro Genl. to his Deputy

Filed April 9th 1862

John D. White clk

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

Southern District

Invent. Hon. J. M. Haigh,
District Judge.

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José de Jesús Vallejo

v

No 35.

The United States

The United States Surveyor General
for the State of California, having in pursuance of the final
Decree of Confirmation heretofore entered in this cause, made
a plat ^{1st} Survey of the Land confirmed to the claimant
^{2nd} and the Surveyor General, having upon Exceptions to
said Survey filed by the United States District Atty
presumed such Survey to this court
^{3rd} and a certified copy of the Plat of said Survey having
in pursuance of the Order of this Court, ^{been} filed in the
office of the Clerk of this Court. "this 16th day of February
1860" - And it appearing to the Satisfaction of
this Court that all the advertisements, and publications
required by the Rules of this Court, and by the act of Congress
relative to approved Surveys in California approved 14th
June 1860, have been duly made and published, and
the legal delay for all persons to interpose ^{and} Exceptions
to said Survey, having expired, and no Exceptions to said
Survey (except by the United States) having been filed, and
the Court having heard the arguments of D. C. Whiting
and S. Nathman of counsel
of District Attorney, ^{and} in support of the Exceptions filed
by the United States, and Nathman of counsel for the

claimant. And the Court having duly considered all
 things pertaining to the said Survey. It is by the
 Court Ordered and adjudged that the Survey of the
 "Rancho Jobo de San Cayetano" - as evidenced by a
 Plat of said Rancho marked "Plat of the Balsa De
 San Cayetano finally confirmed to Jose de Jesus Vallejo
 Surveyed under instructions from the U.S. Surveyor
 General by J. E. Powell Dep. Sur June 1859 containing
 8866 $\frac{43}{100}$ acres" scale 40 chs to 1 inch. And also endor-
 sed on such Plat a certificate of the U.S. Sur. General
 dated "this 24th day of January 1860" - the same is hereby in all things confirmed, and ratified
 And it is further ordered and adjudged that the Lands
 embraced and included in said Survey and Plat is
 the Tract of Land finally confirmed to the claimant
 in this cause, and that the said Plat and Survey be
 forwarded by the United States Surveyor General for
 the State of California, ^{to the General Land office at Washington} for the issuance of a Patent
 in accordance with the said Plat and Survey -
 And that the Clerk of this Court forward a copy of this
 Decree, ^{annexed to the said Plat so filed in this Court} to the United States Surveyor General for the
 State of California.

Thus done and signed in open Court this 14th day of April
 AD 1862. at Monterey Cal.

Fletcher M. Wright
 District Judge of U. S.
 for Southern District of California

Draft Decree

Bolsa de San Cayetano
Confirmation of Survey.

April 15 1862.

No 35

U.S. Dist Court
South Dist Cal.

Me de Juan Valero

in
The United States

Order dismissing 4th
to survey

Filed April 14/62

John Wheeler
Clerk

UNITED STATES OF AMERICA, ss.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the District Court
of the United States, for the Southern District
of California

Greeting:

Whereas, lately, in the District Court of the United States, for the Southern District
of California before you, in a cause
between The United States appellants and Jose de Jesus
Valejo, appellees the decree of the said District Court
was in the following words, viz:—

"The United States Surveyor general for the State
of California having, in pursuance of the final decree
of confirmation heretofore entered in this cause, made a
plat and survey of the lands confirmed to the claimant;
and the Surveyor general having, upon exceptions to
such survey filed by the United States district attorney,
returned such survey to this court; and a certified
copy of the plat of said survey having, in pursuance
of the order of this court, been filed in the office of the
Clerk of this court "this 5th day of February, 1850;" and
it appearing, to the satisfaction of this court, that all the
advertisements and publications required by the rules
of this court, and by the act of Congress, relative to approved
surveys in California, approved 14th June, 1850, have
been duly made and published; and the legal delay for all
persons to intervene and except to said survey having
expired, and no exceptions to said survey (except by the
United States) having been filed, and the court having
heard the arguments of B. C. Whiting, U. S. district Atty,
and J. Hartman of counsel in support of the exceptions

filed by the United States, and Patterson, of Counsel for the claimant; and the Court having duly considered all things pertaining to the said Survey, it is by the Court ordered and adjudged that the Survey of the "Rancho Bolso de San Cayetano," as evidenced by a plat of said rancho, marked plat of the Bolsa de San Cayetano, finally confirmed to José de Jesus Vallejo, "Surveyed, under instructions from the U. S. Surveyor general, by J. E. Terrell, dep. Sur., June, 1859, containing 8,856 $\frac{43}{100}$ acres," Scale 40 chains to one inch, and also endorsed on such plat a certificate of the U. S. Surveyor general, dated "this 24th day of January, 1860," be, and the same is hereby, in all things, confirmed and ratified; and it is further ordered and adjudged that the lands embraced and included in said survey and plat is the tract of land finally confirmed to the claimant in this cause.

Thus done and signed in open Court this 14th day of April, A. D. 1862, at Monterey, Cal^a "

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as by the inspection of the transcript of the record _____

_____ of the said District

Court, which was brought into the Supreme Court of the United States, by virtue of an appeal

agreeably to the act of Congress, _____

_____ in such case made and provided, fully and at large appears.

And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *Sixty three* the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel: On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the decree of the said District Court in this cause be and do the same is hereby affirmed

11 April

35 SD

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You, therefore, are hereby commanded that such Further proceedings be had in
said cause, _____

as according to right and justice, and the laws of the United States ought to be had, the said Appeal
notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the
first Monday of December in the year of our Lord one thousand eight hundred
and Sixty three

COSTS OF _____

Clerk..... \$ _____

Attorney... \$ _____

\$ _____

35 SD

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Taxied by

L. W. Middleton

Clerk of the Supreme Court of the United States.

No. 164 December Term, 1863.

MANDATE

SUPREME COURT UNITED STATES.

The United States vs Ballega

Filed Augt 12. 1864

John Wheeler
clk

35 SD

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

35 SD

January 1837

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Before Hon Isaac L. E. Ogden
Jose de Jesus Balliga }
Appellee }
as }
United States Appellant } N^o 35
Judge

The Attorney General of the United States
having given information by letter that
it is not his intention to prosecute the
appeal heretofore ~~made~~ taken to
the Supreme Court of the United
States in this cause, and a stipulation
having been entered into by the District
Attorney for vacating the order of appeal
granting an appeal to the Supreme
Court of the United States and
for leave to the claimant to proceed
under the decree heretofore rendered
in his favor. On Motion of the
United States District Attorney of
the Southern Dist of Cal. It is ordered
adjudged and decreed that the order
granting an appeal in this case to the
Supreme Court of the United States
be and the same is hereby vacated
and the claimant has leave to proceed
under the decree of this Court heretofore
rendered in his favor as a final decree

Isaac L. Ogden
U. S. District Judge
for the S. Dist of Cal

1038

Order & dismiss
appeal

↓ Filed Aug 9th 1887
Opinion
del