

CASE No.

45

SOUTHERN DISTRICT

CORRAL DE PIEDRA GRANT

JOSE MARIA VILLAVICENCIO

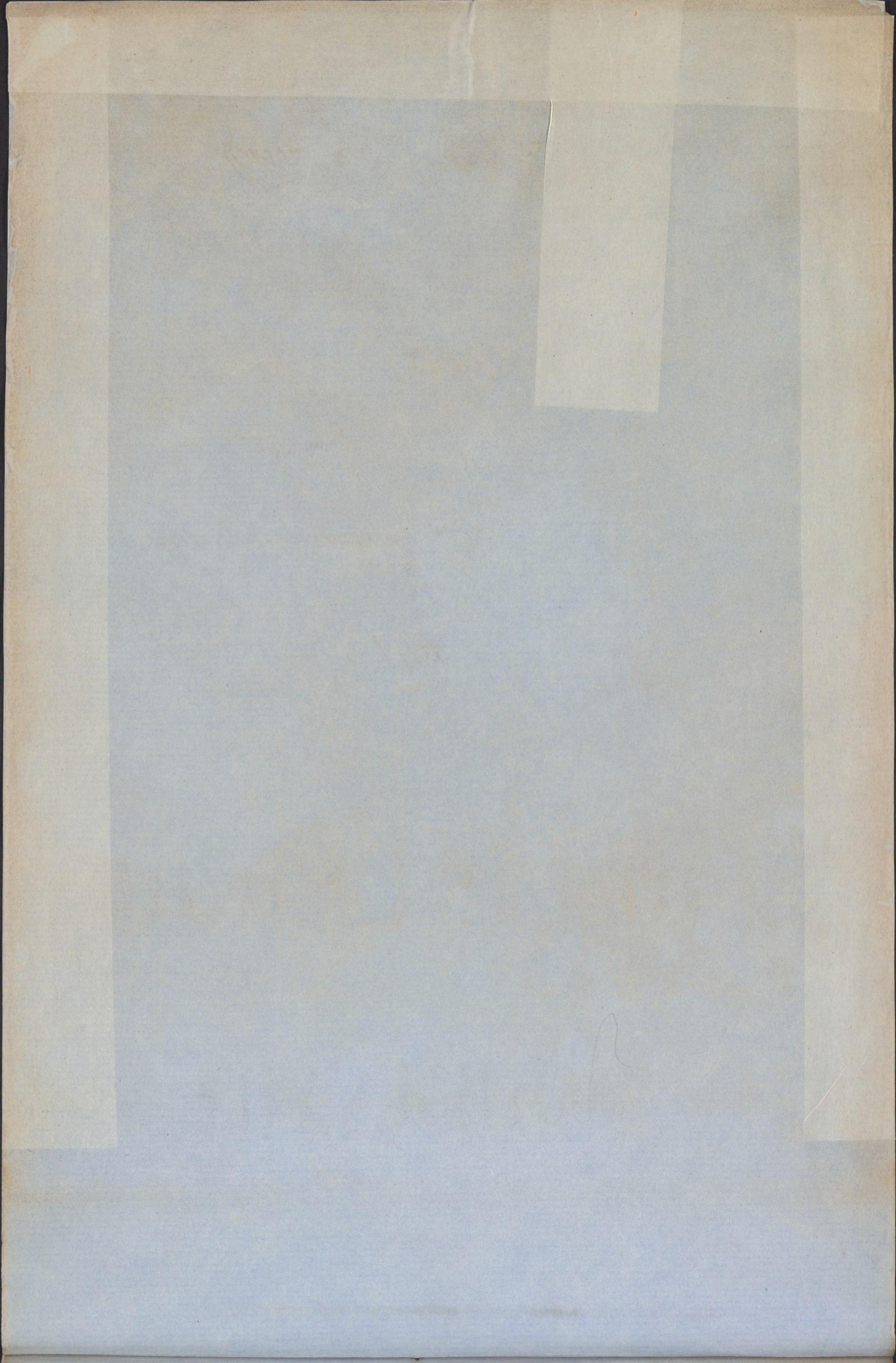
CLAIMANT

FEB 14 1963

4-2-63
50% COTTON FIBER
GROWN BOND
Guaranteed



190



45 SD
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 190

Jose Maria Villavicencio

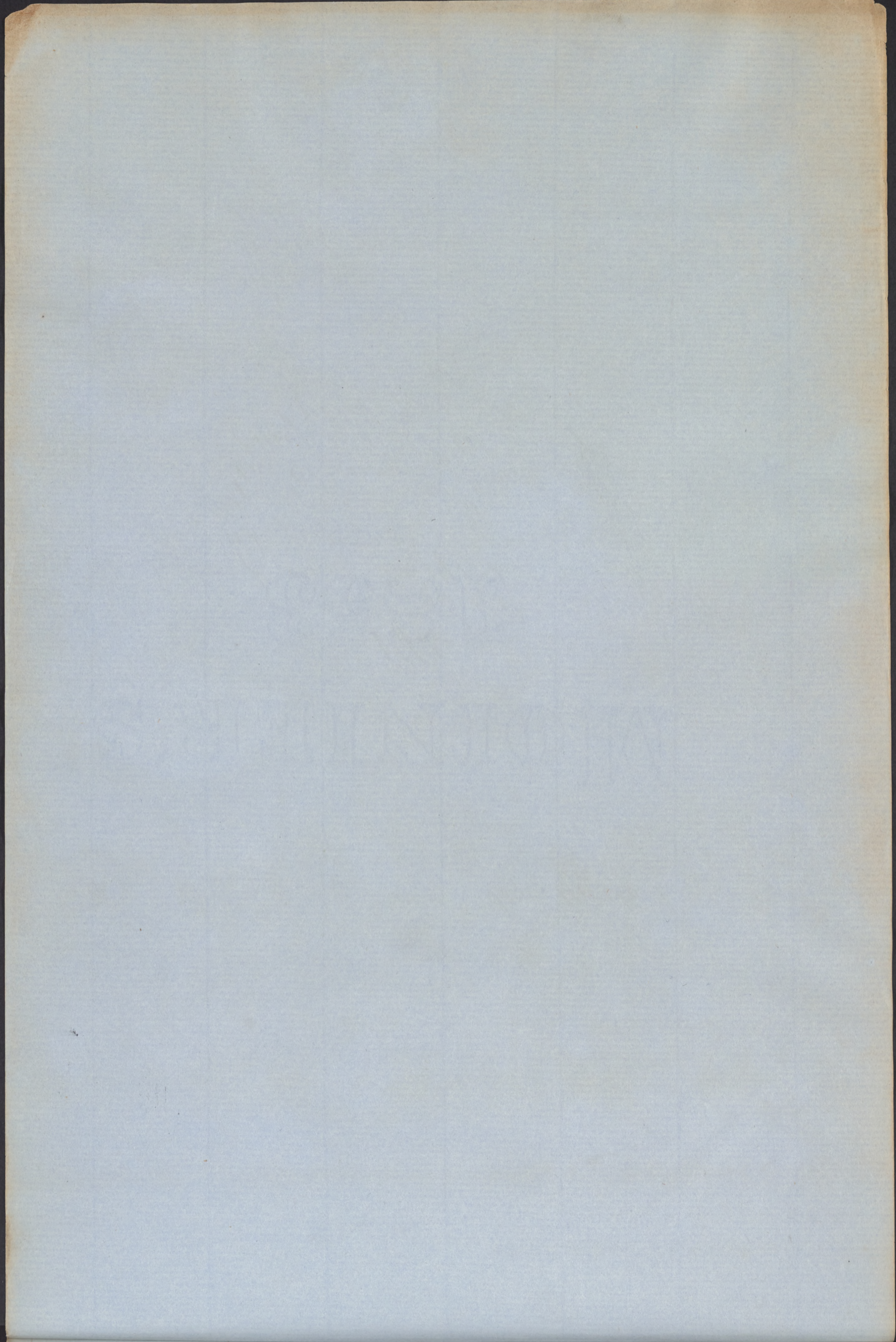
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Corral de Picara."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

45 SD
PAGE 2

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

The Petition of *José Maria Vallaricencio*,
for the Place named
"*Corral de Piedra*"
was presented, and ordered to be filed and docketed with No. *198* and is as follows, to wit;

(Vide page *3* of this Transcript.)

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

Los Angeles Sept. 9th 1852.
In case No. *198* *José Maria Vallaricencio* for the place named "*Corral de Piedra*", the deposition of *Pablo de la Guerra*, a witness in behalf of the Claimant, taken before Commissioner *Henry J. Thornton*, was filed;

(Vide page *4* of this Transcript)

San Francisco Dec. 18th 1852.
In the same case the counsel for *Francisco Branch* presented a petition to contest the right of the said Claimant to the said place; Ordered, that the petition be filed with the papers in case *198* and the petition be allowed to contest the said claim under the Additional Regulation adopted by the Board on *February 9th 1852*; which petition is as follows;

to wit: (see page 6 of this Transcript)

San Francisco Jan. 6th 1853.

In the same case the deposition of Andrew Rice, a witness in behalf of the claimant taken before Commissioner Henry J. Thomas was filed:

(see page 5 of this Transcript)

San Francisco Aug. 26th 1853.

Case No. 198, called, submitted on briefs on both sides and taken under advisement.

San Francisco Nov. 15th 1853.

In the same case Commissioner Alpheus Felch delivered the Opinion of the Board confirming the claim:

(see page 43 of this Transcript)

45 SD
PAGE 3

Original

To The Honorable Commissioners To Settle Private Land Claims in California.

Petition

The Petitioner, José María Villavicencio, respectfully shows: That on the 20th day of December A.D. 1840, he applied through the proper Authorities for the tract of Land called "Corral de Piedra" which is shown by the Expediente, a copy of which is submitted herewith marked "A", with a translation marked "B";

That on the 14th day of May A.D. 1841, Juan B. Alvarado, Governor of California, by virtue of Authority in him vested, granted to the petitioner the said tract of Land, situate in the present County of San Luis Obispo, with the boundaries specified in the grant and accompanying map, but specifying its extent to be two square leagues a little more or less; a copy of which grant and map is submitted herewith marked "C" with a translation marked "D";

That on the 2nd day of September A.D. 1842, the said tract of Land was duly surveyed and the judicial possession of it given to the petitioner, a copy of which act is submitted herewith marked "E" with a translation marked "F";

That finding his judicial possession to contain more land than that specified in the title, he petitioned to the Governor for an extension of his title, and that accordingly, Pio Pico, Governor of California, by virtue of Authority in him vested, on the 28th day of May A.D. 1846, extended the title of the petition to include all the land included in his map and judicial possession; a copy of which grant of Extension is submitted herewith, marked "G" with a

45 SD
PAGE 4

280

translation marked "K".
And the Petitioner further shows that the said tract of land has not been surveyed by the Surveyor General of the United States but that it was duly surveyed at the time of giving the judicial possession of it, and its boundaries marked out;

45 SD
PAGE 5

That the Petitioner has been since the year 1840, and now is, with those holding under him in the quiet, peaceful and undisputed possession and occupation of the said tract of land;

That he knows of no conflicting claim.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the minutes and records in the archives now under the charge of the Surveyor General of the United States, and upon such other and further proofs as he may be advised are necessary.

280

Wherefore he prays the Commissioners to confirm to him the said tract of land.

By his Atty
Halleck Peachy & Billing

Filed in Office April 20th 1852.

Asst. Fisher Secy

Office of the Board of Commissioners of California Land Claims
Los Angeles Sept 9th 1852.

Deposition
of Pablo de
la Cuenca

And this day before me, Henry S. Thomson, one of the Commissioners for ascertaining and settling Private Land Claims in California, came Pablo de la Cuenca, a witness produced in behalf

of the Claimant José M.^a Villavicencio, whose
petition is N^o 190 on the Docket of the
Board and was duly sworn, his evidence
being given in English.

The Land Agent was notified and
attended.

1st Question. What is your name, age
and place of residence?

Answer. My name is Pablo de la Guerra,
my age is about 33 years; I reside in
Santa Barbara, and am a native of
California.

2nd Quest. Examine the documents marked
N^o 5, and attached to this deposition
and say if you know the signatures.

Ans. I am acquainted with the
signatures of Manuel Jimenez, J. Mariano
Bonilla, Juan B. Alvarado, & José Matias
Moreno; their signatures to these documents
are genuine, & to the best of my belief the
documents themselves are genuine.

Pablo de la Guerra.

W. S. Land Agent Present
Sworn to & Subscribed before
me this 9th of Sept^r 1853.

Mary S. Thomson
Com^r &c

Filed in Office Sept 9th 1853

Geo. Fisher
Scrij

Deposition
of Andres
Pico

San Francisco Jan 6th 1853.
On this day before Com^r Mary S. Thom-
son came Andres Pico a witness in
behalf of the Claimant José Maria
Villavicencio's petition N^o 190 and was
duly sworn his evidence being given in

Spanish, and interpreted by the Secretary.

The U.S. Associate Land Agent was present.

My name is Andrus Pico; my age is 42 years; I was born in California, and live in Los Angeles.

I know the Rancho called "Corral de Piedra", in the County of San Luis Obispo. José Maria Villavicencio first occupied it in 1841 with Cattle & Horses & sowings; he began to build a house the same year he has lived on it ever since.

Andrus Pico

W.S. Land Agent present
Sworn to & subscribed before
me this 6th of January 1853

Henry S. Thornton
Comr. &c

Filed in Office Jan'y 6th 1853.

Chas. Fisher Secy

To The Honourable Commissioners to Settle
Private Land Claims in California.

Petition of
Intervention

In the matter of the Petition of José Maria Villavicencio, praying the Confirmation of Title to the Rancho called "Corral de Piedra" situate in the County of San Luis Obispo, which petition is now file in the office of the Secretary of this Honourable Board, numbered 1907:

The Petitioner, Francisco Branch re-
spectfully represents;

That on the 19th day of August A.D. 1849 the said José Maria Villavicencio sold and conveyed to this Petitioner a

7
certain portion of said tract called "Cerral de Piedra", which portion is called "Arroyo Grande" and more particularly described in the deed of sale, copy of which is submitted herewith marked "N^o 1", with a translation marked "N^o 2"

That on the 2nd day of February A. D. 1851, the said Villavicencio sold and conveyed to the petitioners a certain other portion, called "The Old House", of the said Tract of "Cerral de Piedra", as is more particularly shown in the original deed of conveyance, copy of which is submitted herewith and marked "N^o 3"

Wherefore the petitioners pray that this, his petition of Intervention in the claims of the said Villavicencio to the said Rancho of "Cerral de Piedra" numbered 190 on the Docket of the Commissioners, be allowed, and that the papers filed in that claim may be taken as a part of this petition; and the petitioners further pray that the tracts of lands described in the aforesaid conveyances be confirmed to the petitioners.

250
Kealley Peachy & Dillings
Atty for Francisco Branch

The foregoing petition of Intervention admitted and assented to,

Kealley Peachy & Dillings
Atty for J. M. Villavicencio.

Span Loc N^o 1 follows

1846

20

20

At 2. 1846 In the town of San Luis Obispo

No 2. In the town of San Luis Obispo on the 19th day of the month of August of the year Eighteen hundred forty nine, before me, Juan Miguel Price, auxiliary Judge of said town and the assisting witnesses with whom I act, in the established form, there came Don José Maria Villa and Don Francisco Branch both residents and whom I certify I know, and the first said; that I for himself and in the name of his heirs and successors, and of whoever of them might have title, voice, or claim in any manner, he gives to the second in legal title and perpetual alienation the part of the land of his ownership known by the name of "Arroyo Grande" and the extent of which is marked out by the following boundaries: in length from the boundary of Mr Sparks to the high range of Las Gajas, and in width, from the Arroyo Grande to the line formed from an angle of the white cliff in "Las Gajas" on the part towards San Luis, to El portezuelo and the marked hill, and thence to the "Lomita de la Cruz" in the same boundary line of Sparks on Pismo; excepting from the described extent the plain situated on the Arroyo Grande, from the old house to the point where the thickets of the Arroyo touches the hills, below the marsh; which land is shown to be the property of Villa by the documents which he presented, and which I certify I have seen, and they do not accompany this writing because the ownership of Villa contains a greater extent than that which he sells; declaring that it is free from all incumbrance, public, perpetual, temporary,

45 SD
PAGE 9

300

special, general, tacit, and expressed, and
 as such he delivers it that he may possess,
 enjoy, exchange, alienate, and dispose of
 it, as of his own property, acquired
 with just & legal title, for he receives, for
 it, one thousand one hundred dollars in
 current money (\$1100) one hundred and
 fifty head of chosen Cattle, and two
 hundred and twenty head of every kind,
 which sums Villa acknowledges that he
 has received, and is satisfied, as being
 the greatest value of the land; and (as to) the
 delivery (not) being made in presence he
 renounces the laws referring to it, those
 of the proof of its payments and receipts, as
 in it referred to; and from this time
 forth he dispossesses himself, desists,
 takes away, and separates himself from
 the ownership and possession, tenon's
 title, recourse or any other right which
 may pertain to him in the aforesaid
 days, and he renounces and transfers
 it to San Francisco Branch, that he may
 dispose of it as of his own property, legal-
 ly acquired, and he confers on him power
 with free, full and general administration;
 the vendor binding himself that this trans-
 fer will be certain, sure and effective,
 and no power will disturb him on
 being suit against his ownership or
 possession, nor will any incumbrance
 appear against it, And to the security
 and validity of all the foregoing, the vendor
 binds his property present and future,
 and with it submits himself to the
 authority and jurisdictions of the Magistrates
 who ought to take cognisance of their
 matters as a definitive sentence, consented
 to, passed in authority of res judicata, and

300

SD

as such he receives it.

In testimony of which he thus granted it, and signed it before me and those of assistance, the witnesses to the instrument being Senor Inocente Garcia, Don Joaquin Estroga, and Don Henrique Dally, present and residents. To which I certify. For the part toward San Luis' intentions.

(Signed) Jose Maria Villa

Assisting Witnesses

(Signed) Francisco Estrovan Quintana.

" J. Mariam Bonilla.

Copy of the original made this day and authenticated by me, the Auxiliary Judge.

(Signed) Juan Miguel Price.

45 SD

PAGE 11

380

No 3. Know all men by these, that I, Jose Maria Villa of the County of San Luis Obispo State of California, Farmer, in consideration of one thousand dollars, paid to me by Francisco E Branch of the County of San Luis Obispo, State of California, Farmer, (the receipt whereof is hereby acknowledged) do give, grant, bargain, sell, and convey unto the said Francisco E. Branch, his heirs and assigns, a certain tract or parcel of land, with the buildings thereon, and all appurtenances, and privileges to the same belonging, situated in said County of San Luis Obispo, and known as the "old house" lying on the Arroyo Grande, and bounded on all sides by the land of said Francisco Branch.

To have and to hold the above granted premises to the said Francisco E Branch, his heirs and assigns, to his and their use and behoof forever.

45 SD
PAGE 12

And I, the said Jose Maria Billa for myself and my heirs, Executors and Administrators, do covenant with the said Francisco Z. Branch, his heirs and assigns, that I am lawfully seized in fee simple of the aforegranted premises; that they are free from all incumbrances, that I have good right to sell and convey the same to the said Francisco Branch, his heirs and assigns forever, as aforesaid; and that he, wife, and my heirs executors and administrators shall warrant and defend the same to the said Francisco Z. Branch, his heirs and assigns forever, against the lawful claims and demands of all persons.

In witness whereof, we, the said Jose Maria Billa, (and Rafaela Billa, wife of the said Jose Maria Billa, in token of her release of all right and title of, or to, donee, in the granted premises have hereunto set our hands and seals, this 27th day of February in the year of our Lord One thousand eight hundred and fifty one,

(Signed) Jose Maria Villalobos.
Por mi Esposa

(Signed) Rafaela Rodriguez.

(Signed) Wm. L. Beebe,

(") J. de Jesus Pico,

Personally appeared before me the 27th day of February, 1851, the aforementioned Jose Maria Billa, and Rafaela Billa, his wife, and severally acknowledged the above conveyance to be their act and deed, and the said Rafaela Billa, being examined by me, apart from her husband, acknowledged that she executed

the same, freely without any fear of com-
pulsion from her husband and au-
thorised her husband to sign the same
for her, and I certify that I well
know the said José y Maria Villa
and the said Rafaela Villa, and that
they are the same persons who are des-
cribed in the within conveyance, & who
executed the same.

(Signed) S. A. Pollard
Recorder

I hereby certify that the words " & authorised
to sign the same for her" were written
previous to signing the above

(Signed) S. A. Pollard.

Filed in Office Dec^r 21th 1852
G. J. Fisher Secy

(Apuntes Expediente follows)

45 SD
PAGE 13

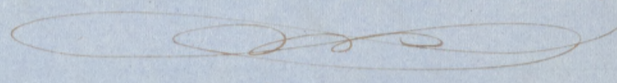
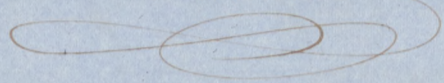
100

Sello Tercero Dos Reales.

Habilitado provisionalmente por la
Aduana marítima del puerto de Mon-
terrey, en el Departamento de las Ca-
lifornias, para los años de mil ocho-
cientos cuarenta y mil ochocientos
cuarenta y uno —

Himeno

Antonio Maria Osio



Revalidado para los años de 1842 y 1843

Alvarado

Antonio M^o Osio

L. S.

Por Prefecto del 1^o Dis-
trito

José M^o Villav^o natural
del Departamento de la
Alta California y Ca-
pitán de Melicia Cibica
del Presidio de Monterrey
ante V.S. en debida forma
me presento y digo, q^e te-
niendo de mi legitimidad
una cantidad suficiente
de bienes semovientes para
la ocupacion de un sitio
de que actualmente carezco
y con el cual será im-
posible el fomento de ellos
pues; por el contrario pa-
peterían estratos por verme
obligado a ponerlos en terrenos

de comunidad me hallo en la precisa necesidad de solicitar se me conceda en propiedad el parage nombrado el Corral de Piedra, cuyo lugar pertenece al establecimiento de San Luis Obispo y está enteramente desocupado esépto de un corto numero de ganado bronco que hay en una de las partes de dicho sitio, el mismo que se comprende desde el arroyo que pasa por el pie del serrito que está separado de la sierra hasta el arroyo grande segun se demarca en el diseño respectivo que acompaño = Por tanto = A. G. S. suplico se sirva acceder a esta mi petición en caso de ser asi conveniente sirviendose al mismo tiempo admitir esta en papel comun por falta del sellado correspondiente = San Fernando y Diciembre 20 de 1840 = José M. Villavicencio = Exmo Sr = Dn José María Villavicencio en la presente instancia solicita de la bondad de V. E. se le confiera en propiedad el terreno conocido con el nombre de Corral de Piedra segun aparece por su diseño = Como esta prefectura está al alcance de que no hay inconveniente por parte del Establecimiento de San Luis para la concesion del terreno que pretende Villavicencio, pasa a los superiores

18

manos de V. E. su informe, sin necesidad de pedirlo al encargado de dicho Establecimiento = El reunir el solicitante a las cualidades que previene la ley y circunstancias bastantem^{te} recomendables y servicios distinguidos, creí esta Prefectura que es acreedor a toda la consideracion del Sup^o Gov^o y por consiguiente a que se le conceda la gracia que pretende: mas V. E. con el acierto que le es genial, se sirva resolver lo que fuere de su agrado = J. Juan de Castro Ltr. 19. de 1841 = Jose P. de Castro = Monterey Ltr. 27 de 1841 = Vista la peticion con que da principio este expediente, el informe del Sr. Prefecto

45 SD
PAGE 16

[Sello Tercero Dos Reales.

Heabilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno =

Hermens

Antonio Maria Bis

Revalidado para los años de 1842 y 1843 =

Mourado

Antonio Maria Bis

L. S.

_____]

del 1^{er} Distrito, con todo lo demás que se tubo presente y ver con vino de conformidad con las leyes y reglamentos de la materia declaro a Don José Maria Villanueva dueño en propiedad del terreno conocido con el nombre de Corral de Piedra colindante al Este con el arroyo grande, al O.B. con el arrollito que está al pie de la Loma separada de la Sierra, al Norte con el Pinal, y al Sur con los linderos que corren por una cuchilla donde se encuentran manantiales de Brea. = Estiendase el correspondiente despacho, tomese razon en el Libro respectivo y dirijase este Exped. to a la Exma Junta Departamental. = El Sr. Dr. Juan B. to Morado G^o con sti- tucional del Departamento de las Ca- lifornias así lo mandé decreté y firmé de que doy fee = Morado = Manuel Jimeno - A^{to} =

Es copia fielmente sacada de los documentos originales que existen en la Secretaria de G^o que está a mi cargo -

Monterey Julio 2 de 1842
Man^l Jimeno

L. S.

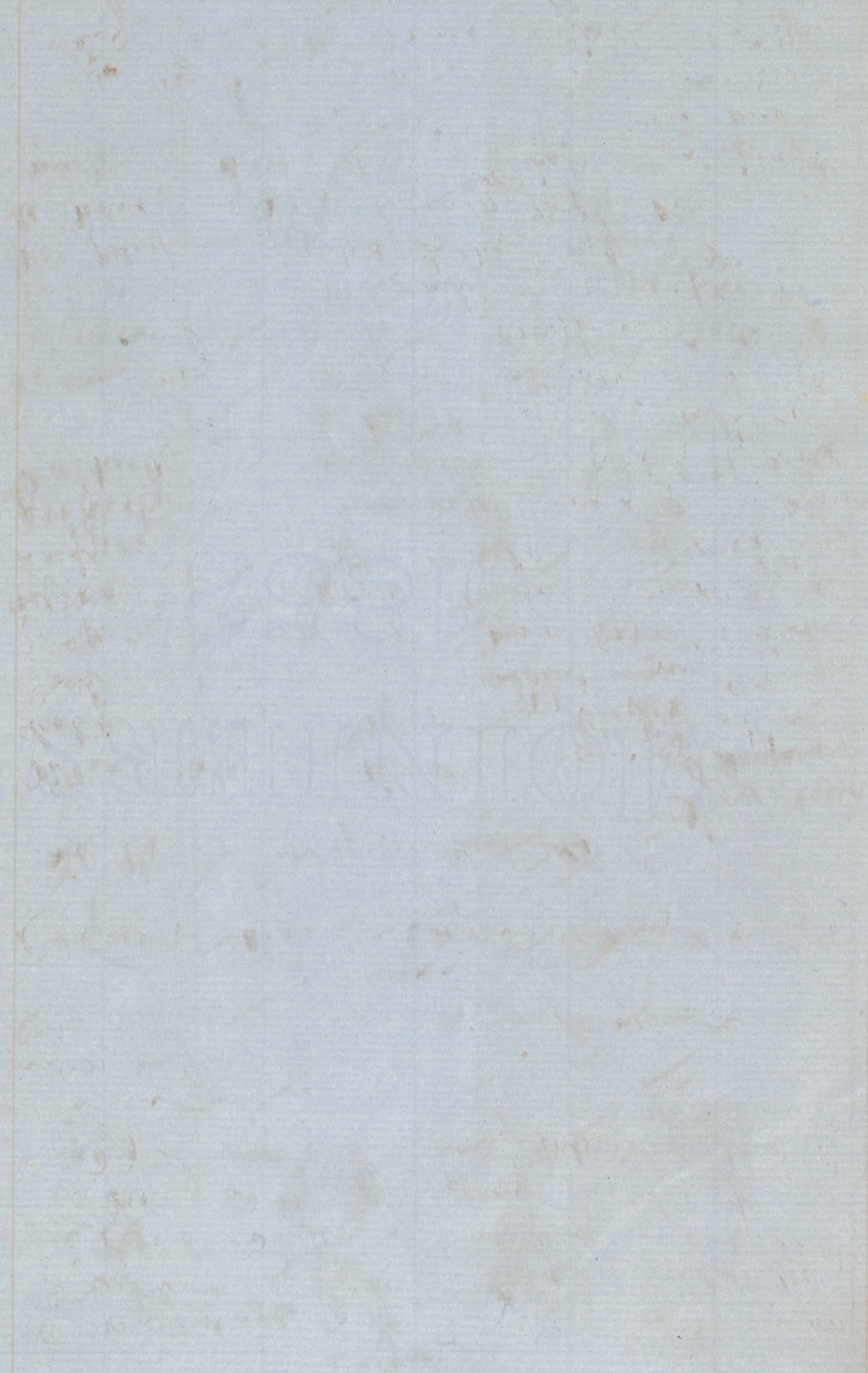
El que suscribe Secretario del Gobierno del Departamento
de las Californias —
Certifico: Que el diseño que se demuestra a' la
vista, es igual al original que existe en la Secretaria
de mi cargo. —
Monterrey 21 de Julio de 1842

Manuel Jimeno

La presente certificación va en papel común por falta
de sellado —

Jimeno

Here follows a map —



Stamp Third. Two Reals.

Provisionally authorized by the Maritime
Custom House of the Port of Monterey in the
Department of the Californias, for the years
one thousand eight hundred and forty and
one thousand eight hundred and forty one.
(sgd) Jimeno. (Signed) Antonio Maria Osio.

" B "
Translation
of Expediente

Maritime Custom }
House of Monterey } Good for the years 1842, and
1843.

190

(Signed) Alvarado (Signed) Antonio M^a Osio.

45 SD
PAGE 19

To the Effect of the First District.

Jose Maria
Villavi native of the Department of Upper
California and Captain of Militia of the
Presidia of Monterey, present myself in
proper manner before your Honor, and
represent: That being lawful owner of a
sufficient quantity of selfmoving (semovientes)
property for the occupation of a place which
I actually need, and without which it will
be impossible to take care of it, but on
the contrary it will wander off as I will
be forced to put it on common lands, I
am under the necessity of requesting that
the place be granted to me, named the "Coral
de Piedra" which belongs to the Establish-
ment of San Luis Obispo, and is entire-
ly unoccupied, except that there are a
small number of wild Cattle on one part
of said land; the same is included between
the Arroyo which passes by the foot of
the Cerro which is separated from the
Sierras, and the Arroyo Grande, as shown
by the map of it which I transmit
therewith.

280

Wherefore I pray Your Honor be so good

as to accede to my petition, if convenient, being pleased at the same time to admit this on common paper, there being none of the proper stamp.

San Fernando, December 20th 1840
(Signed) José Ma. Villavieja

Most Excellent Sir,
Don José María Villavieja

in the present instance, pray of Your Excellency's goodness that the land known by the name of Corral de Piedra may be granted him in fee, as appears by his map. As this Prefectura sees there is no difficulty on the part of the Establishment of San Luis Obispo, to granting the land which Villavieja solicits, it passes his statement to the hands of Your Excellency, there being no necessity for asking information of that person in charge of that Establishment. As the Petitioner unites with the qualities required by Law, commendable behavior and distinguished services, this Prefectura believes him to be entitled to all the consideration of the Superior Government, and consequently the favor which he asks be granted him; but Your Excellency with your usual judgment, will be pleased to decide that which may be your will.

San Juan de Castro, Febry 19th 1841.
(Signed) José P. Castro.

Monterey February 25th 1841.

Having seen this petition with which this Expediente commences, the reports of the Prefect of the 1st District, with all other information which was presented and deemed proper in conformity with the laws and regulations on the matter, I declare I don José

45 SD
PAGE 20

280

45 SD
PAGE 21

Marino Villwo, owner in fee of the lands known by the name of Corral de Piedra, bounded on the East, by the Arroyo Grande, on the West by the little Arroyo, which is at the foot of the hill separated from the Sierra, North by the Pinal, and South the boundary follows along a ridge where are found Springs of Br. B. See the corresponding title he made out, take note of it in the proper Book, and direct this expediente to the Most Excellent Departmental Junta, Senor Don Juan Bautista Alvarado, Constitutional Governor of the Department of the Californias, thus ordered decreed and signed, which I certify.

(Signed) Alvarado
(sgd) Manuel Jimenez
Secretary

200

This copy is faithfully made from the original documents which exist in the Secretary's Office of the Government which is under my charge.

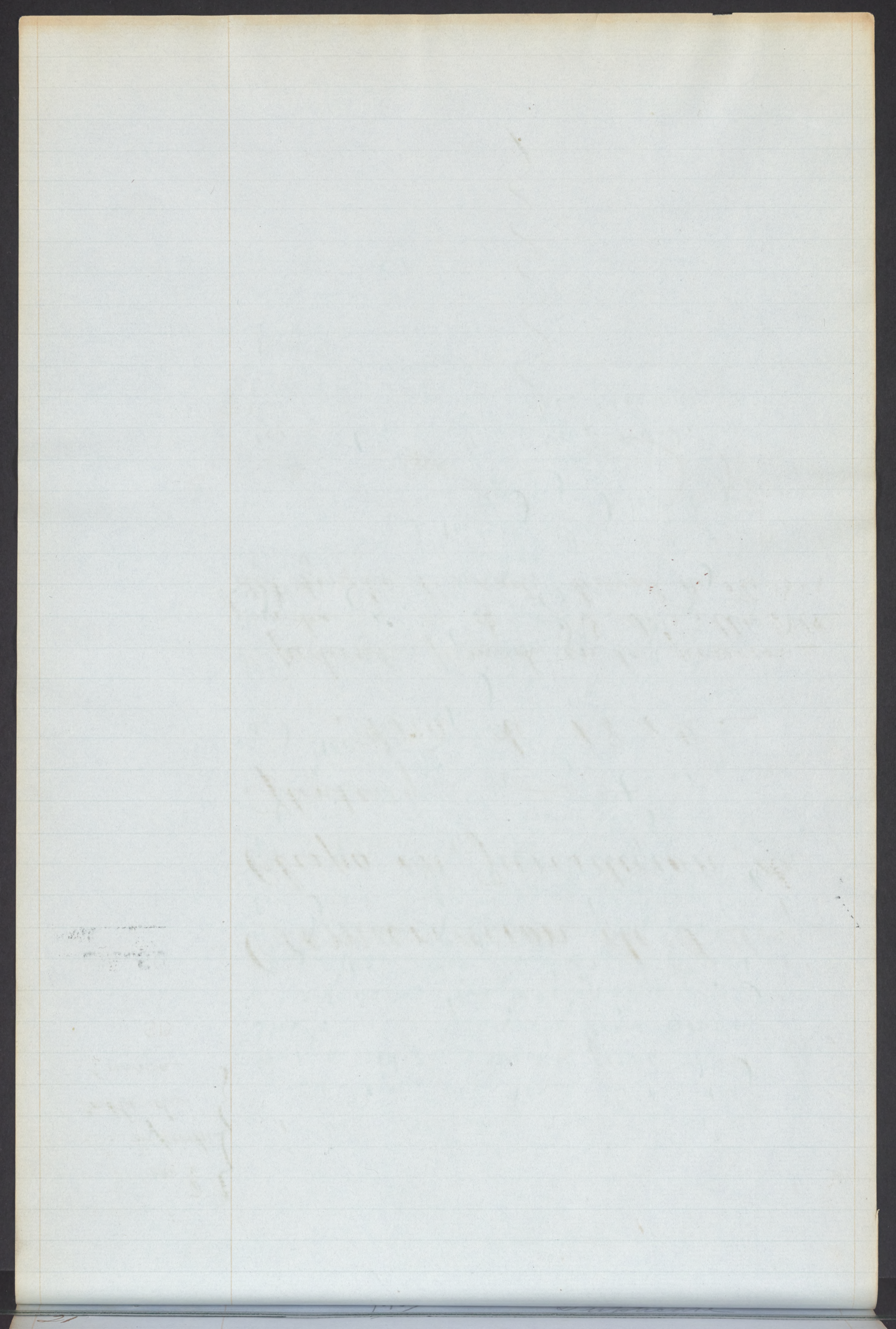
Monterey July 2nd 1842.

(Signed) Manuel Jimenez

Filed in Office April 30th 1852.

Asst. Fisher Secy

(Span. Doc. "C" follows)



1010

Duplicate

21

Document
N^o 5 ann^o }
to the Depositum
of Pablo de }
la Guerra }

45 SD
PAGE 22

Demarcacion de S. Luis
Obispo en Jurisdiccion de
Monterey — " —
Año de 1842 —

Expediente formado en la posesion
juridica q se dio á D. José M^o Villa
del terreno llamado Corral de Piedra

Sello 1^o seis pesos

Habilitado provisionalmente por la Aduana
marítima de Monterey para los años de
1839 y 1840 -

Alvarado

Antonio M^o Osio

45 SD
PAGE 23



Valga p^a los años 1841 y 1842

Alvarado

Antonio M^o Osio

Juan B. Alvarado goberna-
dor Constitucional del Departamento de
las Californias -

Por cuanto el Ciudadano José
Mariano Villavicencio ha pretendido
para su beneficio personal y el de
su familia, el terreno conocido con
el nombre de Corral de Piedra, colin-
dante al Este con el arroyo grande, al
Oeste con el arroyito que está al pie
de la Loma separada de la Sierra
al Norte con el Pinal, y al Sur
con los linderos que corren por una
Cañada donde se encuentran ma-
nanciales de Brea; practicadas pre-
viamente las diligencias y averigua-
ciones concernientes según lo dis-
puesto por leyes y reglamentos; -
usando de las facultades que me
son conferidas a nombre de la
Nación Mexicana, he venido en
concederle el terreno mencionado -

- deklarandole la propiedad de él por las presentes letras sujetandose á la aprobacion de la Exma Junta Departamental y á las condiciones sigtes
- 1^a Podrá usarlo sin perjudicar las Arvejas caminos y serindumbres: lo disputará libre y esclusivam^{te}, destinandolo al uso ó cultivo que mas le acomode; pero dentro de un año fabricará casa y estará habitada
- 2^a Solicitará del juez respectivo que le de posesion juridica en virtud de este Despacho, por el cual se demarcarán los linderos en cuyos limites pondrá á mas de las mижneras algunos arboles frutales ó silvestres de alguna utilidad
- 3^a El terreno de que se hace mencion es de dos sitios de ganado mayor poco mas ó menos segun expone el diseño que corre en el expediente respectivo. El Juez que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la Nacion para los usos convenientes
- 4^a Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciabile por otro
- En consecuencia mando que teniendose por firme y validero este titulo se tome razon de él en el Libro á que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey

a catorce de Mayo de mil ochocientos cuarenta y uno

Juan B. Morádo

Queda tomada razon de este Despacho en el libro de acientos sobre adjudicaciones de terrenos baldios afa

45 SD
PAGE 25

El Exmo Sr gobernador ha dispuesto se tome razon de este título en la Prefectura del 1er Distrito

Sello Tercero Los Reales

Habilitado provisionalmente por la aduana maritima del puerto de Monterey en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno

Morádo

Antonio Maria Osio



Revalidado por la misma, para el año de mil ochocientos cuarenta y dos

Morádo

Antonio M^a Osio

Sr. Juez de Paz de S. Luis Obispo

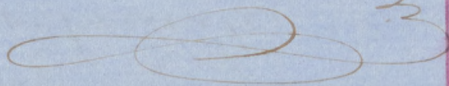
S. Luis Obispo -
Sept^{re} 1^o de 1842

Jose M^a Villa natural de este Departamento ante S.

Por presentado como mejor proceda, digo: que y admitido, como en virtud del título de concesion lo pide p^a el que se me ha expedido del

dia 3 del corr^{te}
 previa citacion
 de los colindantes
 se dara' la pose-
 sion juridica
 del terreno q^e
 se ha concedido
 al interesado
 verificando las
 medidas del dho;
 y el juez de Paz
 de esta demar-
 cacion asi lo
 decreté y firmé

Bonilla



terreno llamado corral de
 Piedra en la demarcacion de
 su cargo; y cullto original
 acompaño, se sirva darme
 posesion juridica del mencio-
 nado terreno conforme al
 diseno y tambien acompaño
 y señalar dia en que se
 verifiquen las medidas y se
 natalanto de ludes P. T.
 A. P. suplico se sirva ac-
 ceder a' mi solicitud q^e
 en ello recivire gracia y
 justicia y juro &c.

José Ma. Villar

J. Luis Obispo Sept^o 1^o de 1842

Citese a' los colindantes p^a que
 concursan el dia mencionado en el auto ante-
 rior al Rancho del Corral de Piedra haciendo
 les saber el objeto de su llamada - y el
 juez de Paz de esta demarcacion asi lo
 mande y firme

Bonilla

J. Luis Obispo Sept^o 2 de 1842

Con esta fecha se citaron p^{ro}-
 letas a' D. José Ortega y D. Fran^{co} Branch
 p^a q^e mañana concursan al Rancho del
 corral de Piedra a' las nueve de la mañana
 á presenciar las medidas de dho Rancho
 y acto de posesion juridica; lo cual

asente p.^a diligencia que rubrique

En el Rancho de Corral de Piedra a los tres dias del mes de Sept.^o del año de mil y ochocientos cuarenta.

45 SD
PAGE 27

[Sello Tercero Los Reales -

He habilitado provisionalmente por la Aduana maritima del puerto de Monterey en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno

Morádo

Antonio M^o Osio



Rehabilitado por la misma, para el año de mil ochocientos cuarenta y dos

Morádo

Antonio M^o Osio]

y dos, siendo presente yo el juez de Paz de esta demarcacion de S. Luis Obispo en la casa de habitacion de D. José M^o Villavieja llega a ella D. José Ortega p.^a la citacion q.^e se le hizo y lo asente p.^a diligencia que rubrique.

Conveniente en el mismo parage, dia, mes y año, yo el juez de Paz de la demarcacion de S. Luis Obispo acompañado de los de asistencia, y siendo presente D. José M^o Villavieja dispuse nombrar dos medidores cordeleros p.^a falta de un Rinto Agrimensor y al efecto nombre de los concurrentes a los individuos Pedro Mesa y Manuel Pazos a quienes habiendo aceptado el encargo, les tome juram^{to}.

que hicieron p.^o D.^s Ntro Sr. y la Sta Cruz
de desamparar fielmente su nombramiento y lo
asiento p.^o diligencia que firme con los de
asista
de asista
José Ortega
Vicente Bonilla

45 SD
PAGE 28

En segunda en el mismo parage, día, mes
y año, yo el Juez de Paz de esta demar-
cación de S. Luis Obpo. con los de mi asista
dispuse q se midiera un cordel de cincuenta
varas p.^o con el efectuar la medida del terreno
y al efecto se midió un cordel de cuerda
de cincuenta v.^o castellanas y en sus
extremos ataron dos estacas y usando
esto p.^o diligencia que firme con los de
asista
de asista
José Ortega
Vicente Bonilla

A continuación en el mismo parage día
mes y año, yo el Juez de Paz de la de-
marcación de S. Luis Obpo. acompañado de los
de asista y concurrentes y citados con el
objeto de comenzar las medidas salinos de
la Casa de habitación de Don José Ma Villa
y fuimos hta el punto en q p.^o el diseño
se señala el lindero con D. José Ortega en
el Arroyo grande y siendo marcado dho lugar
con el Nombre de paso de Pipomo, tomando
los medidores el cordel p.^o sus extremos y estacas
se comenzó a medir p.^o la veq del arroyo en
dirección al E. hta el pie de la Sierra y an-
gostura del monte cuyo punto se señala

con un palo q se fijo en el y hta allí se
 contaron ciento y cincuenta cordelas continuando
 las medidas de allí p la falda y media
 altura de dha Sierra en direccion al N. O. hta
 el punto q señala el diceno como lindero con el
 establecimiento de S. Luis Obispo, cuyo punto siendo
 marcado p un serrote q se hayá en el Llano
 se señaló tambien, y se contaron hta allí
 doscientos cordelas, se siguieron las medidas
 desde dho serro rumbo al S. hta las lomas
 montuosas y ensinal y regresando del mismo
 serro al pie de la Sierra grande abajo de los
 Pinos, y en ambas partes unidas se midieron
 ciento y cincuenta cordelas, y habiendose se-
 ñalado los dos extremos con unos palos q se
 fijaron, se siguieron las medidas p toda la
 cuchilla q linda con el sitio de D. Jose Ortega
 hta el punto en donde se comenzaron, y
 fueron hta allí medidos doscientos cordelas,
 con lo cual fueron concluidas dhas medidas
 y señalados los terminos y linderos quedando
 el terreno comprendido bajo la circunferencia
 de setecientos cordelas de á cincuenta varas
 ó siete leguas. Concluidas de este modo las
 referidas medidas y siendo conformes los
 colindantes, no habiendo oposicion p ninguno
 p perfeccionar el acto en presencia de todos
 los concurrentes tomé p la mano a' D.
 José M. de Villa y en voz clara le dije:
 en nombre de la Nacion Mexicana doy
 a' S. posesion del terreno q se le ha
 concedido y q ahora se ha medido; y

mandandole que hiciese alguna demostracion de haber adquirido el dominio util y directo y con tal la propiedad de otro terreno como Sr. y dueño unico de él, cavó la tierra arrancó yerbas y tiró piedras con lo cual se concluyo el acto, habiendo pedido a este tiempo D. José Ma. Villa q se le entregasen estas diligencias originales p^{ra} cuya constancia lo firme con lo de asistencia —

45 SD
PAGE 30

J. Mo^{no} Bonilla

de asista
José Ortega

de asista
Vicente Bonilla

San Luis Obispo Sept^{no} 3 de 1842

Devuelvan estas diligencias originales al interesado p^{ro} testimonio de adquisicion de propiedad y el uso q^e le convenga, y tomese razon en el libro correspondiente —

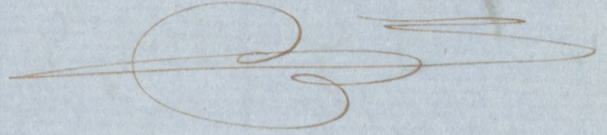
Bonilla

S. Luis Obispo Sept^{no} 4 de 1842

Atendido el auto antecedente en esta fha se devolvió a D. José Ma. Villa este expediente en 5 fs y lo asente p^{ro} diligencia q^e rubrique —

J. Luis Obispo Sept^o 9 de 1842
Queda tomada razon en el libro de
posesiones afs 10, 11, 12 y 14

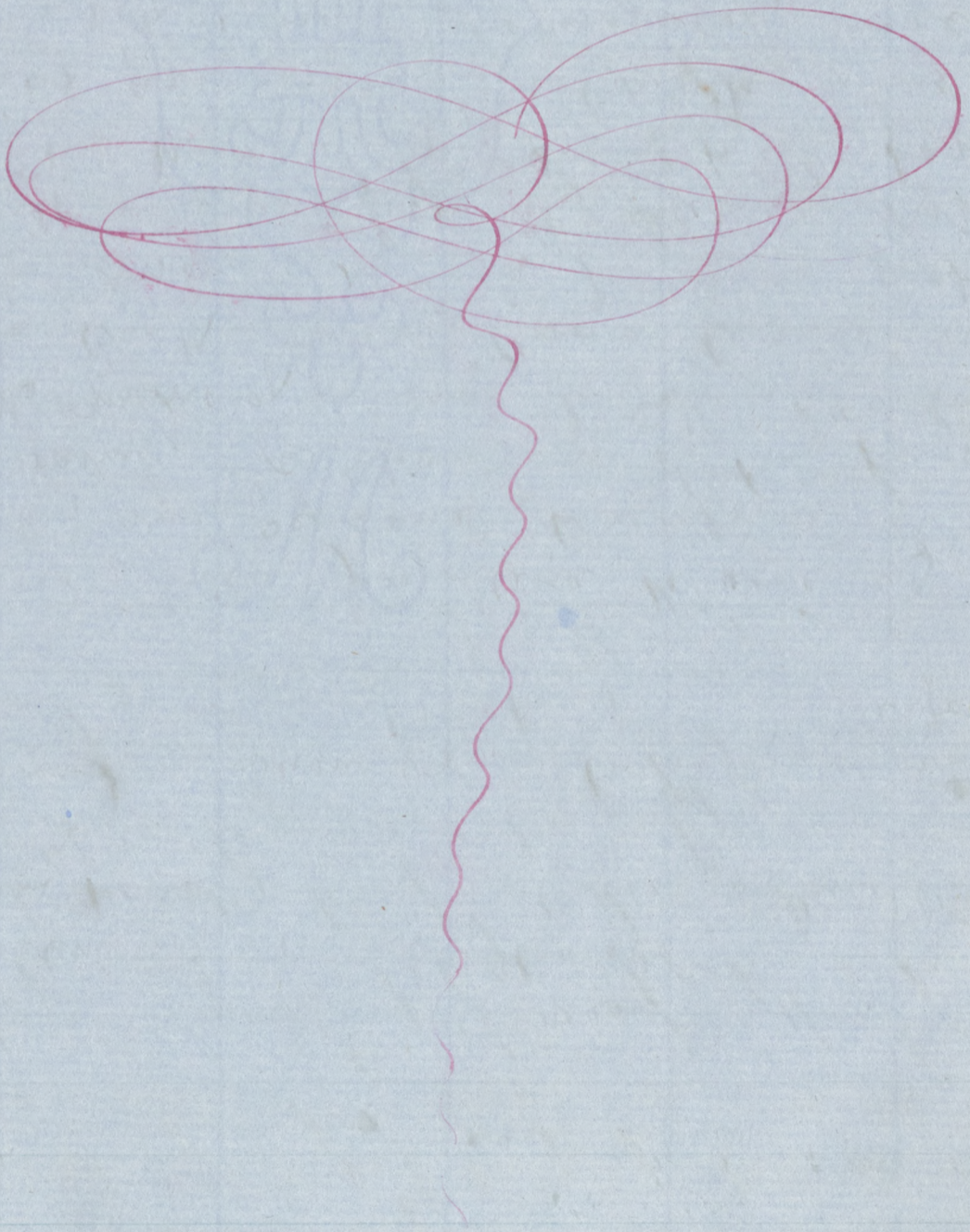
Bonilla



45 SD
PAGE 31

Filed in office Sept^r 9th 1852

Geo. Fisher
Secy



20

Stamp Book. Six Dollars

Provisionally authorized by the Maritime Custom House of Monterey for the years 1839 and 1840 (sgd) Alvarado (sgd) Antonio Maria Osio

Good for the years 1841 and 1842.

"do"
Translation
of Title

Maritime
Custom House
Monterey

(Signed) Alvarado

(signed) Antonio Maria Osio

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

45 SD
PAGE 32

280

Whereas, Citizen Jose Maria Villavicencio has, for his own personal benefit, and that of his family, petitioned for the land known by the name of "Cerral de Piedra" bounded at the East by the "Arroyo Grande" west by the Arroyito (which is at the foot of the hill separated from the Sierras, north by the Pine Woods, and south by the boundaries pass through a Cañada where are Springs of Brea, the necessary measures and examinations having previously been made, as required by laws and regulations; using the faculties conferred on me in the name of the Mexican Nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the most Excellent Departmental Junta, and the following conditions, to wit:

1. He may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively, making such use and cultivation of it, as he may see fit, but within one year he will build a house on it and it shall be inhabited.
- 2nd He shall request the proper Magistrate to give him juridical possession

of it, in virtue of this order, by whom the boundaries shall be marked out, in which he shall place, besides the bounds, some fruit or forest trees of a useful character.

3. The land here mentioned is two *Sitios de ganado mayor* (two square leagues for grazing large cattle) a little more or less as shown by the map which goes with the proper *expediente*. The Magistrate who may give the possession will cause it to be measured, in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient purposes.

4. If he shall contravene these conditions he shall loose his right and it may be denounced by another.

In consequence of order that this title being held as firm and valid, note be taken in the corresponding book and it be delivered to the person interested for his security and other purposes.

Witness in Monterey the fourteenth day of May, one thousand eight hundred and fifty one.
(Signed) Juan B. Alvarado

Note has been taken of this order in the Book of entries of grants of vacant lands at folio —

His Excellency the Governor has directed that note be taken of this title in the Prefectura of the Tuxtepec District.

Filed in Office April 20th 1852
C^o. Fisher Secy

Span Doc "E" Follows

Stamp Third. Two Reales

Provisionally Authorized by the Maritime Custom House of the Port of Monterey in the Department of California, for the years one thousand eight hundred and forty, and one thousand eight hundred and forty one.

"I"
Translation of
Juridical possession.

Maritime
Custom House
Monterey

Good for the years one thousand eight hundred and forty two.
(Signed) Alvarado. (Signed) Antonio M. Alsid

45 SD
PAGE 34

San Luis Obispo
Sept 1' 1842.
Presented and admitted, agreed with this request as the 3rd instant the Colindantes being previously summoned, juridical possession will given of the land which has been granted by the interested party verifying the measurements of said (land) I, the Justice of the Peace of this demarcation, thus decreed and signed
(Signed) Bonillas

To the Justice of the Peace, of San Luis Obispo,
Jose Maria Villa, native of this Department, before you appears and says that in virtue of a title of grant which has been issued to him of the land called "Corral de Piedras" in the demarcation under your charge, and the original of which he transmits herewith, you will have the goodness to give me the juridical possession of the said land, conformably with the map which I ^{also} transmit and to designate a day on which to verify the measurements, marking out of boundaries.
Therefore I pray you be pleased to grant my request, in which I will receive favor and justice: I mean in the legal form &c.
(Signed) Jose M. Villa

X

San Luis Abispo, September 1 1842.
 Let the Colindantes be summoned to meet on
 the day mentioned, in the proceeding orders,
 at the Rancho of the Corral de Piedra, letting
 them know the object for which they are
 summoned; I, the Justice of the Peace of
 this demarcation thus decreed and signed,
 (signed) Bonilla.

45 SD
 PAGE 35

San Luis Abispo, Sept 2ⁿ 1842
 On this day written summons were issued
 to Don Francisco Branch and Don Jose
 Ortega, that they may meet tomorrow at the
 Rancho of the Corral de Piedra at nine o'
 clock in the morning to be present at the
 measurement of said Rancho, and the act
 of juridical possession, which I officially
 noted and signed in rubric
 (Rubric of Bonilla)

280
 On the Rancho of the Corral de Piedra on the
 third day of the month of September of the
 year one thousand eight hundred and forty
 two; present, I the Justice of the Peace of
 this demarcation of San Luis Abispo, in
 the dwelling house of Don Jose Maria Vela
 Don Jose Ortega arrived there in compliance
 with the summons sent him, and I note
 it officially and signed in rubric
 (Rubric of Bonilla)

Immediately afterwards in the same place,
 day, month and year, I, the Justice of
 the Peace of the demarcation of San Luis
 Abispo, accompanied by those of my
 assistance and being present Sr. Jose
 M^o Vela, I decided to appoint two
 measuring rope bearers for want of a
 skillful Surveyor, and I appointed

from the bystanders, the individuals Pedro Mesa, and Manuel Parás, and having accepted the Office, I required an oath from them which they took by God on God and the Holy Cross, to discharge faithfully their appointment and I made official note of it, and signed with the assisting witnesses

(signed) J. Mariano Bonilla

Assisting witnesses

(sgd) José Ortega

(sgd) Vicente Bonilla.

45 SD

PAGE 36

Then, in the same place, day, month and year, I, the Justice of the Peace of the demarcation of San Luis Obispo, with those of my assistance, directed that a hair rope should be measured of fifty varas long, with which to make the measurements of the land, and for this purpose a hair-rope was measured of fifty Spanish Varas, and at its extremities two stakes were tied and I noted this officially which I signed with the assisting witnesses.

(signed) J. Mariano Bonilla

Asst. witnesses

(sgd) José Ortega

(sgd) Vicente Bonilla.

In continuation in the same place, day, month and year, I the Justice of the Peace of the demarcation of San Luis Obispo, accompanied by the assisting witnesses and the persons present, before named, for the purpose of commencing the measurements we left the dwelling house of Sr. José María Villa and went to the point which is shown on the map to be the boundary with Sr. José Ortega, in the Arroyo Grande, and said place being designated by the name of "Pass"

de Nipomo", the measures taking the cordel by its extremities and stakes, I commenced to measure up the plain of the Arroyo in an easterly direction, to the foot of the Sierra and narrow pass in the hills and marked with a stake, distant one hundred and fifty cordels; thence continuing the measurement; half way up the slopes of said Sierra North west to the point marked on the map as boundary with the establishment of San Luis Obispo, which place is marked by a Cerro situated in the plain, distant two hundred cordels; they then measured from said Cerro, southerly, to the wooded hills and grove of oaks, and going back from the same Cerro to the foot of the high Sierra below the pines, in both parts together they measured one hundred and fifty cordels, and having marked the two extreme points with stakes which were driven, the measurements were continued along the ridge, boundary with the place of Don Jose Ortega, to the place of beginning, ^{at least} two hundred cordels, with which the measurements were concluded and the boundaries designated; ~~the land being included and the boundaries designated;~~ the land being included within boundaries, the sum of the length of which is seven hundred cordels of fifty varas each or seven leagues.

The measurements being finished in this manner and the Abundantes agreeing and there being no opposition, to perfect the act, in presence of all the by-standers I, took Don Jose Maria Villa by the hand and in a loud voice said to him:

"In the name of the Mexican Nation, I give you possession of the land which has

300

measured, and describing

been granted you, and which has now been measured, and directing him to make some demonstration of having acquired the useful and direct dominion and with it the ownership of said land, as the only owner and Lord of it, he dug up earth, pulled up grass, & threw stones, with which the act was finished: Don Jose Maria Villa at this time asked that the original official documents be delivered to him in testimony of which I signed with the assisting witnesses.

(Signed) J. Mariano Bonilla

Asst. witnesses

(Signed) Jose Ortega
(Signed) Vicente Bonilla

200

San Luis Obispo, Sept 3rd 1842.

Let these original official documents be delivered to the party interested in testimony of acquisition of ownership, and the use he may think proper; and let note be taken in the corresponding books.

(Signed) Bonilla

San Luis Obispo Sept 5th 1842

In compliance with the preceding order, on this day this Expediente was delivered to Don Jose Maria Villa, in 6 folios, and I made official note of it, which I signed in rubric.

(Rubric of Bonilla)

San Luis Obispo Sept 5th 1842.

An Note has been taken in the book of possessions on folios 10, 11, 12, and over

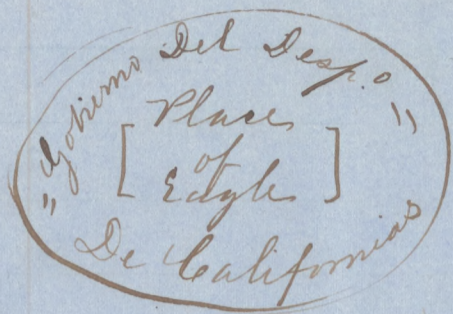
(signed) Bonilla

Filed in Office April 20th 1852.

Geo. Fisher Secy

Open to the following

20
20



45 SD
PAGE 39

Al Expediente promovido por 8^o
 en 14 de Junio de 1844 con
 relacion al aumento de terreno que
 solicita en el parage que posee,
 llamado corral de piedra, ha
 recaydo hoy el superior decreto
 siguiente. " Angeles Mayo 28
 " de 1845 = " Habiendo hecho constar
 " D^o Insi Maria Villavicencio
 " que el terreno, llamado Corral de
 " Piedra en el Pueblo de San Luis
 " Obispo que le fue concedido por el
 " Superior Gobierno Departamental
 " en titulo librado en 12 de Julio
 " de 1842, tiene mas estension
 " de dos sitios de ganado mayor que
 " poco mas o' menos que poco mas
 " o' menos se le adjudicaron al
 " agraciado y que de todo lo cual
 " fue posesionado conforme el
 " dicuto, por aparecer en el referido
 " titulo de demarcacion de linderos
 " con arreglo al mismo dicuto; —
 " mandadas practicar las averigua-
 " ciones concernientes para venirse
 " en conocimiento de todo lo que
 " era necesario y debia tenerse

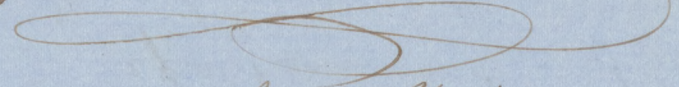
" presente, resultó que no hay
 " lesión ni perjuicio de tercero
 " que mejor derecho tenga; por
 " todo lo cual, visto y considerado
 " todo lo que meditar y ver
 " convino, he venido por el pre-
 " sente decreto en declarar, como
 " declaro " legal y bien dada la
 " posesión judicial que del men-
 " cionado paraje " corral de Piedra"
 " se verificó por la autoridad en
 " tres de Setiembre de 1842
 " en toda la estension, que
 " demuestran el dicento, siendo
 " ser D^o José María Villari-
 " cencio, dicento en propiedad,
 " En consecuencia librése por
 " la Secretaria el Atestimonio de
 " esta determinacion, pongase esta
 " diligencia en el correspondiente
 " expediente que justifica su
 " derecho; tomese razon en el
 " libro de acientos agregando este
 " expediente autografo, y sometase
 " a la aprobacion de la Ex^{ma}
 " Asamblea Departamental. Vio
 " Visto, Gobernador Constitucional
 " del Departamento de California
 " así lo dispuso, decretó y firmo
 " de lo que doy fé - Pro Vico
 " José Matias Moreno = Secretario
 " Interino"

Glo

40

incierto a' R^o para su seguridad y fines
que le sean consiguientes, ofreciendole a'
la vez mi sincero aprecio -

Dios y Libertad - Angeles Mayo
28 de 1845 -

Jose Matias Moreno

Sr. Ynt^o

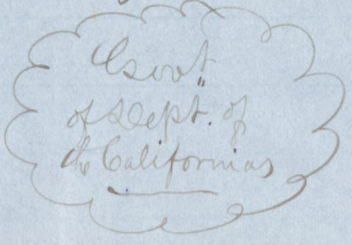
Sr. D^o Jose M^o Villavicencio -

Presente -

45 SD
PAGE 41

1908
20

Secretary's Office



"H"
Translation of
Extension

45 SD
PAGE 42

280

In answer to Your Expediente of the fourteenth of June 1844, relative to addition of land which you solicit in the place you own called "Corral de Piedra", the following Superior decree has this day been made.

Angels. May 28th 1846. Don Jose Maria Villavicencio having shown that the land called Corral de Piedra, in the Pueblo of San Luis Obispo, which was granted him by the Superior Departmental Government, in the Title dated July 2nd 1842, contains more than the two sitios de ganado mayor (two sq. leagues for grazing large cattle), which a little more or less, were granted to him, and of the whole of which he was just in possession in conformity with the map, because the boundaries were designated in the title agreeably with the same map: having ordered the necessary examinations to be made, to arrive at the knowledge of all that was necessary to be known, it resulted that there was no danger or prejudice to any other who might have a better right: therefore, having seen and considered all that ought to be seen and considered, I have determined to declare, as by this present decree I do declare legal and properly given the judicial possession of the said place "Corral de Piedra", which was verified by the proper authority on the 3rd of September 1842, in the extent which the map shows, Senor Don Jose Maria

X

Villavicencio being owned in fee.
 In consequence, Let the Secretary make out
 the testimony of this determination, let this
 document be put with the Expediente
 which proves his rights. let note be
 taken in the Book of entries, attaching
 this to the Autograph expediente, and let
 it be submitted to the approbation of the Most
 Excellent Departmental Assembly. Pio Pico,
 Constitutional Governor of the Department
 of California, thus ordered decreed and signed,
 which I certify.

45 SD
 PAGE 43

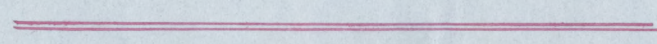
(Signed) Pio Pico
 (Ago) Jose Matias Moreno
 "Secretary ad interim"

And I enclose it to you for your security and
 the purposes you may find convenient, offer-
 ing at the same time my sincere esteem
 God and Liberty. Angeles May 28th
 1846.

(Signed) Jose Matias Moreno
 Secretary ad interim

For Don Jose M^o Villavicencio
 E. Presente

Filed in Office April 20th 1851
 Genl. Fisher Secy



Jose Maria Villavicencio }
 vs }
 The United States }
 } On the place called "Coral de
 } Piedras" containing two
 } leagues of Land, Situated
 } in San Luis Obispo County

Opinion

45 SD
 PAGE 44

This Claimant has introduced in this case a traced copy of the Expediente showing his application for the grant on the 20th of December 1840 and an order of concession or information taken by Governor Alvarado on the 2nd of February 1841. He has also given in evidence the title papers for the land issued May 14, 1841, subject to the approval of the Departmental Assembly, and the usual conditions.

The testimony of Andreas Pico shows that the Claimant first occupied the premises in 1841 with cattle and horses and sowed a part of the land, that he began to build a house the same year and has lived on it ever since. This proof is sufficient to show a compliance with the condition relative to settlement and cultivation.

The Record of Juridical possession is also introduced duly authenticated showing that the party was officially put in possession of the premises claimed September 3rd 1842.

In addition to the above documentary evidence, a copy of an order made by Governor Pio Pico on the 28th May 1844 is given in evidence in which it is stated that it had been represented by the Claimant, that the land of which he had been put in juridical possession under the grant above mentioned was found to contain more than two square leagues.

That the Governor had investigated the matter and having found that no injury would result to any one from it,

he entered his decree declaring properly given the judicial possession of said place to the extent appearing on the map, and ordered this decree to be attached to the Expediente on which the original concession was made, and to be transmitted therewith to the Departmental Assembly for approval.

The Judicial Survey, as returned in the record of it, seems fair and regular. The exterior lines of the premises measured out to the Claimant under his grant are given and the lines are certified to have been actually run. We can ascertain from the Record the quantity of land thus assigned to the Claimant, and it appears to be, as near as such a survey could make it, the quantity of two square leagues. If there was any excess over that quantity it was so inconsiderable as to deserve no consideration and to affect no rights.

Without the order intended to give the possession of the Claimant to the land thus surveyed, the case would present no difficulty in this respect. The evidence would show a judicial Survey of the land as called for in the concession, and the proper quantity set apart to the grantee, and we should find no difficulty in confirming it to the Claimant according to that survey.

This is the case as presented by the record. It will often ^{happen} that on resurveying lands with more perfect instruments and under more favorable circumstances, inaccuracies are to be found, and the quantity surveyed proves to be more than reported in the first instance.

The parties appear to have ascertained that there was such excess in this survey. The record of a juridical possession duly proved, is *prima facie* evidence of the correctness of the statements contained in it, and must be regarded as entirely accurate until the contrary be shown.

It will a slight variation impair the efficacy of such a segregation of the land as the property of the grantee under his title. Fraud or gross error might destroy the efficacy of such an act and enable the party interested to set aside the survey. But in the case before us there is no evidence of fraud or error, in fact, and the official documents show neither a corrupt design nor any gross mistake making the measurement. If the case then stood before us without the sanction to the claimant's rights contained in the Decree of May 28, 1846 we should confirm the claim agreeably to the official measurement.

That Decree, ratifying the claimant's rights, cannot have the effect to defeat his claim. It certainly cannot, unless the statement that the land comprised in the juridical measurement embraced more than two square leagues, has that effect. But the statement does not imply that there had been either the commission of a fraud, or any palpable gross error which would vitiate the assignment of the lands by the official act. The discrepancy would seem to be one arising from an error such as will often happen in surveys in a new country, and especially when the method was rude and uncertain as that which characterised these transactions in California.

The Governor acted on this representation of the Claimant that there was an excess of land included in his boundaries, and by his Decree declares that possession to be legal and properly given, with a view to a concession of all the land within the survey. This I think he had a right to do. It is not the case of a new grant of land, to be given to the grantee by metes and bounds, and the questions which might arise in case of an addition of that character to land held under a previous grant are not here presented. It is not an order for such a grant. The papers did not form a new Expediente in case of an independent grant, but were expressly ordered by a clause contained in the Decree to be made a part of the Expediente in the case of the former concession, and to go with it to the Departmental Assembly. At that time the Claimant had acquired no legal title to his land. His grant had not then received the sanction of the Departmental Assembly. It had still to have the approval of that body or the Supreme Executive of Mexico to be valid, and it was also still within the control of the Governor to refuse to complete the grant of the fee. If in truth a mistake was found in giving the juridical survey of the land, by which a larger quantity was embraced in the measurement than was contemplated by the conditional title papers, I have no doubt of the power of the Governor, to take the initiative by an order to embrace the whole within the concession. By adding the documents containing

the proceedings for this purpose to the Espe-
diente, the whole proposition would be
sent to the Departmental Assembly for their
approval. If they approved the whole
would form but a single grant, the evidence
of which might be issued by the Governor
to the grantee with the boundaries specified
according to the measurement and if it was
competent for the Governor thus to act, and
a reasonable expectation existed that the
Assembly would ratify, the concession
on his part must be regarded by us
as an inceptive, the incomplete title to
the entire premises, which may be con-
firmed as an equitable right by this
Commission.

300
Neither the papers in the case of the orig-
inal application for the grant nor the pro-
ceedings in reference to the concession of
all the lands embraced within the juridical
measurement were even presented, so far as
we know, to the Departmental Assembly for
approval. All remained at the time of the
cession of the Country, inchoate and incomplete.

We see nothing in the case to raise a doubt
that the Departmental Assembly would have
approved the whole claim according to the views
of the Governor, as expressed in his two de-
crees, if the case had been laid before them.

In this case a petition of intervention was
filed by Francisco Branch on the 21st Decem-
ber 1882, alleging that he had purchased
of Villavicencio two several tracts of lands
within the boundaries of this grant, and
praying that his claim of intervention in
the case may be allowed and that the tracts
of land described in the conveyances from
the Claimant to him may be confirmed.
I have no hesitancy in saying that a

claimant, who denies a confirmation of land, ~~who denies a confirmation of land~~, to which he claims title must file his original petition for that purpose, and cannot with propriety ^{intervene} under the claim of another in order to obtain a confirmation to himself.

The inconveniences of such a rule of practice, and the evident departure of such a proceeding from the course contemplated by the provisions of the Land which provided for the investigation of these land titles before this Commission has caused this practice to be abandoned by the common consent of all parties, who participate in these investigations.

Whatever right Mr Branch may have in the premises in question, he could not then prosecute them, by filing a petition for intervention in the case, but should proceed in the ordinary manner, by original petition, to obtain a confirmation.

Two Deeds were presented by him on the hearing of the case which were submitted subject to the question of the right of the intervenor thus to seek a confirmation to himself. As the opinion of the Commission is adverse to such a claim, the testimony was inadmissible and cannot be regarded as in the case.

The claimant is entitled to a confirmation.

Jose Maria Villaricens
vs
The United States

Decree of Confirmation

In this case on hearing the proof, and

45 SD
PAGE 49

280

5408
30

allegations it is ad^{ud}ged by the Commission that the said claim of the petitioners is valid and it is therefore hereby decreed that the same be confirmed.

The lands of which confirmation is hereby made are called by the name of "Corral de Piedra" being situated in San Luis Obispo County and the same on which said claimant resides; and bounded and described as follows, to wit: Beginning at a point in the boundary with Don Jose Ortega, in the Arroyo Grande, at the place designated by the name of "Paso de Tripoma" thence running up the plain of the Arroyo in an easterly direction seven thousand five hundred varas to the foot of the Sierra and narrow pass of the hills to a stake placed as a boundary - Thence half way up the slope of said Sierra northwest ten thousand varas to a point in the boundaries with the establishment of San Luis Obispo which place is marked by a cenito situated in the plain - Thence from said Cenito southwardly to the wooded hills and grove of oaks, and going back from the same cenito to the foot of the high Sierra below the pines to a stake driven as a boundary, both of said lines together being seven thousand and five hundred varas - Thence along the ridge boundary with the place known as the place of Don Jose Ortega ten thousand varas to the place of beginning, containing two square leagues of land be the same more or less. Reference for further description of said premises to be had to the testimonial of Juridical Survey and the map attached thereto which are on

45 SD
PAGE 50

300

57

file in this case.

Alphens Delebo }
R. Aug. Thompson }
Thompson Campbell }

Commissioner

Filed in Office Nov 18. 1883.

Chas. Fisher
Secy

45 SD
PAGE 51



Office of the Board of Commissioners,

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

45 SD
PAGE 52

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
going *fifty* pages, numbered from
50, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
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. 190 on the Docket of the said Board,
in favor of *Jose Maria Villavicencio* is

Claimant against the United States, for the place known by
name of "*Corral de Piara*,"

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-ninth.

Geo. Fisher



45
U. S. DISTRICT COURT,
Southern District of California.

No. ~~45~~ *45*. Docket

THE UNITED STATES, *aplt.*

vs.

45
José María Villavicencio
In Corral de Piedra
2 Sq. Leagues in San Luis Obispo Co.

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *190*

Rec^d *25 Aug. 1854*
Filed, *26 Aug. 1854*

A. S. Taylor
Dr. Bell

45

No. 190



45
Office of the Attorney General of the United States,

Washington, 26th October 1854.

45 SD
PAGE 53

José Maria Villavicencio

vs.

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 26th day of July 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Anthony

Attorney General.

No. 45.
U.S. District Court
Southern District of California

~~No. 45.~~

Jose Maria Villavicencio, Applee.

^{vs}
The United States, App't.

No. 190.

Notice of Appeal

Filed Dec 5th 1834.

J. S. Farley
clk.

45.

Office of the Attorney General of the United States,

Washington, 26th October 1854.

45 SD
PAGE Dup.

José Maria Villavicencio

vs.

The United States.

} 190.

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 26th day of July 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cantling

Attorney General.

Dec 5. 1854

175

190.

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

Jose Maria Villavicencio
adv. No. 191.
The United States

To the Honorable Isaac S. K. Ogier Judge of
the District Court of the United States for the
Southern District of California.

The petitioner of Pacificus Ord (of Monterey 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 20th day
of April AD 1852, Jose Maria Villavicencio pre-
sented a petition to the Commissioners to ascertain
and settle the private land claims in the State of
California, claiming the tract of land called
"Corral de Piedra," containing two square leagues,
more or less, in the words and figures following,
to wit, "The petitioner, Jose Maria Villavicencio,
respectfully shows; That on the 20th day of Decem-
ber AD 1840, he applied through the proper author-
ities for the tract of land called "Corral de Piedra"

45 SD
PAGE 55

which is shown by the Expediente, a copy of which
 is submitted herewith marked "A", with a trans-
 lation marked "B"; That on the 14th day of May
 AD 1841, Juan B Alvarado, Governor of California,
 by virtue of authority in him vested, granted to the
 petitioner the said tract of land, situate in the pres-
 ent County of San Luis Obispo, with the boundaries,
 specified in the grant and accompanying map, but
 specifying its extent to be two square leagues a little
 more or less; a copy of which grant and map is
 submitted herewith marked "C" with a translation
 marked "D". That on the 2^d day of September A.D.,
 1842, the said tract of land was duly surveyed
 and the Juridical possession of it given to the petitioner,
 a copy of which act is submitted herewith marked "E",
 with a translation marked "F". That finding his
 Juridical possession to contain more land than that
 specified in the title, he petitioned to the Governor
 for an extension of his title, and that accordingly
 Pio Pico, Governor of California, by virtue of authority
 in him vested, on the 28th day of May A.D. 1846, extend-
 ed the title of the petition to include all the land
 included in his map and Juridical possession; a
 copy of which grant of extension is submitted here-
 with, marked "G" with a translation marked "H".
 And the petitioner further shows that the said tract
 of land has not been surveyed by the Surveyor General
 of the United States but that it was duly surveyed

45 SD
 PAGE 56

"at the time of giving the Juridical possession of it,
"and its boundaries marked out; That the petitioner
"has been since the year 1840, and now is, with those
"holding under him in the quiet, peaceful and
"undisputed possession and occupation of the said
"tract of land; That he knows of no conflicting claim.
"That he relies for confirmation of title upon the
"original papers, copies of which are submitted here-
"with; upon the minutes and records in the Archives
"now under the charge of the Surveyor General of the
"United States, and upon such other and further
"proofs as he may be advised are necessary. Where-
"fore he prays the Commissioners to confirm to him
"the said tract of land."

Your petitioner further represents that thereafter,
to wit; on the 15th day of November AD 1853, the said
Commissioners confirmed by final decree the said
claim of the said Jose Maria Villavicencio, in the
words and figures following, to wit. "Jose Maria
Villavicencio vs The United States. In the case on
"hearing the proofs and allegations it is adjudged
"by the Commission that the said claim of the pe-
"titioner is valid and it is therefore hereby decreed
"that the same be confirmed. The lands of which
"confirmation is hereby made are called by the name
"of "Cerro de Piedra" being situated in San Luis
"Obispo County and the same on which said claimant
"resides; and bounded and described as follows, to wit;

"Beginning at a point in the boundary with Don
 "Jose Ortega, in the Arroyo Grande, at the place de-
 "signated by the name of "Paso de Nipoma" thence
 "running up the plain of the Arroyo in an Easterly
 "direction seven thousand five hundred varas to
 "the foot of the Sierra and narrow pass of the hills
 "to a stake placed as a boundary. Thence half way
 "up the slope of said Sierra Northwest ten thousand
 "varas to a point in the boundaries with the estab-
 "lishment of San Luis Obispo which place is
 "marked by a Cerro situated in the plain, thence
 "from said Cerro Southwardly to the wooded hills
 "and grove of oaks, and going back from the same
 "Cerro to the foot of the high Sierra below the
 "pines to a stake driven as a boundary, both of
 "said lines together being seven thousand and
 "five hundred varas, thence along the ridge bound-
 "dary with the place known as the place of Don
 "Jose Ortega ten thousand varas to the place of
 "beginning, containing two square leagues of
 "land be the same more or less. Reference for
 "further description of said premises to be had
 "to the testimonial of Juridical survey and the
 "map attached thereto which are on file in this case."

"Alpheus Felch

"R. Aug. Thompson } Commissioners"

"Thompson Campbell }"

Filed in Office Nov 15. 1853. Geo Fisher Secy.

45 SD
PAGE 58

That thereafter, to-wit, on the 26th day of August AD 1854 a duly certified transcript of the said decree and proceedings, and the papers and evidence 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 District of California and marked N^o 190, reference to which it is prayed may be had and made a part of this petition.

That on the 26th day of July - AD 1854, the Honorable 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 (N^o 190) and the papers and evidence on which said decree was founded.

That thereafter, to-wit, on the 5th day of December AD 1854, the said Attorney General of the United States, filed, or caused to be filed, on behalf of the United States a notice with the said Clerk of said District Court for the Southern District of California, that the Appeal in said Cause of Jose Maria Villavicencio 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.

6

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 on 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.

1. That the said Jose Maria Villavicencio shows no valid title to the said land claimed by him as aforesaid. And it is denied that he has any.
2. That the said alleged grant of Governor Alvarado was made in violation of the 4th Article of the Colonization Law of Mexico of the 18th of August AD 1824, in this; that the land granted, as alleged by Claimant was and is within ten leagues of the Sea Coast. And there is no evidence by Claimant, that the Supreme General Executive power of Mexico previously approved of the colonization of the lands of California, within ten leagues of the Sea Coast. And it is denied that such previous Consent of said Supreme general Executive power of Mexico in such case was ever had.
3. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied by, and in the possession of the Indians of California;

and particularly by the Mission of San Luis Obispo, with valuable improvements thereon, and could not therefore be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the law of Mexico of the 18th of August AD 1824, and the regulations for the colonization of the Territories of Mexico, of the 21st of November AD 1828.

5. That there is no evidence that the documents in said transcript purporting to be copies of the petition of Jose Maria Villavicencio, dated the 30th of December AD 1840; and the report thereon of Jose F. Leastro dated the 14th of February AD 1841; and the decree of Alvarado, dated the 27th of February AD 1841, granting the land to said Villavicencio which he petitioned for; and the certificate of Manuel Jimeno, that the said ~~xxx~~ documents are faithful copies of the originals existing in the Secretarys Office of the Government, under his charge, dated the 2^d of July AD 1842; and that the map with the certificate of said Manuel Jimeno is a true copy of the original which exists in the Secretarys Office under his charge, are true and correct copies of the original documents, on file in the Office and in the possession of the United States Surveyor General for California. And it is denied that there are any such original documents on file in the Office and in the possession of said Surveyor General, and it is also denied that said documents,

45 SD

PAGE 61

purporting to be Copies of original documents, are true Copies of original documents or expedientes, on file in said Office.

6. That the document shown, purporting to be a title of Governor Juan B. Alvarado for the said land to said claimant, dated the 14th of May AD 1841, has not the signature of the Secretary. That the said alleged title does not describe the land claimed with sufficient certainty to identify the same. And it is vague and indefinite.

7. That there is no evidence that said alleged grant of said Governor of said date was ever approved by the Departmental Assembly of California. And it is denied that it was ever approved by said Assembly.

8. That no definitive grant for said land is shown by said Claimant. And it is denied that he ever received a definitive grant for said land.

9. That the alleged act of Juridical possession and Survey by D. Mariano Bonilla Justice of the Peace of San Luis Obispo, dated September the 3^o AD 1842, was not made according to the said alleged grant and Map of said date, nor according to the Ordinance or law. That it is vague, indefinite and void for uncertainty.

10. That there is no evidence that the said D. Mariano Bonilla was on the 3^o of September AD 1842, a Justice of the Peace of San Luis Obispo, with lawful authority

45 SD
PAGE 62

WWE
85

to make said act of Juridical survey and possession of said land. And it is denied that he was Justice of the Peace on the 3^d of September AD 1842, and had lawful authority to make said act of Juridical survey and possession of said land.

11. That the document shown, purporting to be a copy of an order of Governor Pio Pico, dated the 28th of May AD 1846, is not shown to be authentic. And its authenticity is denied. That said Pio Pico had no lawful authority to make such an order. That it was never approved by the Departmental Assembly of California. That it refers to a grant of land of the Superior Departmental Government, in favor of said Claimant, of the date of the 12th of July AD 1842, which is not shown by claimant. That it is vague and indefinite.

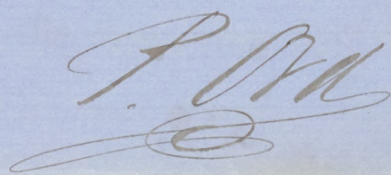
12. That there is no evidence that the said Claimant built a house on the said land within one year from the date of the said alleged grant, and that it was occupied. And it is denied that he built a house on the said land, within one year from the date of the said grant, and that it was occupied.

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

110

petition, ought to have been dismissed and said claim rejected by said Commissioners upon the grounds aforesaid.

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 the laws and Statutes in such case made and provided, prays that the said Jose Maria Villavicencio, or his Attorney, 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 Jose Maria Villavicencio for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid. And all such other orders, Judgments or decrees as may be just. With costs, and general relief.



-Attorney of the United States
for the Southern Dist of Cal^a.

45 SD
PAGE 64

45. N^o 45.

(N^o 190. Enunciado)

José María Villavicencio app^{te}.

ade.

The United States app^{ts}.

Petition of all the MS for
Review &c.

Filed Jan^y 5th 1855.

J. E. Carr
clerk

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

TO

The President of the United States,

45 SD
PAGE 66

Jose Maria Villavicencio, App'ee

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 *Fifth* day of *January* 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 U.S. Commissioner to ascertain and settle the private land claims in the State of California, of the claim of Jose Maria Villavicencio, in the County of San Luis Obispo, California for a tract of land called "Corral de Piedra," to the extent of about two square leagues; which said claim was presented by you, to said Commissioner, on or about the 20th day of April A.D. 1852, and by them confirmed on or about the 15th day of November 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 Diago 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 *twentieth* day of *February* in the year of our Lord one thousand eight hundred and fifty-five at Los Angeles aforesaid.

J. C. Carr
Clerk.

No. 45
P. D. April 2 1855

Marshal Cost
having
actual expenses \$100.00

United States of America,
Southern District of California,
U. S. DISTRICT COURT.

For Maria Villaverde,
Appel.
ad 190.
The United States,
Appel.

SUMMONS.
Return February 21st 1853
Edward Hunter
U. S. Marshal

I served this summons along with the proper copy of the petition upon
Return this summons not served after due
search I believe the Appellee is dead
and not to be found in this district
this April 2 1855

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

Sworn to and subscribed before me, this 2^d
day of April 1855. J. E. Jam. Clerk.

Edward Hunter
U. S. Marshal.

Thos. A. Mays
Deputy

The United States, Appellant } In the United States
by } District-Court for
José Maria Villavicencio } the Southern Dis-
Appellant. } trict of California.

Docket No 45. Land Commission No 190

Claim for "Corral de Piedra"

45 SD
PAGE 68

And now comes the above-named Appellee, José M^o Villavicencio, by J. R. Scott, his Attorney, and for answer to the Petition for Review filed in this case by the Appellant, says,

That on the 14th day of May, A. D. 1841, Judge B. Alvarado, then Constitutional and acting Governor of Upper California, and duly authorized by law to make such grant, by his deed of grant of that date, duly executed according to law, did grant and convey unto this Appellee, unto a tract of land known as "Corral de Piedra", the same containing two square leagues, a little more or less.

And that on the 3^d day of September, A. D. 1842, said lands of "Corral de Piedra" were duly measured and judicial possession thereof given to this Appellee by the competent judicial authorities of the district wherein said lands were situate.

And that on the 20th day of April, A. D. 1852, this Appellee filed before the United States Board of Land Commissioners to ascertain and settle the private

45 SD
PAGE 68

land claims in California, his Petition, setting forth his title to said lands of "Corral de Piedra", and praying said Board for a confirmation thereof, and this Appellee also filed before said Board certain documentary evidence and depositions of witnesses, ~~as well as~~ in support of his said title, all of which Petition, documentary evidence and depositions of witnesses, as well as the subsequent proceedings of said Commissioners in the matter are contained in the Transcript now on file in the office of the Clerk of this Court, to the whole of which this Appellee refers and makes part of this his answer.

And this Appellee further states that on the 15th day of November, A.D. 1853 the said Board of Commissioners, after hearing the Petition and proofs of this Appellee, by their decree of that date confirmed said lands to this Appellee.

Whereby this Appellee avers that he has become and is lawfully seized in fee simple of said lands, as he avers that he has, from the date of the above mentioned grant to the present time done, performed and fulfilled all things and conditions necessary by law for him to do, perform and fulfil, to perfect his title to said lands, particularly by an act of the Congress of the United States, entitled "an act to ascertain and settle the private land claims in the State of California", approved March 3, 1857.

And this Appellee further states that said lands are situate in the present counties of Santa Clara and Pinal, and

San Luis Obispo, and within the jurisdiction of this Honorable Court, and for further answer to the Petition for Review filed in this case by the Appellant, this Appellee denies all and singular, each and every allegation therein contained, except what is admitted in this his answer, and he denies that there is anything in said Petition contained either in law or in fact, to estop or prevent this Honorable Court from affirming the said decree of the said Board of Land Commissioners, and confirming to this Appellee his title to the lands in this case.

Therefore this Appellee prays the judgment of this Honorable Court that the decree of the said Commissioners may be affirmed, and that his title to the said lands of "Corral de Piedra" may be confirmed, and that he may be dismissed hence with costs, and may have such other and further relief as shall be agreeable to equity and good conscience and the nature of his case shall require.

J. A. Scott

Attorney for Appellee

I served this answer on Ford U.S. District
Atty in the Southern District of Cal
by delivering to him in person a certified
copy hereof this Aug 15th 1855

Edward Hunter
U.S. Marshal.

Sworn to and subscribed
before me, this 16th day
of Aug 1855.

J. E. Carr
Clerk.

Case No. 45.

The United States,
Appellant

vs

Don Maria Villavicencio
Appellee.

Answer of Appellee.

The clerk will please serve District
Attorney with copy hereof.

Filed April 11th 1855

J. E. Carr
Clerk.

45 SD

PAGE

71

L. R. Scott,
Attorney for Appellee

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

José Maria Villavicencio
advs.

The United States,

N. 45,

(Transcript N. 190)

Corral de Piedra.

45 SD
PAGE 72

To José Maria Villavicencio
or his Attorney.

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

In Angeles,

October 11th 1835.

J. P. O. D.
District Atty.

FILED
1835

N. 45.

Maria Villaverde

vs

The U.S. States

Return of hearing by
U.S. States.

Filed Oct 11th 1855.

J. S. Jones
Clerk.

45 SD
PAGE 73

J. D. Adams, Clerk

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

45 SD
PAGE 74

Jose Maria Truavicensis } Case N^o. 45.
Appellee, }
as } Transcript 190.
The United States } "Corral de Piedra"
Appellants. }

Translation of Certificate to Map, See
Transcript page 17.

Seal.

He who subscribes,
Secretary of the Govern-
ment of the Department
of the Californias,
Certifies that the map
which is shown on the re-
verse, is a copy of the original which is in
existence in the Secretary's Office of my
charge.

Monterey, July 21st 1842.

Man^l Jimeno.

The present certificate is issued
on common paper for want of stamped.

Jimeno.

N^o 45.

U. States Dist. Court, Southern
District of California.

José Maria Villavicencio
Appellee,

vs.

The United States,
Appellant.

Translation of Certifi-
cate to Map.

Filed Oct^r 19th 1835.

D. E. Canclks
By W. Russell Dep^y

45 SD
PAGE 75

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

No. 45.

The United States, Appellant

vs.
Jose Maria Villavicencio, Appellee

Claim for "Corral de
Licora"

And now on this day of

A.D. 1855, the parties appear in Court, the Appellant
appearing by P. Ord, United States District-Attorney for the
Southern District of California, and the Appellee appearing
by their attorney J. R. Scott, and on the motion of the ap-
pellee's attorney it is ordered that either party may take
such further testimony as they shall wish in the above
entitled cause.

45 SD
PAGE 76

Case No 45 -

The United States, Appellant,
vs
Jose M^{te} Villavicencio, Appellee

Leave to take further testimony

Filed.

45 SD
PAGE 77

"Corral de Piedra"

of the medical possession.

This I think I am competent for him to do. I will not at this time give my views at length upon the point contained in the case; but will at some future time during the session of the Court give an opinion in this case on the point.

The evidence in the record shows a substantial compliance with the conditions of the grant.

An objection was filed in this case by Francis Henshaw alleging that he had become the purchaser of part of the land and asking that he might be confirmed therein, he has filed this objection when the Court is sitting.

I agree with the opinion expressed by the Commission that an objection at that stage of proceedings was not the proper ^{way} means for Henshaw to assert his rights ~~and~~ but I will explain my views more fully on this subject in an opinion which I propose to file in this case hereafter. I am satisfied that a confirmation of Henshaw's title will in no way prejudice the rights of his assignee, therefore a decree will be entered confirming affirming the decision of the Commission and confirming the claim to the extent of the portion the boundaries described in the map and the act of medical possession.

The United States appellant }
vs }
Jose Maria Villavicencio. appellee }

45 SD
PAGE 79

The claim in this case is based upon a grant from Governor Alencastro to Jose Maria Villavicencio, of the place called "Canal de Medina," within certain definite boundaries indicated in the map, & in the grant, the quantity of land granted is limited by the grant to two leagues, the surplus being reserved — Judicial possession was given of the land, and an excess was captured there in, the genuineness of the grant & from Alencastro & the act of judicial possession was fully by evidence in the records. It appears that after the possession was given the tract was found to contain more than quantity expressed in the grant, and that the grantee notified the Government of the fact and asked that his title to the ^{whole} tract as measured to him by the officer giving the possession might be confirmed to him. Pico who was then Governor instituted an investigation, from which it appears that the surplus belonged to the grantee as of vacant land and that it would require no one to extend the grant to the whole quantity, accordingly on the 28th of May 1846, he issued a decree extending the ~~the~~ grant made by Alencastro to all the land contained within the lines

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

Jose Maria Villavicencio

Appellee

vs

The United States

Appellant.

Case No. 45.

Transcript 190.

"Corral de Piedra"

45 SD
PAGE 80

No.	Page	Description
1.	3.4.	Petition to Commission
2.	4.5.	Deposition of Pablo de la Guerra
3.	5.6.	Deposition of Andres Pico.
4.	6.7.	Petition of Intervention
5.	8.9.10	Translation of Deed of Villa to Branch, "No. 2"
6.	10.11.12	Deed, Villa to Branch "No 3"
7.	13.14.	Petition of Villavicencio to Prefect of 1st District
1	14.15.	
8.	14.15.	
		Note of Prefect to Governor, accompa- nying Petition
9.	15.16	Decree of Grant by Gov. Alvarado.
10.	16	Certificate of Sec ^{ry} Jimeno to above.
11.	17	Certificate of Sec ^{ry} Jimeno to Map
12.		Map.
13.	18, 19.	Translation of Petition No. 7.
14.	19.	do. Note - 8.
15.	19, 20.	do. Decree - 9.
#		"No 5" annexed to de la Guerra., contain ^g
16.	22. c 24.	Title from Gov ^o Alvarado.
17.	24.	Order to Record in Prefecture.
18.	24 c 30.	Proceedings of Jud. Possession.
19.	31. 32	Translation of Title - No 16.
20.	32	do " Order - 17.
21.	33 c 37	do " Jud. Possession - 18.

No.	Page	
22	38 40 41 42	Letter of Sec ^y Moreno to Claimt with Decree of Governor Dico.
23.	41.42	Translation of Letter No 22.
24.	43 & 48	Opinion
25.	49.50	Decree of Confirmation

Case 45,
 U. S. Dist. Court -
 Southern District of
 California.

Jose M^a Villavicencio
 & others
 vs
 The United States
 & Applicant.

Order of Court

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

Doro Maria Villavicencio } Case N^o 45.
Appellee, }
vs }
The United States } "Corral de Piedra"
Appellants. }

45 SD
PAGE 82

This cause coming on to be heard
on appeal from the final decision of the
United States Board of Land Commission-
ers to ascertain and settle the private land
claims in the State of California, under an
Act of Congress, approved March 3^d, 1851, on a
Transcript of the proceedings and decision of
said Board and of the papers and evidences
upon which said decision was founded;
and it appearing to the Court that said Tran-
script has been duly filed, according to law,
and Counsel for the respective parties ha-
ving been heard;

It is ordered, adjudged, and decreed,
that the said decision of the said Board be,
and the same hereby is, ~~in all things af-~~
firmed; and it is further adjudged and
decreed that the claim of the above named
Appellee is good and valid, and that the
same be confirmed to him to the extent of
and within the boundaries described in
the Act of Judicial Possession, and in the
Map referred to in the Grant.

Case No. 45

E. J. Ditt Court Fourth
Dist of California

José de Villavicencio
Abuelo

ad
The United States
Abolvent.

Deene of Confirmation

45 SD
PAGE 83

Filed January 10th 1858.
P. E. Carr
Clerk

Recorded on Page 188 & 58

J. E. Scott

James P. Ogden
U. S. Dist Judge



IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles, December Term, 1855.

45 SD

PAGE 84

Don Maria Villavicencio

.....
APPELLEE,
VS.
UNITED STATES,
APPELLANT.

No. 45.

(No. 190. 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 3^d day of *December* A. D. 1855.

P. Ord
Dist. Ct.

No. 45.

W. S. Duffout
Scriba Dnt of California

Amalia Villacencia
appellee

ad
The United States
appellants

Notice of Appeal S. C.
Filed March 7 1876
C. E. Cancon
By Octaviano Lopez

California Land Claims.

Attorney General's Office

25 September 1856.

45 SD
PAGE 86

Sir:

In the case of the claim of Jose Maria Villavicencio, confirmed to the claimant by the Commission, Case no. one hundred and ninety (190), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Cushing

Pacificus Ord Esq

U. S. Attorney

Los Angeles,

LV

45

Jose Maria Villaricencio

190

Filed 24th February 1857

C. Sims clk
J. W. Coleman
Depy

45 SD

PAGE 87

Recd No. 4 1856

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

45 SD

PAGE 88

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

confirmed to J. M. Villavicencio has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the 25th day of March, 1861; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the Santa Barbara Gazette, published in the County of Santa Barbara, State of California, being the newspaper published nearest to where the said Rancho is located, the first publication being on the 18th day of April, 1861; and the last, on the 1st day of May, 1861; also, in the Los Angeles Star, a newspaper published in the City and County of Los Angeles, State aforesaid, the first publication being on the 27th day of April, 1861, and the last on the 18th day of May, 1861, a notice that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

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 31st day of May, 1861

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

I certify the above and foregoing to be a full true and correct copy of the original certificate of advertisement, as the same appears of record in this office.
Witness my hand and official seal at San Francisco, this 6th day of August, 1866.

L. P. Johnson
U. S. Sur. General.

N^o 45

U. S. Dist Court
South Dist Cal

J. M. Williamson
United States

Certif of Service

Filed Aug 9, 1866

J. Whelan Clk