

CASE No.

62

SOUTHERN DISTRICT

POTRERO DE LA MISSION VIEJO DE SAN GABRIEL GRANT

ANTONIA VALENZUELA, ET AL
CLAIMANT

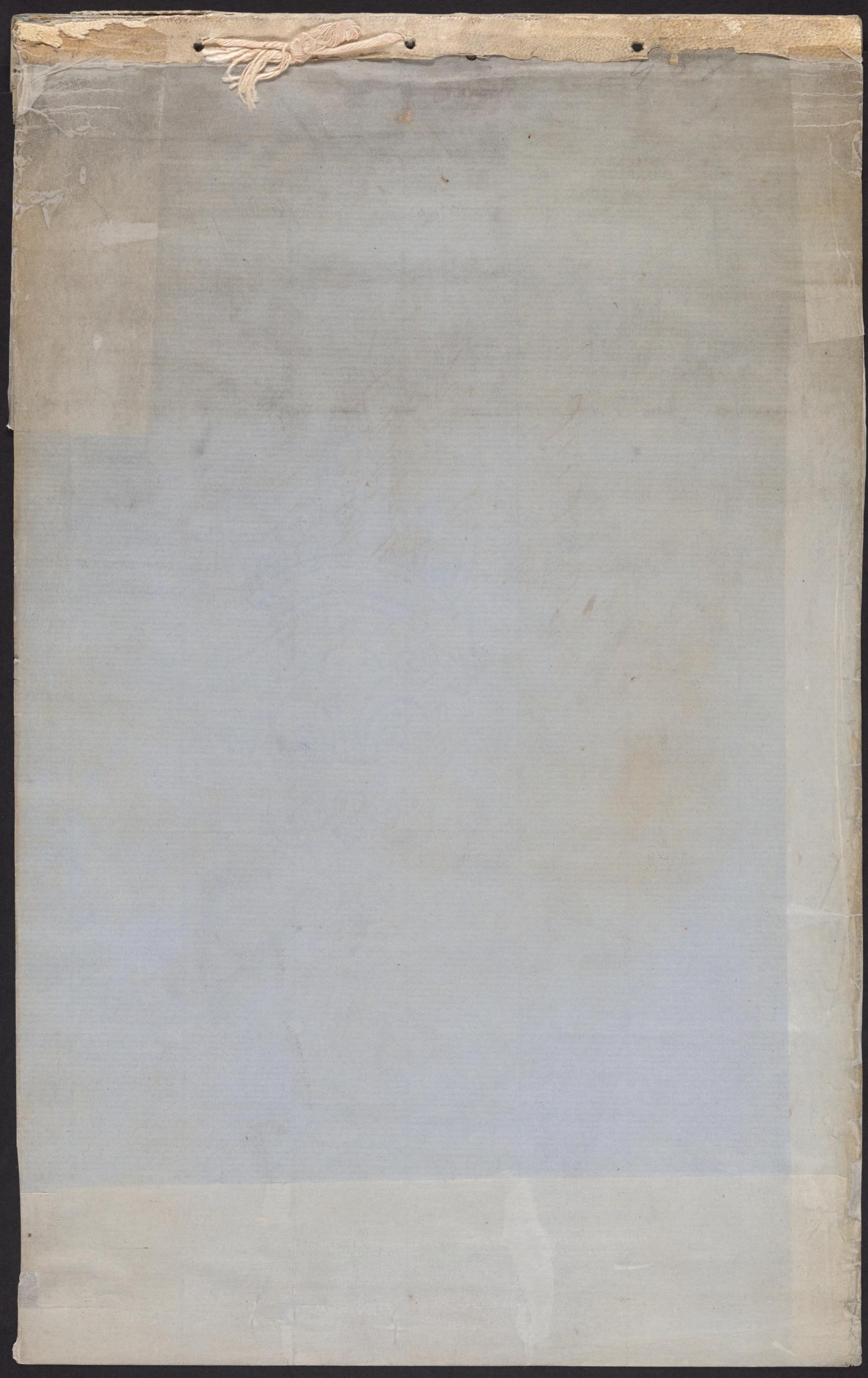
March 1881

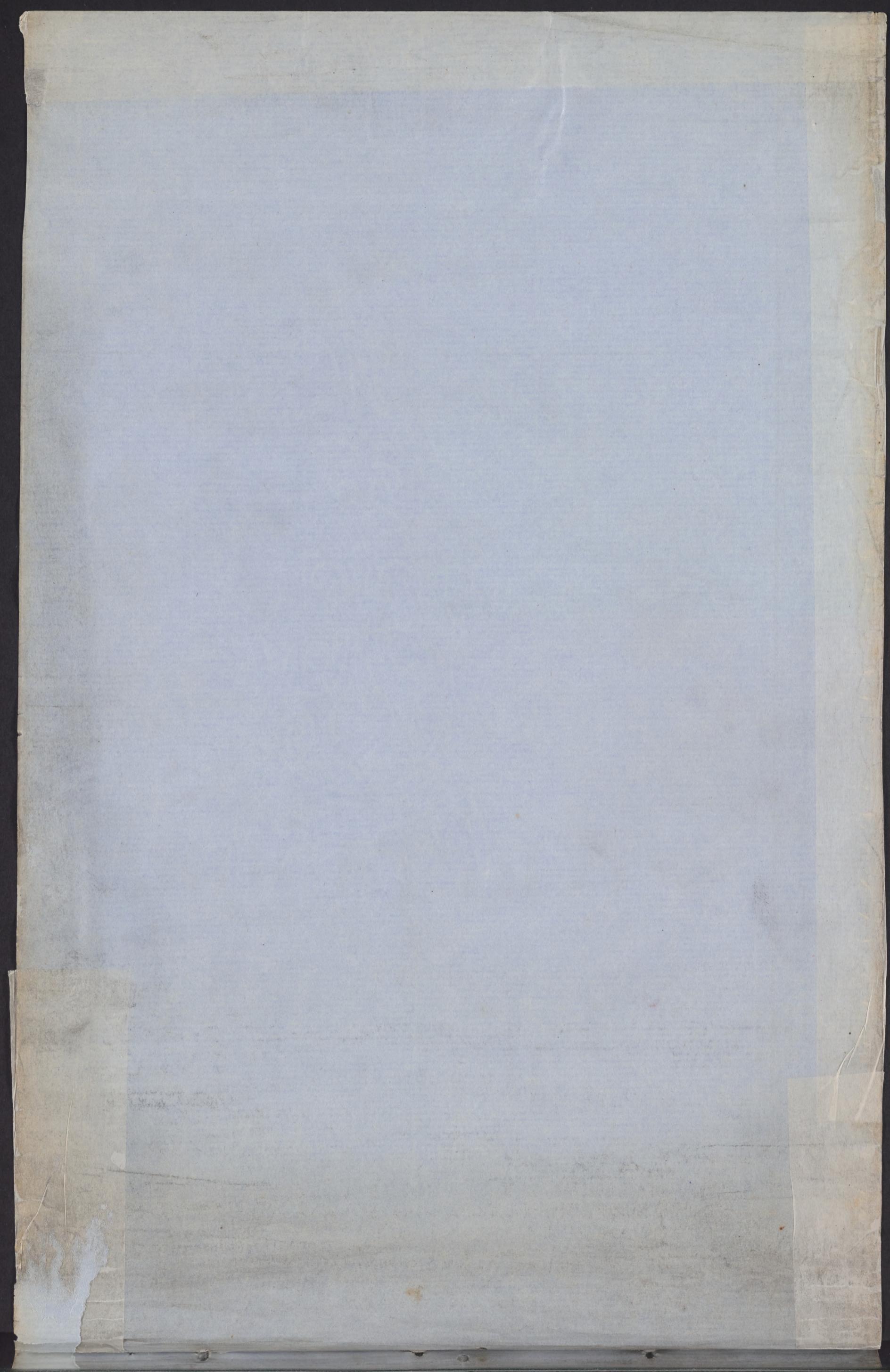
SD

FEB 17 1963

5/16/83-Adaha

Permanence
PLOVER BOND
25% COTTON FIBER
U.S.A.





TRANSCRIPT

62 SD
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO.

408

Antonia Valenzuela, et al,

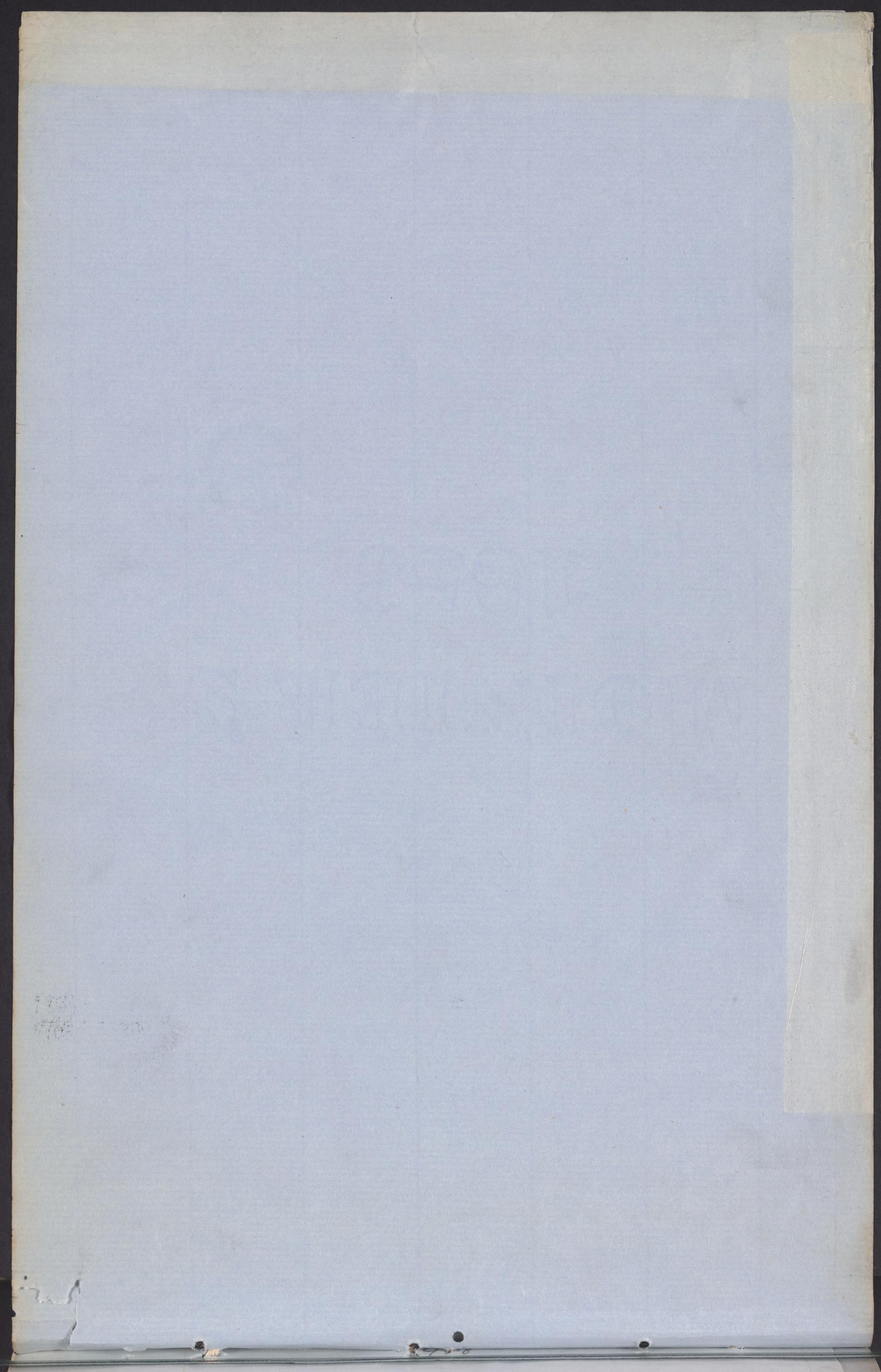
CLAIMANT S.

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Petroero de la Mision Vieja de San Gabriel"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this *23^d day of October*, Anno Domini One Thousand Eight Hundred and Fifty-*Two*, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of *Antonia Balenzuela et al;* for the Place named "*Potero de la Misión Vieja de San Gabriel*" was presented, and ordered to be filed and docketed with No. *408* 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 Oct. 25th 1852.

In Case no. *408* *Antonia Balenzuela et al;* for the place named "*Potero de la Misión Vieja de San Gabriel*" the deposition of *Manuel Reguera*, a witness in behalf of the Claimant, with documents marked *A. N. no 1* and translation thereof marked *B annexed* thereto, was filed.

(Vide page *4* of this Transcript)

Los Angeles Nov. 3rd 1852.

In the same case the deposition of *Bernardino Guirado*, a witness in behalf of the Claimant taken before Commissioner *Nelanda Wall* was filed.

(Vide page *6* of this Transcript)

2

San Francisco Aug. 29' 1853.
Case no. 2108 called; The counsel for the
claimants read the Evidence; argued,
submitted and taken under advisement.

San Francisco Dec. 13' 1853.

In the same case Commissioner Alpheus
Sitch delivered the opinion of the Board
concerning the claim.

(See page 21 of this Transcript)

62 SD
PAGE 3

1853

SD

3

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

Petition.

Your Petitioners; Antonio Valensuela and Juan Alvieta of Mission Viejo, Los Angeles County State of California; respectfully represent to your Honorable body that they claim a certain tract of Land called "Potrero de la Mission Vieja de San Gabriel" being 1000 varas by 500 in extent situated in the State and County aforesaid: that they claim the same in fee by virtue of a grant made to them under the authority of the Mexican Government by Manuel Micheltrera, then Governor of the Department of the Californias bearing date of the 9th of November AD 1844 and not to the knowledge of the Claimants ever having been presented for approval by the Departmental Assembly,

Your Petitioners would further represent that judicial possession of said tract was given them on the 16th day of December 1844 by which the Judge not being able to give 500 varas in length he received 1200 by 450 varas and that the boundaries were designated and defined: and that they have been in peaceable possession of it ever since, in conformity with the provisions of the grant and also that there has been nor is there any interfering claimant,

Your petitioners present herewith the original grant and translation,

Your petitioners pray your honorable Board to take into consideration their claim and to decree their title

62 SD
PAGE 4

to be valid and to confirm the same.

And your petitioners will ever pray.

Henry Hancock
Atty for Claimants

Filed in Office Oct 23^d 1852.

Geo Fisher
Secy

62 SD
PAGE 5

Deposition of
Manuel Requena,

Los Angeles Oct 25th 1852.

On this day before Commissioner Heiland
Hall came Manuel Requena, a witness
in behalf of the claimants Antonio Bal-
ensuela et al, petition No 408 and was
duly sworn his evidences being interpreted
by the Secretary.

The Associate Law Agent was present.

In answer to questions by counsel for
the Claimant the witness testified as follows:

My name is Manuel Requena, my age
fifty one years & I reside in the City of Los
Angeles.

A paper is now shown me purporting
to be a petition for judicial possession, a
grant from Manuel Micheltorena to Antonio
Balensuela & Juan Melvite dated 9th Nov
1844 with proceedings of judicial posses-
sion.

I am acquainted with the hand writing
and signatures of Manuel Micheltorena and

5

Manuel Jimeno - Their signatures attached to the grant I believe to be genuine - There was a petition for judicial possession shown by said paper & it was given as stated in the official copy of the proceedings which in said paper follows the grant. I was Alcalde and gave the judicial possession & my genuine signature is attached to said official copy.

62 SD
PAGE 6

The grant called for a tract of land one thousand varas long by five hundred varas in breadth. The land by actual measurement turned out to be twelve hundred varas long by four hundred and fifty in width, & I gave the possession accordingly. The reason we did not measure five hundred varas from the place we first began at, was that the Missionary Priests and the other adjoining neighbors, when we had come to the dry ditch four hundred & fifty varas from the starting point said & agreed that we had reached the boundary of the Mission & that we could not go further. We measured the tract twelve hundred varas in length because owing to that distance we came to what appeared to be the natural boundary of the "Potrero" petitioned for and intended to be granted & to which all present agreed - Said paper is here annexed and marked No. 1 H. H.

Manuel Reguera x

Sworn & subscribed

before me

Richard Hall

Comr

Filed in Office Oct 25th 1853

Geo Fisher Secy

6
Deposition of
Bernardino
Guirado-

4
1106
Los Angeles Nov 30 1852.

On this day before Court Neiland Hall came Bernardino Guirado a witness on behalf of the claimants Antonio Balenzuela and petition No 408 and was duly sworn, his evidence being interpreted by the Secretary.

The U. S. Associate Law Agent was present.

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

My name Bernardino Guirado, my age is forty four years & I reside in the county of Los Angeles.

I am acquainted with the hand writing & signatures of Ignacio Coronel, Manuel Micheltorena, Manuel Jimeno, Manuel Requena & Casildo Aguilar.

A paper is now shown me purporting to be a grant to Antonio Balenzuela and Juan Albritre dated 9th November 1844, to which is attached a testimonial of judicial possession, said paper is marked H H No 1. & annexed to the deposition of Manuel Requena in this case. The signatures of the said several persons appearing on said paper I believe to be genuine. My own genuine signature also appears on said paper.

I am acquainted with the Rancho called the Potrero de la Mission Vieja de San Gabriel & have known it for about thirteen years. It is about ~~two~~ three leagues from here in an Easterly direction. It is now occupied by Domingo

62 SD
PAGE 7

7

Abista & Tomas Alvarado - who have occupied since about the year 1843, Domingue Abista is the wife of Antonio Balensuela and Tomasa Alvarado is the wife of Juan Alvestre. Both the husbands have lived on the land with their wives the Balensuela is abroad a great portion of the time. They have cultivated the land and do still, a creek is the boundary between the Patro and the table land. Tomasa Alvarado asked the Missionary Priest of San Gabriel for some of the table land and he granted it & they built a house on it & live in it. The house is close to the creek on the hill. They cultivated the greatest portion of the Patro - no part of it has been occupied by any one else.

62 SD
PAGE 8

Bernardino Guirado

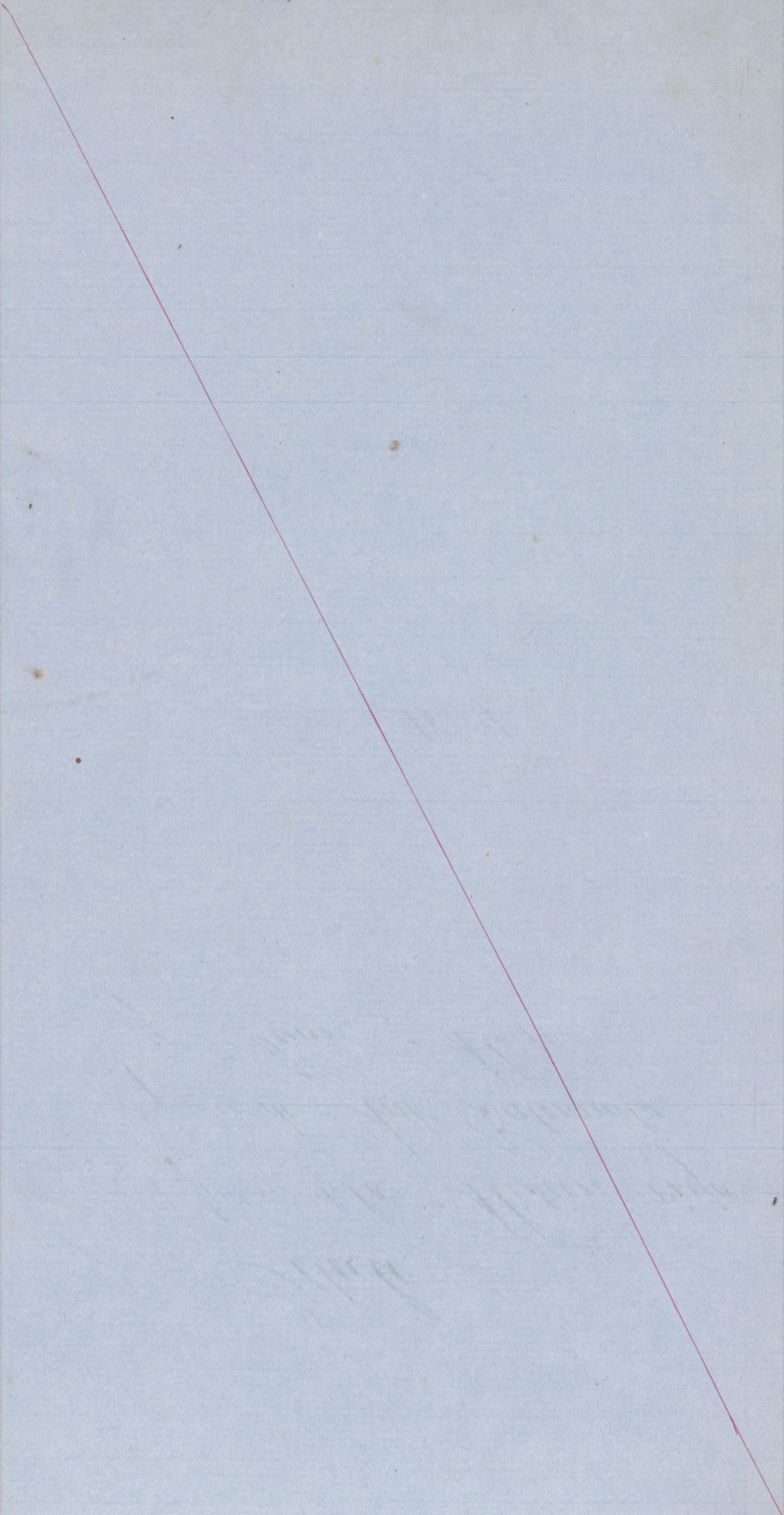
Sworn and Subscribed
before me

Richard Hall
Comr.

Filed in Office Nov 3rd 1852
Geo Fisher
Secy'

P

6
1108



1848
18

62 SD
PAGE 9

Titulo
del patrono de la Mision vieja
a favor de Ant: Balenzuela
y Juan Abitire

Año de 1844

[Large decorative flourish consisting of multiple overlapping loops and a long, wavy tail extending downwards.]

Don Juan 1.º de Paz y del 1.º instancia

Antonio Balanzuda y Juan Albritte
vecinos y naturales de este departamento ante V.S.
comparecemos y decimos, que conforme al Título que
acompañamos de un pedazo de terreno que nos ha
Concedido el Gobierno en las pertenencias de la Misión
vieja de S. Gabriel pedimos a V.S. nos de posesion
judicial que estamos prontos a pagar los din que
nos fueren impuestos, Sirviendose V.S. admitirnos
este en papel comun p.º no haber del Sellado correspond.º

62 SD
PAGE 10

Ang.º Dize 13 de 1844

Ant.º Balanzuda y Juan Albritte

Ang.º Dic.º 17 de 1844

Por presentado en cuanto ha lugar, como
lo piden los solicitantes, accedase a la peticion que
hacen. Asi yo el llanul Requena, Albalde 1.º
Const.º y Juez de 1.ª inst.ª decrete y mande con
los de asist.ª segun derecho.

as.º
Dg.º Coronel

as.º
Bernardino Garrado

Sello Tercero Un peso

Habilitado provisionalmente por la Aduana maritima
del puerto de Monterey, en el Departamento de las
Californias, para los años de mil ochocientos cuarenta y
cuatro y mil ochocientos cuarenta y cinco
Micheltorona Pablo de la Guerra

Ad.º
marit.º
de
Montry

El Ciudadano el llanul Micheltorona
General de Brigada del Ejercito Mexicano,
Ayudante General de la Plana
Mayor del mismo, Gobernador, Comand.º General e
Inspector del Departamento de las Californias.

Por cuanto los Ciudadanos Antonio Balan-
zuda y Juan Albritte han pretendido p.º sus
beneficios personales, y el de sus familias, la exten-
sion

280

2-
11/108

de mil varas de longitud y quinientas de latitud en el parage que nombran Polero de la Misión hija de San Gabriel, Colindante con los terrenos de la misma y con el de la Señora Casildo Soto; practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por Leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la Nación Mexicana he venido en concederles el terreno mencionado declarándoles la propiedad de el por las presentes letras, sujetandose a la aprobación de la misma Asamblea Departamental y bajo las condiciones siguientes

62 SD
PAGE 11

1.^a Quedaran obligados los interesados a entregar el tanto que han ofrecido al Padre Mtro de San Gabriel para beneficio de la Misión.

2.^a No podran venderlo, enagenarlo, hipotecarlo, imponer censo, vinculo fideicomiso ni otro gravamen alguno, ni podran donarlo.

3.^a Podran cercarlo sin perjudicar las travesías, caminos y servidumbres; lo disfrutaran libre y esclusivam^{te} destinandolo al uso o cultivo que mas les acomode, pero dentro de un año fabricaran casa y estara habitada.

4.^a Solicitaran del Juez respectivo que les de la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran a mas de sus mojones algunos arboles frutales o silvestres de alguna utilidad.

320

5.^a El terreno de que se hace donacion es de la estension que ya se menciona. El Juez que diere la posesion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la Nación para los usos convenientes.

6.^a Si contravinieren a estas condiciones perderan su derecho al terreno y sera denunciado por otro.

En consecuencia mando que sirviendoles de titulo el presente y teniendose por firme y valedero se tome raxon de el en el Libro a que corresponde y se entregue a los interesados para sus resguardos, y demas fines. Dado en Monterey a

Meve de Noviembre de mil ochocientos Cuarenta y Cuatro.

Man^l Michela
Man^l Jimeno
Sno

Queda tomada razon de esta Concesion en el Libro respectivo a f^o 12 Jimeno

62 SD
PAGE 12

En la Ciudad de los Angeles a los diez y Siete dias del mes de Diciembre de mil ochocientos Cuarenta y Cuatro, amunte a la Solicitud que hicieron con fecha trece de Diciembre actual, los Ciudadanos Antonio Balanzuda y Juan Alvirte, para que se les de posesion juridica del paraje nombrado Potrero de la Mision Vieja de San Gabriel que lo Concedio el Superior Gobierno Departamental con fecha nueve de Noviembre ultimo: pouse por mi y testigos de asistencia, y procedan a dar la posesion indicada con arreglo al titulo que le ha Conferido el precitado Gobierno Asi yo Manuel Requena Alcalde 1.^o Constitucional decreto, mande y firme con los de asistencia segun derecho = Manuel Requena = asistencia = Ignacio Coronel = asist.^a = Casildo Aguilar =

En seguida pase oficio a los Colindantes que son la Mision de San Gabriel y Juan Lobo manifestandoles el objeto a que me dirigia al Potrero de la Mision Vieja, pues iba a remediarlo, y poner en posesion a los Ciudadanos Antonio Balanzuda y Juan Alvirte: de estos Colindantes ninguno manifesto objecion; entendiendose que Juan Lobo comparecio alli por Casildo Soto, por lo que se procedio a la posesion, lo que pongo por diligencia que autorize y firme con los de asistencia segun derecho = Manuel Requena = asistencia = J. Coronel = asistencia = Casildo Aguilar.

En la fecha y estando en el Potrero de la Mision Vieja, con el objeto de verificar las medidas y posesion que corresponde a los Ciudadanos

Corregida

300

DVCE

3
408
13

62 SD
PAGE 13

Antonio Palomera y Juan Abite; previos todos los requisitos de ley, estando ante mí los testigos de asistencia y los oficiales Cordeleros, hice medir un Cordel Constante de veinte y cinco varas; previa aceptación y juramto de los Citados Cordeleros; los que por no saber escribir se omiten sus nombres; y examinado el Cordel por mí, le mandé atar a sus extremos unos Saucos de madera, y según observación y cálculo por mí disposición, se tiró el primer Cordel desde el lindero de una Sarja que divide el terreno de Casilda Soto, tomando por rumbo al poniente y se midieron y contaron cuatrocientas cincuenta varas que remataron en otro Sarja seca lindero de San Gabriel. De hoy y con dirección al Sur se tiró el segundo Cordel, y se midieron y contaron mil doscientas varas que remataron en una museta cerca del río Honda entre el encinal. De este punto y con dirección al Oriente se tiró el tercer Cordel, y se midieron y contaron cuatrocientas cincuenta varas que remataron en el lindero de Casilda Soto. De aquí se tiró el cuarto Cordel con dirección al Norte, y se midieron y contaron mil doscientas varas, que remataron donde se comenzó.

380
Concluido este acto pregunté al presente Que a los Colindantes si tenían objeción que hacer, y habiendo respondido que no, se les dio a los interesados posesión y señorio a nombre de la Nación Mexicana, lo que autorice y firme para Constancia con los de asistencia según derecho = Manuel Reguena = asist. = Ignacio Coronel = asist. = Casildo Aguilar = Angeles Dic. 17 de 1844.

Deshe testimonio a los interesados de las presentes diligencias. Así lo decreté y mandé = Manuel Reguena = asist. = Ignacio Coronel = asist. = Casildo Aguilar = tachado = veinte = nov.

Concuerda con su original a que me remito del que se sacó, corregido y confrontado en estas tres fojas de papel común por falta de sellado. fecha ut supra.

Manuel Reguena

14

^{ans.}
G. Coronel

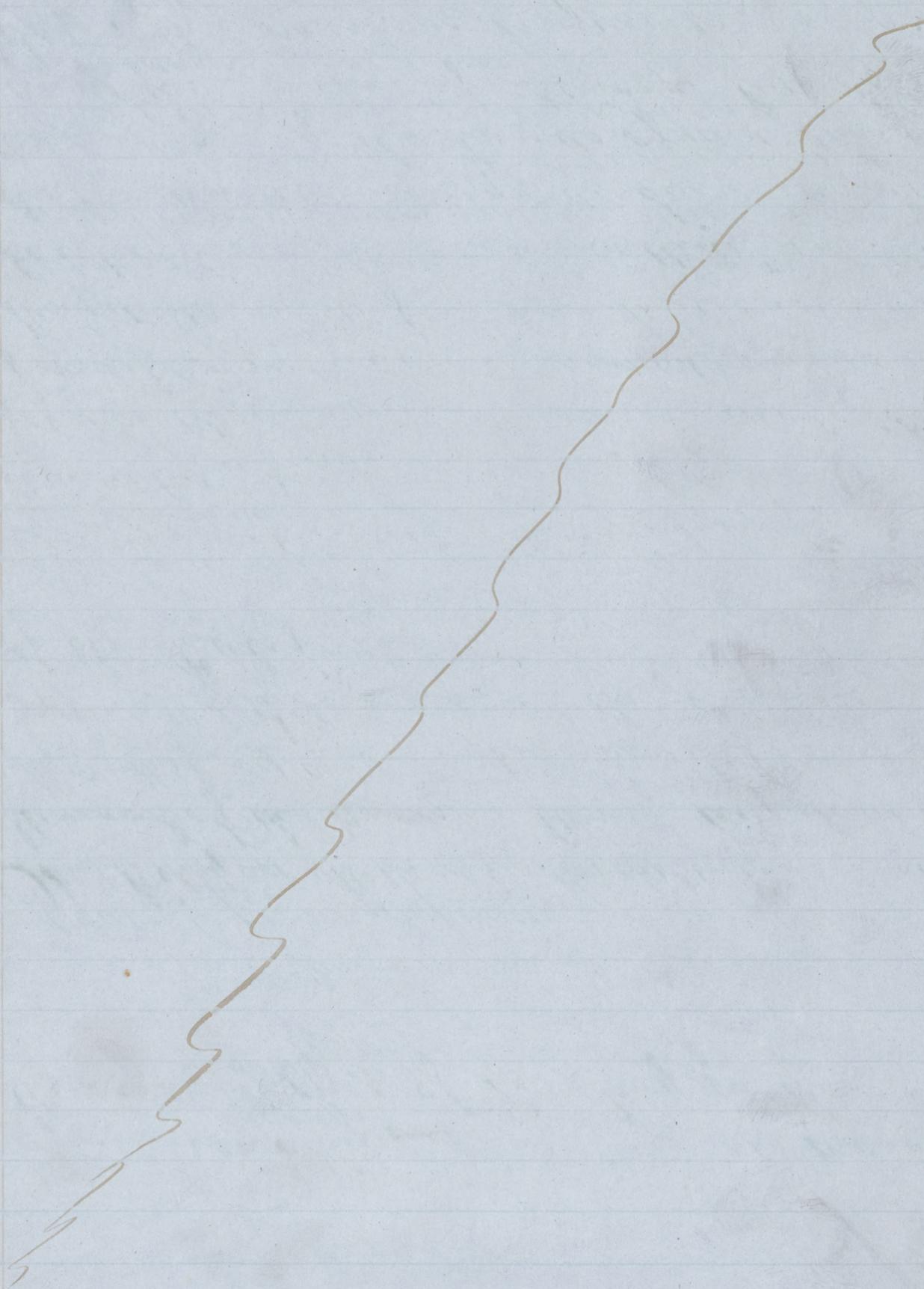
^{ma}
Casildo Aguilar

40

Filed in Office Oct. 23^d 1852
Geo: Fisher
Sec

62 SD
PAGE 14

Doc. H. H. W. T. annexed to the
deposition of Manuel Requena. Oct. 25th
1852
Geo: Fisher
Sec

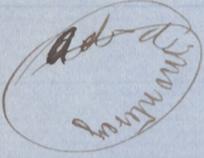


15

B. Translation
of, A.

Seal Tercero un Teso.

Provisionally provided for the Maritime
Custom House of Monterey in the Depart-
ment of the Californias for the Years 1844 & 45
Micheltorena Pablo de la Guerra



62 SD
PAGE 15

The Citizen Manuel Micheltorena Brigadier
General of the Mexican Army Adjutant Gen-
eral of the Staff of the same, Commandant
General & Inspector of the Departments
of the Californias.

In as much as the Citizens Antonio Bar-
lensuela and Juan Aloutré have petitioned
for the benefit of themselves and their
families for one thousand varas in
longitude and five hundred varas in
latitude in the place called "Potrero
de la Mission Viego de San Gabriel"
bounded by the lands of said Mission
and with that of Señora Casildo
Soto, the previous inquiries in accor-
dance with the laws and regulations
having been made. Using the faculties
conferred on me by the Mexican Nation
I have given them the said tract de-
claring by these presents the property
in them subject to the approbation
of the most excellent Departmental
Assembly and under the conditions
following -
1st They shall remain obliged to
deliver to the Padre of San Gabriel
as much as they have offered for

the benefit of the Mission

2^o They shall not be able to sell, alienate hypothecate or put a tax-charge bond nor any other obligation neither shall they give it away.

3^o They may fence it without prejudice to roads by ways or customary privileges they may enjoy the liberty and exclusive destination of it to such use as will best accommodate them, but within one year they must build a house and inhabit the same.

4^o They may solicit of the proper Judge the corresponding Juridical possession in virtue of this dispatch by which the limits shall be designated and land marks placed by planting fruit trees or others of some utility.

5^o The land here given is of the extension already mentioned. The Judge who shall give possession shall cause it to be measured according to ordinance leaving what may result (as surplus) for the Nation to be applied to such uses as may be convenient.

6^o If they shall contravene these conditions they shall lose their right and the land may be denunciable by another.

In consequence holding this firm and valid I command that it serve them as a title, that it be recorded in the proper book corresponding book and that it be delivered to the interested parties for their security and

62 SD
PAGE 16

17

such other ends as it may serve,
Given at Monterey this 9th day of November
A.D. 1844,

Manuel Micheltorena

Manuel Jimeno

Remains recorded in the corresponding
Book page 12,

Jimeno

See page 1^o de pag and of the first instance

Antonio Balensuela and Juan Alvitro
neighbors and citizens of this department
appear before your Excellency and say
that they ask judicial possession of a
tract of land which the Government
has ceded to them in the vicinity of the mission
of San Gabriel, in conformity with the
accompanying title, in order that they
may soon pay the titles which they have
imposed upon them; asking that their
petition may be admitted on common
paper in default of sealed corresponding.

Angeles Dec 13th 1844.

Antonio Balensuela and Juan Alvitro.

Angeles Dec 17th 1844.

By presenting
asked by the petitioners I accede
to the petition they have made Thus, I Manuel
Reynosa Alcalde and Judge of the first

instance decree command and sign with the witness
of assistance according to rights.

asst
Ignacio Coronel

Assist
Bernardino Guadaño

This day -

62 SD
PAGE 18

In the city of Los Angeles on this 16th day of
December AD 1844, on account of the petition
made by the citizens Don Antonio Balensuela and
Juan Alvitre on the 13th inst for to have given
them juridical possession of the place called
Potrero de la Misión Vieja de San Gabriel
which was given them by the Superior Government
of the Department with date of the 9th of
November AD 1844, I proceed to procure my
Assistant witnesses and cord bearers and to
give possession according to the title given
him by the Government, Thus I Manuel Mich-
eltorena Reguina 1st Constitutional Alcalde
decree command and sign with those of
my assistance according to rights Manuel
Reguina assistants Ignacio Coronel and
Casildo Aguilar.

In continuation of the work proceeded to no-
tify the adjoining claimants of the mission
of San Gabriel and Juan Soto demonstra-
ting to them the object which had directed
me to the Potrero of the Misión Vieja, then com-
menced to measure and to give the citizens Antonio
Balensuela and Juan Alvitre possession, these
adjoining claimants manifesting no objection
certifying that Juan Soto appeared in the
place of Casildo Soto, with whom we proceeded

19

to the possessor leaving it with him by au-
thorized duty, and sign with thro' of assis-
tance according to right - Manuel Requena = As-
sistant. Ignasio Leonel and Basildo Agueta.

On this date and being in the potrero de la
Mision Vieja with the object of verifying the
measurement and possession of which corres-
ponds to the citizens, ^{antonio} Balensuela and Juan Al-
vieto. There, previously being before me and my
witnesses of assistance all the requisites of the
law as also before the cord bearers, measuring
a rope of 25 varas in length. The cord bearers
taking oaths but omitting to sign for not know-
ing how, and examining the cordel myself,
I commanded small sticks to be attached to
the ends and according to observation and
calculation by my direction the first cordel
was drawn from the line of a sangi that di-
vides it from the land of Basilda Sota, taking
a westerly course and measuring and coun-
ting four hundred and fifty (450) varas, ter-
minating at another dry sangi line of San
Gabriel of to day, with a direction to the
South the second cordel was drawn and
measured and counted one thousand and
two hundred (1200) varas which terminated
in a pool near the river (deep) into the wood
point, and with a direction to the East
was drawn the third cordel and counted
and measured four hundred ~~varas~~ & fifty varas
which terminated at the line of Basilda Sota.
From this place was drawn the fourth cordel
with a direction to the North measuring
and counting one thousand and two hun-
dred varas (1200) which terminated at the

62 SD

PAGE 19

place of commencement.

This act concluded, the present Judge asked the adjoining claimants if they ~~possessed~~ had any objections to make and they having said they had not I gave possession to the interested party, and declared the property theirs in the name of the Mexican Nation by authority, the which I sign with my assistant witnesses according to right, Manuel Requena Assistants Ignatio Coronel and Basildo Aguilar Angeles Dec 17. 1844.

Of this testimony to those interested in the present duties, thus I decree and command Manuel Requena = Assistants Ignatio Coronel and Basildo Aguilar =

Agreeing with the original from which it is taken corrected and compared in these three pages of common paper for want of sealed corresponding -

Manuel Requena

Assistant

Ignatio Coronel

Assistant

Basildo Aguilar

Filed in Office Octr 23rd 1852

Geo Fisher

Jury -

62 SD

PAGE 20

57616

20

21

Opinion.

Antonio Palensuela Gal }
 vs } For a piece of land
 The United States } called "Potrero de la
 Mission Vieja de San Ga-
 briel, 1200 by 450 varas in extent.

A grant of land designated as above mentioned, made to the claimants and signed by Governor Micheltorena, dated November 9th 1844, is given in evidence. The grant is made subject to the approval of the Departmental Assembly and contains the other usual conditions. Documentary evidence in the usual form is also presented and proved showing that juridical possession was obtained by Palenzuela and Alvitro, the grantees, on the 17th day of December 1844. No approval by the Departmental Assembly is proved.

It is objected to the confirmation by the Land Agent, that the measurement actually made and returned by the officer giving juridical possession varies from the description of the land conceded as described in the grant, and also that the description contained in the record of juridical survey is too uncertain and indefinite to define the premises thus surveyed, and to segregate it from the public domain.

The grant describes the land as "one thousand varas in longitude and four hundred varas in latitude, in the place called 'Potrero de la Mission Vieja de San Gabriel' bounded by the land of said Mission and that of Señora Casilda Soto". The record of the juridical measurement shows that the officer who gave the possession measured for the land granted, a parcel four

hundred and fifty varas in width instead of five hundred and twelve hundred varas instead of one thousand in length: giving fifty varas too little in breadth and two hundred varas much in length. The grant specified the lands of the Mission and those of Casilda Soto as boundaries of the land granted.

These measurements would control the distance given in the grant, and, as the record shows that there was only a distance of four hundred and fifty varas between the two, it was impossible to locate the land granted of the width of five hundred varas. The lines of the Mission lands on one side and those of Casilda Soto on the other were called in the grant and fixed the limits of the land granted, notwithstanding the distance was less than was called for in the grant. There was no error in this act of the officer.

In the length of the land measured to the grantees a greater extent by two hundred varas than is specified in the grant is given. The Deposition of Manuel Requena the Alcalde who gave the juridical possession gives an explanation of this survey. He says that they measured the land twelve hundred varas in length because, on going that distance they came to what appeared to be the natural boundary of the "Patrono" petitioned for and intended to be granted, to which all present agreed. The record also shows that the southern extremity of the land thus located was in a pool, —

Every thing in giving possession of the land under the grant seems

62 SD

PAGE 22

to have been conducted with the utmost fairness and honesty, and it would seem to be unjust that a very slight discrepancy, whether arising from mistake or error of judgement on the part of the Alcalde, should defeat altogether the rights of an innocent grantee. There is no principle involved in this case which would require so harsh a rule of forfeiture to be applied. If it were deemed important we might perhaps in the decree entered by the Commission curtail the limits of the premises by terminating the north and south lines run by the Alcalde at a point which would give the right length to the premises, but this we do not deem it necessary to do. Where neither fraud nor gross error in a judicial survey is shown, we should be unwilling to reject ~~an~~ attempt to modify such an official demarcation. Here is no charge of wrong intention on any side is insinuated, no objection by ~~contiguous~~ neighbors was made, no one claims to be injured, and long possession has made notorious, if it has not sanctioned the defined limits; and the few varas which constitute the excess are too unimportant to require now any modification of the boundaries.

The testimony shows that both of the grantees have lived on the premises - that they have occupied the land since 1843 and cultivated the premises. The witness adds that the wife of one of the grantees has obtained a piece of land immediately adjoining these premises and built a house on it. The dates in this testimony are not given with any particularity; but on the whole proof we are of the opinion that the conditions of the grant have been sub-

24

stantially complied with—

The claim is confirmed—

Filed in Office December 13th 1853.

Geo Fisher

Secy.

Antonio Balenzuela & al

vs

The United States

In this case, on hearing the proofs

and allegations it is adjudged by the Commission the said claim of the petitioners is valid, and it is decreed that the same be confirmed.

The land of which confirmation is hereby made is that known as the "potrero de la Mission Vieja de San Gabriel" and is the same now in possession of the said petitioners and bounded and described as follows, to-wit: Commencing in the line of a ditch that divides this land from the land of Casildo Soto, thence running a westerly course four hundred and fifty varas terminating at another dry ditch in the line of San Gabriel of to-day— thence in a direction to the South one thousand two hundred varas terminating in a pool near the River into the woods of the Point— thence in a direction to the East four hundred and fifty varas to a point in the line of Casildo Soto— and thence in a northerly direction one thousand and two hundred varas to the place of beginning, according to the record of the juridical survey of the same on file in

62 SD

PAGE 24

25

this case, to which reference is to be had.

Alpheus Felch
Thompson Campbell
A. Aug. Thompson

Commissioners

Filed in Office December 13th 1853

Geo Fisher
Secy

62 SD
PAGE 25

[Large, illegible cursive scribbles]



Office of the Board of Commissioners,

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

62 SD
PAGE 26

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *Twenty-five* pages, numbered from 1 to *25*, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. *408* on the Docket of the said Board, wherein *Antonio Valenzuela et al*

are the Claimant against the United States, for the place known by the name of *"Pueblo de la Mision Vieja de San Gabriel"*



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. *185*, and of the Independence of the United States of America the seventy-*eightth*.

Geo. Fisher.
Geo. Fisher

62

U. S.

Solomon

62

No. 62.

THE UNITED STATES

62

*Antonia Valenzuela et al
"Potrero de la M. V. de S. Gabriel"*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *408*

Filed, *August 30th 1854*

W. H. Carter

62

Clerk

22408

Office of the Attorney General of the United States,

Washington, 30th November 1854.

Antonio Balensuela

vs.

The United States

} 408.

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

Cushing

Attorney General.

No 62.

U. S. District Court

Southern District

The United States

vs.

Antonio Balanzuela

Appeal Notice -

Filed July 10th 1855.

J. S. Carr.
clk.

62 SD
PAGE 27 A

No 62.

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

Before the Hon J S K Ogier

Antonio Valensuela

and Juan Alvitre

vs

The United States

Transcript No 408.

Answer of Appellees

vs

The Appelles and Respondents
in the above entitled suit Antonio Valensuela
and Juan Alvitre for answer to the petition
filed in this cause say, it is true that the
land mentioned in said petition and in
said Transcript of the proceedings before the
said Board of Commissioners lies within said
Southern District of California and is within
the jurisdiction of this Hon Court; but the
Appelles and Respondents deny that their
title to the said land is invalid, and aver
that the same is valid, and they pray that their
title be declared to be valid, and that a decree
of Confirmation be made to them by this Hon
Court

Henry Hancock

Attorney for Appelles

Valensuela and Alvitre

62 SD

PAGE 28

BY

20

No 62

Anto Valenzuela
Juan Mitre
a as
The United States

Answer

Filed Sept. 28/55

~~Filed Sept. 28/55~~

J. Farr
clerk

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

Antonio Valenzuela and }
Juan Alvitru }
ads. }

N^o 63 (Transcript N^o 408)

The United States }

62. SD
PAGE 30

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

The petitioner of Pacificus Ord (of Los An-
geles 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 23rd
day of October A.D. 1852, Antonio Valenzuela, and
Juan Alvitru presented a petition to the Com-
-missioners to ascertain and settle the private
land claims in the State of California, claim-
-ing the tract of land called Potrero de la
Mision Vieja de San Gabriel, in the County
of Los Angeles, in the words and figures fol-
-lowing, viz.

"Your Petitioners: Antonio Valenciu-
 "ela and Juan Albitu of Mission Viejo, Los
 "Angeles County State of California; respect-
 "fully represent to your Honorable body that
 "they claim a certain tract of Land called
 "Potrero de la Mision Vieja de San Gabriel" be-
 "ing 1000 varas by 500 in extent situated in the
 "State and County aforesaid: that they claim
 "the same in fee by virtue of a grant made
 "to them under the authority of the Mexican
 "Government by Manuel Micheltonna, then
 "Governor of the Department of the Californias
 "bearing date of the 9th of November A.D. 1844
 "and not to the knowledge of the Claimants
 "ever having been presented for approval by
 "the Departmental Assembly".

"Your Petitioners would further represent that
 "juridical possession of said tract was given
 "them on the 16th & 17th of December 1844
 "by which the judge not being able to give
 "500 varas in length he received 1200 by 450 varas
 "and that the boundaries were designated and
 "defined; and that they have been in peaceable
 "possession of it ever, since, in conformity
 "with the provisions of the grant and also
 "that there has been nor is there any interfering
 "claimant."

62 SD
 PAGE 31

"Your petitioners present herewith the original grant and translation,"

"Your petitioners pray your honorable Board to take into consideration their claim and to decree their title to be valid and to confirm the same,"

"And your petitioners will ever pray."

Your petitioner further represents that thereafter, to wit on the 13th day of December A.D. 1853 the said Commissioners confirmed, by final decree, the said claim of the said Antonio Valenzuela and Juan Alitre in the words and figures following, to wit.

"In this case, on hearing the proofs and allegations it is adjudged by the Commission the said Claim of the petitioners is valid, and it is decreed that the same be confirmed,"

"The land of which confirmation is hereby made is that known as the "Potrero de la Mision Vieja de San Gabriel" and is the same now in possession of the said petitioners and bounded and described as follows, to wit; Commencing in the line of a ditch that divides this land from the land of Casildo Soto, thence running a westerly course four hundred and fifty varas terminating at another

62 SD

PAGE 32

"dry ditch in the line of San Gabriel of to-
 "day - thence in a direction to the south
 "one thousand two hundred varas termina-
 "-ting in a pool near the River into the woods
 "of the Point - thence in a direction to the
 "East four hundred and fifty varas to a
 "point in the line of Casilda Loto - and
 "thence in a Northerly direction one thousand
 "and two hundred varas to the place of be-
 "ginning, according to the record of the jurid-
 "-ical survey of the same on file in this case,
 "to which reference is to be had".

62 SD
 PAGE 33

- "Alpheus Selch" }
- "Thompson Campbell" }
- "R. Aug. Thompson" }

"Commissary"

That thereafter, to wit, on the 30th day of Au-
 -gust A.D. 1854 a duly certified transcript of
 the said decree, and proceedings, and the pa-
 -pers 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
 -ted States for the Southern District of Cali-
 -fornia and marked N^o 63, (Transcript N^o 408);
 reference to which it is prayed may be had
 and made a part of this petition.

That on the 18th day of August A.D. 1854
 the 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 (No. 408), and the papers and evidence on which said decree was founded.

That thereafter, to wit, ^{10th} on the ~~10th~~ day of January A.D. 1855, the said Attorney General of the United States, filed or caused to be filed, on behalf of the United States, a notice with the said clerk of said District Court for the Southern District of California, that the appeal, in said cause of Antonio Balensuela and Juan Alrite, 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 the Honorable Court.

And your petitioner further represents, and insists that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside for many errors and imperfections of law and evidence

6.

apparent in said certified transcript of said cause, now in appeal from said Commissioners to this Honorable Court.

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

I. And the said Attorney denies all and singular each and every allegation in the said petition of said Claimants, to said Commissioners of said date. And he further denies that any grant for the said land was ever made as alleged in said petition. And he denies further that the said Claimant has shown any, or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Governor Micheltorena was made in violation of the 4th article of the Colonization law of Mexico of the 18th of August A.D. 1824, in this; that the land granted, as alleged by claimant, was and is within ten leagues of the Sea Coast; and there is no evidence shown by claimant, that the Supreme General Executive power of Mexico, previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the Sea Coast. And it is denied

62 SD
PAGE 35

that such previous consent of said Supreme General Executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant, the said land claimed as aforesaid, was occupied, and in the possession of the Missions of the territory of Upper California, and it was held and occupied particularly, by the Mission of San Gabriel; and could not therefore be colonized.

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

V. That the said alleged grant of Governor Micheltorena is not on the corresponding stamped paper.

VI. That there is no evidence of its approval by the Departmental Assembly of California, or the Supreme Government of Mexico.

VII. That the said alleged grant contains no sufficient description of the locality and boundaries of the land, by which it can be identified and surveyed. That no map of the land is shown. And said

62 SD
PAGE 36

alleged grant is vague and indefinite, and void for uncertainty.

VIII. That the alleged juridical possession of the land given by Manuel Requena, of the date of the 16th + 17th of December 1844, was not made conformably to the extent and description of the land in said alleged grant, or the ordinance or law; that the said Requena exceeded his lawful authority, if he had any, by giving the said Claimants a tract of land of greater extent and with boundaries not authorized by and contrary to the said alleged grant; that said act is upon common paper; and it is vague, and indefinite and void.

IX. That there is no evidence that Manuel Requena was first Alcalde of Los Angeles on the 16th + 17th of December 1844, and that he had, as such at that time lawful authority to measure and give juridical possession of the said land to said Claimants.

X. That there is no evidence that the conditions of the said alleged grant were performed and observed by the said Claimants. And there is no sufficient evidence that they built a house on the said land within a year from the date of said alleged grant, and that they occupied it; And that they cultivated ^{land} the said

62 SD
PAGE 37

4705
20

And it is denied that they performed and observed the conditions of said alleged grant, and built a house upon the said land within one year from the date of the said grant, and occupied it, and cultivated the said land.

XI. That the Claimants have shown no definitive title for said land.

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

And the said Claimants having no valid right or title, derived from the Spanish, or Mexican Government, to the said land claimed by them, as aforesaid, the lawful right, or title in and to the said land, was acquired by, and it now belongs to the said United States, by virtue of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, dated at the City of Guadalupe Hidalgo, February 2nd A.D. 1848. Wherefore the said Pacificus Ord, Attorney

of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the state of California", approved March 3rd A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Antonio Valensuela and Juan Alvitru may be served with copies 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 Antonio Valensuela and Juan Alvitru, for said land claimed and confirmed as aforesaid; and that the same may be deemed invalid. And all such other orders, judgments, or decrees, as may be just. With costs, and general relief.

62 SD
PAGE 39

P. Ord

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

No 62

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

Ant^o Valenzuela
et al
vs

The United States

Petition of U States
for Review

Comp^r

Said Aug: 13. 1855

62 SD
PAGE 40

J. E. San.
CLK

Pl^r & Dist^r Atty

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

The President of the United States,

TO

Antonio Valenzuela.

62 SD

PAGE 41

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the *Thirteenth* day of *August* in the year of our Lord one thousand eight hundred and fifty-*five* at the City and County of Los Angeles, in said District, by *P. Ord* Atty of the U. S. for the *South, Dist. of Cal.* in behalf of the United States, praying the said Court to review upon the grounds therein set forth, the decision of the U. S. Land Commissioners, to ascertain & settle the private land claims in the State of California, of the claim of *Antonio Valenzuela, & Inan, Aluche,* for a tract of land called *Potrero de la Mission Sieja de San Gabriel* and confirmed by said Commissioners on the *13th* of December 1853.

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

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

J. E. San
Clerk.

No 62.

United States of America,

Southern District of California,

U. S. DISTRICT COURT.

Antonio Salazar
et al.

vs

The United States

SUMMONS.

Revised Sept 14th 1855

Edward Hunter

Attorney at Law

62 SD

42

PAGE

I served this summons along with the proper copy of the petition upon *Henry Hancock*
Atty for Appelles by delivering to him
a true copy of the same

at *Los Angeles*
the *26th*

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

Sworn to and subscribed before me,

Notary

Edward Hunter
Attorney at Law

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

TO

The President of the United States,

Juan Alvarado.

62 SD

PAGE 43

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the *thirteenth* day of *August* in the year of our Lord one thousand eight hundred and fifty-five at the City and County of Los Angeles, in said District, by *P. Ord, Atty of the U.S. for the South. Dist. of Cal.*, in behalf of the United States, praying the said Court to review upon the grounds therein set forth, the decision of the U.S. Land Commissioners to ascertain and settle the private land claims in California, of the claim of Antonio Salenzuela & Juan Alvarado, to a tract of land called *Potrero de la Mission Vieja de San Gabriel* and confirmed by said Commissioners on the *18th* of December 1853.

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

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

J. E. Lane
Clerk.

Marshals fees
Copying Summons 50
Answer " 3.00
" Petition 3.00
" mileage 7.50
~~7.80~~
7.50

No 62.

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

Antonio Valenzuela
et al. vs *advs.*
The United States,

SUMMONS.

Return Sept. 14th 1855
Edward Hunter
U.S. Marshal

62 SP
44
PAGE

I served this summons along with the proper copy of the petition upon *Juan Alvar*
by delivering to him personally a
copy of the same

at *his residence Los Angeles Co.* in the Southern District of California on
the *15th* day of *September* A. D. 1855

Sworn to and subscribed before me,

Clerk. }

Edward Hunter
U.S. Marshal.

J. J. Nichol Court for the Southern District of California

Antonio Valenzuela et al
Appellees

^{vs}
The United States
Appellants

No. 92

62 SD
PAGE 45

This Cause coming on to be heard on an appeal from the final decision of the Commissioners to ascertain and settle the private Land Claims in the State of California under an act of Congress approved March 3^d 1851. Upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law and counsel for the respective parties having been heard. It is ordered adjudged and decreed that the decision of the said Commissioners be affirmed to the extent of One thousand varas in length by five hundred varas in width, and that the claim of the said Antonio Valenzuela et al. to the place called "Poneros de la Misión Vieja de San Gabriel" situated in the County of Los Angeles, and bounded and described as follows to-wit: Commencing at the line of a Sanja which divides it from the lands of Casildo Soto and running westerly five hundred varas to a dry Sanja the boundary line of the Mission of San Gabriel at the state of the juridical possession; thence South One thousand varas; thence at right angles Easterly five hundred varas to the line of the said Soto; thence Northwily along the line of the said Soto One thousand varas to the place of beginning, forming an oblong square of One thousand varas in length by five hundred varas in width, being the land called for in the grant in this case, is a good and valid claim, and the same is hereby confirmed, Provided that the said quantity of One thousand varas in length by five hundred varas in width, be contained within the limits called for in said grant, but if there be less than said

named quantity. then the claim of said appellee to said less
quantity is hereby confirmed

James K. Ogilvie
U.S. Dist Judge

No. 62.

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

A. Valenzuela et al
vs
appellants

The United States
vs
appellees

Decree

Filed Aug. 21st 1886.

J. E. Lamson
Clerk

62 SD
PAGE 46

Recorded on Page 194

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

Appellants

vs

Antonio Valenzuela and

Juan Alvitre

Appellees

3

N^o 62

Transcript N^o 1,08

3

3

This Cause coming on to

be heard at the December Term of this Court on
an Appeal from the final decision of the Commis-
sioners to Ascertain and settle private Land Claims
in the State of California under the act of Congress
Approved March 3rd 1851 upon the Transcript of
the decision and proceedings and the papers and
evidence on which said decree was formed, and
it appearing that said Transcript has been duly
filed according to Law, and Counsel for the respec-
tive parties having been heard: It is Ordered, Ad-
judged, and Decreed that the decision of the Land
Commissioners be Affirmed in part and that the
Claim of the said Antonio Valenzuela and

Juan Alvitre to the Land described in the
said grant is a good and valid Claim and
the same is hereby Confirmed to the extent of
One thousand Varas in length and five hundred
Varas in breadth in the place called Potrero de la
Mision Vieja de San Gabriel, provided that the
same quantity of One thousand Varas in length
and five hundred Varas in breadth be contained
within the limits called for in said grant to which
it refers but if there be less than said named quan-
tity then the Claim of said Appellees to said

Up quantity is hereby confirmed

James H. Ogden
U.S. District Judge

U.S. District Court
62

Southern Pine Lumber

The United States

vs
Cads } No 62

And to Administrators

Deceit

62 SD

PAGE 48

Filed March 6th 1888

C. E. Van Alst

by A. Morgan

Recorded on Page 210

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

Los Angeles, December Term, 1855.

62 SD
PAGE 49

Antonio Valenzuela, et al

..... APPELLEE,	}	No. <i>62</i> .
VS.		(No. <i>408</i> of Transcript.)
UNITED STATES, APPELLANT.	}	On Appeal from the United States Land Commission.

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

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the 25th day of January — A. D. 1856.

P. Ord
Dist Atty

No. 62

U.S. District Court
Southern District of California

Antonio Valenzuela et al
appellus
vs
The United States
appellants

Notice of Appeal S. C.

This 17th day of March 1850.

C. E. Chan con.

By O. Morgan Deputy

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

December Term 1836

62 SD

PAGE 51

Antonio Valenzuela & }
Juan Alvarado }
advs. Appellants }
The United States }
Appellees }
No. 62,
Vic. No.
Term No. 408.

The Attorney General of the United
States having given ^{it is not his intention to present} notice that the appeal
to the Supreme Court of the United States
in the above entitled cause ~~will not be proceed-~~
~~ed by the United States~~ and a stipulation
having been entered into between the United
States District Attorney and the Attorney of
the Claimant that the order granting
~~the appeal to the Supreme Court~~
heretofore made in this cause be vacated
and that the ^{of this Court} decree heretofore rendered
in this cause may by order of this Court
be made final, it is ordered adjudged and
decided that the order granting an appeal
to the Supreme Court heretofore made in
this cause, be and the same is hereby vacated
and that the Claimant have leave to proceed
under the decree of this Court heretofore ren-
-dered in this cause as a final decree

James M. Ogden
W. J. M. Mays

X

No 62

Wiley

Fidelity 34th 1884
Chas
Ch

62 SD
PAGE 52

to the ...
...

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

December Term 1836

Hon Isaac S. H. Ogier Judge

Antonio Valencuela
and Juan Alvitu

Doc. N^o 62.

vs
The United States
Appellant

Trans N^o 408.

62 SD
PAGE 53

In pursuance of a letter from
the Attorney General of the United
States herewith annexed, stating
that it is not his intention to pros-
-ecute the appeal heretofore taken
in the above entitled cause to
the Supreme Court of the United States
It is hereby stipulated by and between
the parties, that an order be entered
of record vacating the order
of Appeal heretofore taken, and
that the claimant have leave
to proceed under the decree heretofore
rendered in his favor as under
a final decree

J. D. D.

Directly

Myron Norton
att. for a party

Reputation

California Land Claims

Attorney General's Office

4 October, 1856.

Sir:

In the case of the claim of Antonio Balenzuela et al., confirmed to the Claimant by the Commissioners, case no. four hundred and eight, (408) and also confirmed on appeal in the Supreme Court will not be prosecuted by the United States.

I am,

Respectfully
Ours,

Pacificus Ord Esq

U. S. Attorney.

Los Angeles

16

62

Antonio Valenzuela et al

408

Letter of Stipulation
to Wm Russell

Filed July 24th 1859

Chas
et al

62 SD
PAGE 55

Rec No 4 1856

The United States; appellants
vs.
Antonio Valenzuela, Juan Alatorre, appellees

The claim in this case is founded on a grant from Governor Manuel Micheltonero to the present claimant, bearing date the 9th of Nov. 1844. The Original Grant was offered in evidence before the Commission & its genuineness fully proved.

The Grant was for a tract of land one thousand varas in length by 500 varas in latitude in the place called the Potreros of the old Mission of San Gabriel, bounded by the lands of the then mission of San Gabriel and the lands of Casildo Soto. — Judicial possession of the land was given by the proper officers, the judicial measurement as possession is very definite and clear. The Alcalde who gave the possession, found on going upon the land ^{that} the distance from the boundary line of the Mission to that of Casildo Soto from East to West, was only four hundred varas — and fifty varas. He therefore extended the other line to 1200 instead of one thousand varas, as called for in the grant. This, I think he had no power to do, and his having done could give no title to the excess now

secured; he having no power to vary the
calls of the grant, or to extend or
shorten the distances called for.

The Commission say in being upon
this claim that they might shorten
the lines run by the Alcalde, so as to
make them conform to the grant, but
that it is not of sufficient impor-
tance, it may not be of much impor-
tance whether these claimants have
conformed to them two hundred or
more than called for in their grant
or not, but I consider it of great im-
portance that the notices the Com-
mission in this case have power
to confirm to a claimant more than
quantity of land which is called for in
the grant which he claims. If a
confirmation is made in this case
in accordance with the judicial
possession, when ~~that~~ that possession
is clearly shown to have been in viola-
tion of the call of the grant as to quan-
tity, it will be ~~statutory~~ ^{the} ~~principle~~
~~that the judicial possession in viola-~~
~~tion of a principle laid down by the~~
Court in other cases; to wit, that the
Officer giving the possession was bound
by the terms of the grant and had no
power to ~~alter~~ ~~them~~ deviate from the
calls of the grant, and that his acts

when he die so ~~where~~ to that
extent ~~wid~~ — ~~that~~

It would be dangerous to depend for
this rule, for experience has shown
that in the justice number of ~~land~~
cases. True in this case the ~~proprietors~~
real possession are not only long
undefined but also very numerous
~~that in many cases the lines are~~

The there is in this case what ap-
pears to me to be a clerical error.

The grant calls for a tract of land
1800 varas in longitude by 500.

varas in latitude, I think it was
intended to be 1800 varas in latitude
by 500 in longitude, such seems
to have been the understanding of
the Alcalde who gave the permission
as he runs the longest line from
North to South, ~~and it may be that~~

The ~~error~~ ~~will~~ as this seems
to be the natural form of the land
It must be evidently a mere clerical
mistake.

The claimants have proved a general
compliance with the conditions
of the grant & are therefore entitled
to a confirmation according to
the calls of the grant. and a
decree will be entered accordingly.

Antonio Valenzuela et al
Appellee
vs
The United States
Appellant
No. 100
The Bill
— Clerk fees

Filing Co. Copy of Answer. 45.	1.35
Certificate and Seal. to same.	.60
Ent. Retn: on Answer	.30

No. 62.

Antonio Valenzuela
et al Appellans

vs. Ads

The United States
vs
Pu Pui

62 SD
PAGE 59 A

Antonio Valenzuela,
et al. Appelles,

— ad. —

The United States,
Appellants.

Potero M. V. San Gabriel.

62 SD
PAGE 60