

CASE No.

58

**SOUTHERN DISTRICT**

---

A LOT OF GROUND AT SAN GABRIEL GRANT

---

JOSE DOMINGO

CLAIMANT



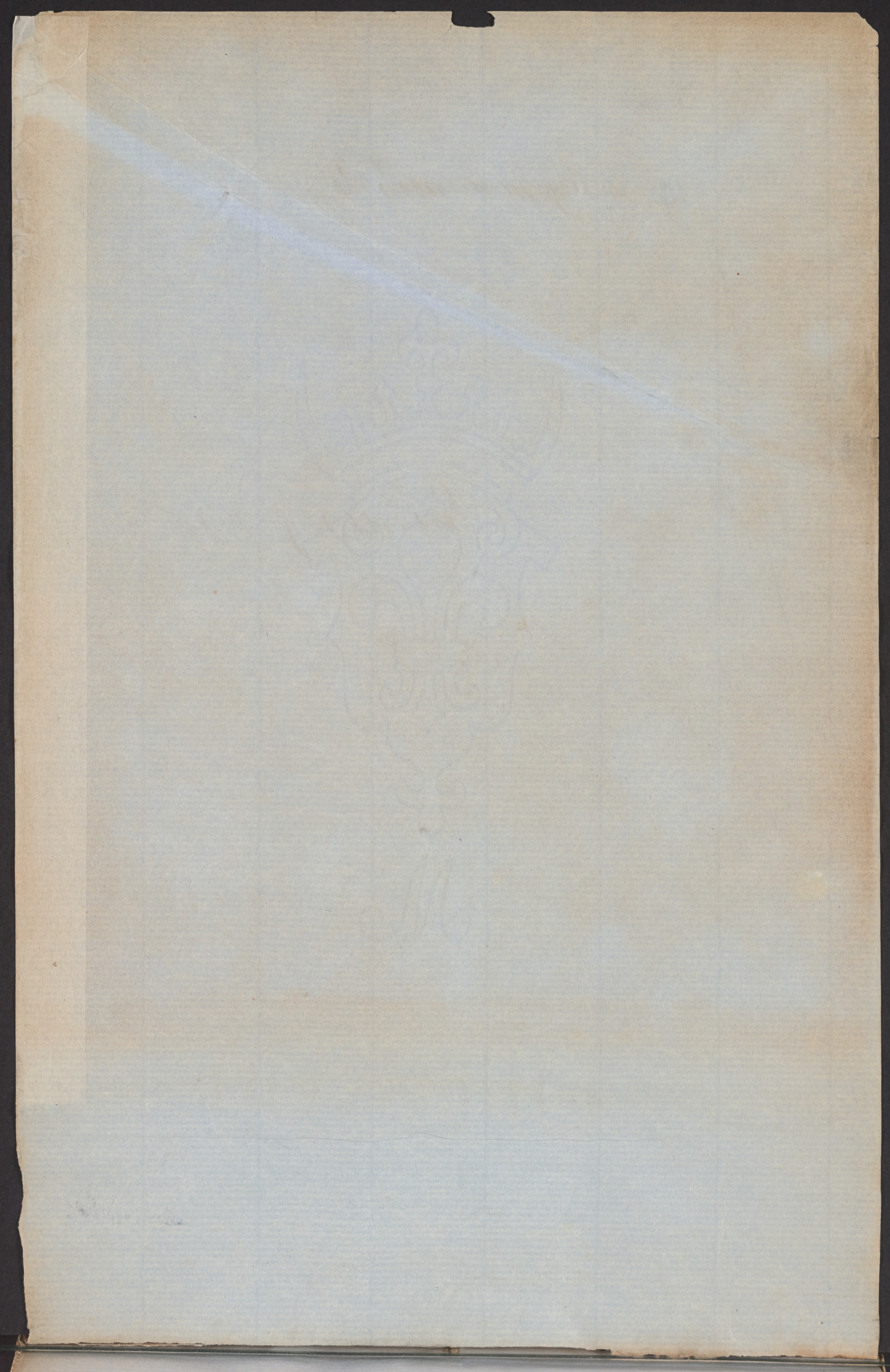
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467







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PAGE 1

# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO.

*467*

*José Domingo* CLAIMANT

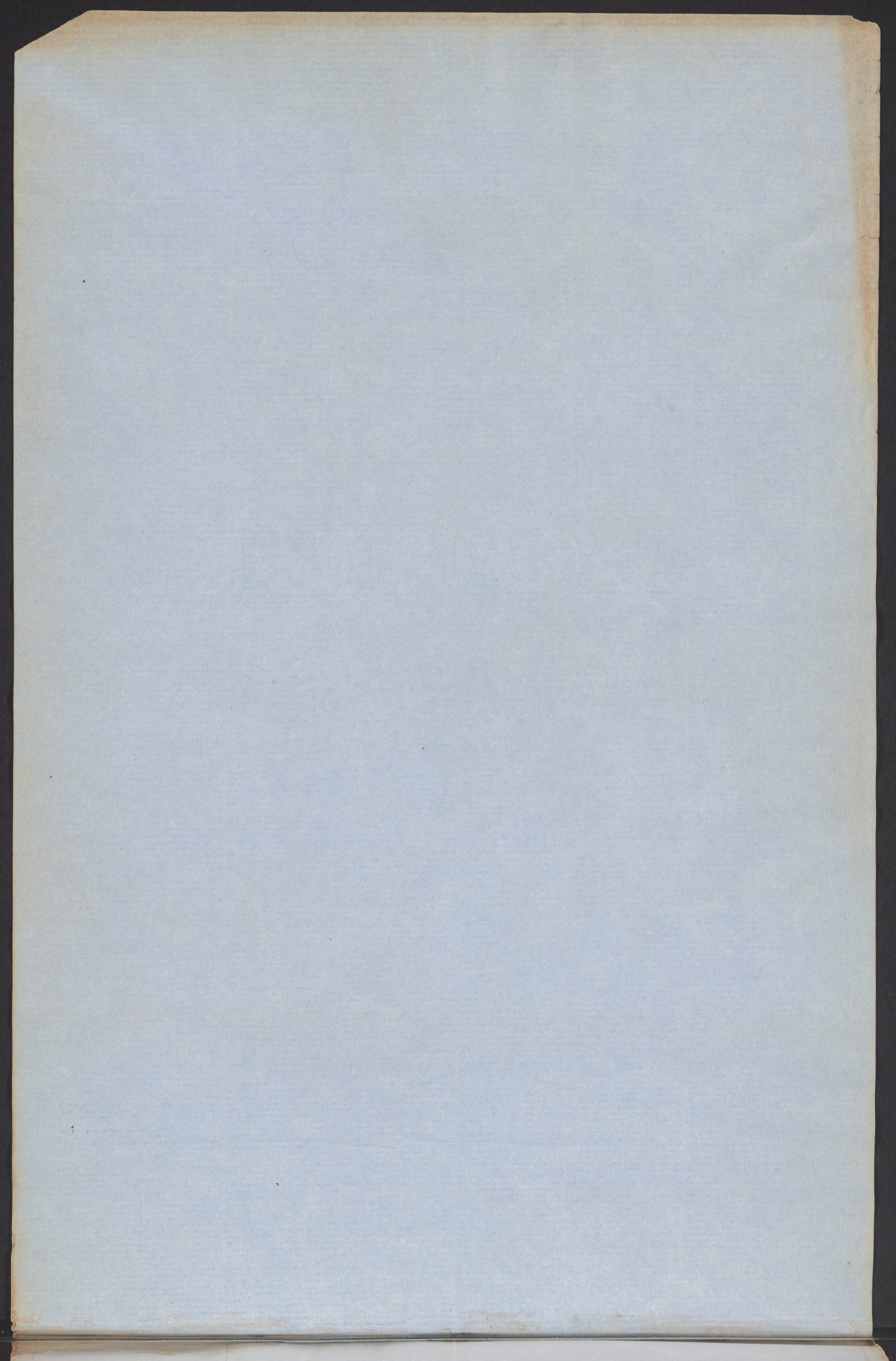
VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*A lot of ground at San Gabriel.*







Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

The Petition of *Jose Domingo* for the Place named

was presented, and ordered to be filed and docketed with No. *467* 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 November 9<sup>th</sup> 1852.*  
In case No. *467* Jose Domingo for a lot of ground at San Gabriel, the deposition of Michael White, a witness in behalf of the claimant, taken before Commissioner William Hall, with documents marked *W. H. No. 182*, and translation thereof marked *D. No. filed*;  
(Vide page *4* of this Transcript.)

*San Francisco September 1<sup>st</sup> 1853.*  
Case No. *163* Jose Domingo for a lot near San Gabriel, called; The cause for the claimant read the evidence; argued, submitted and taken under advisement.



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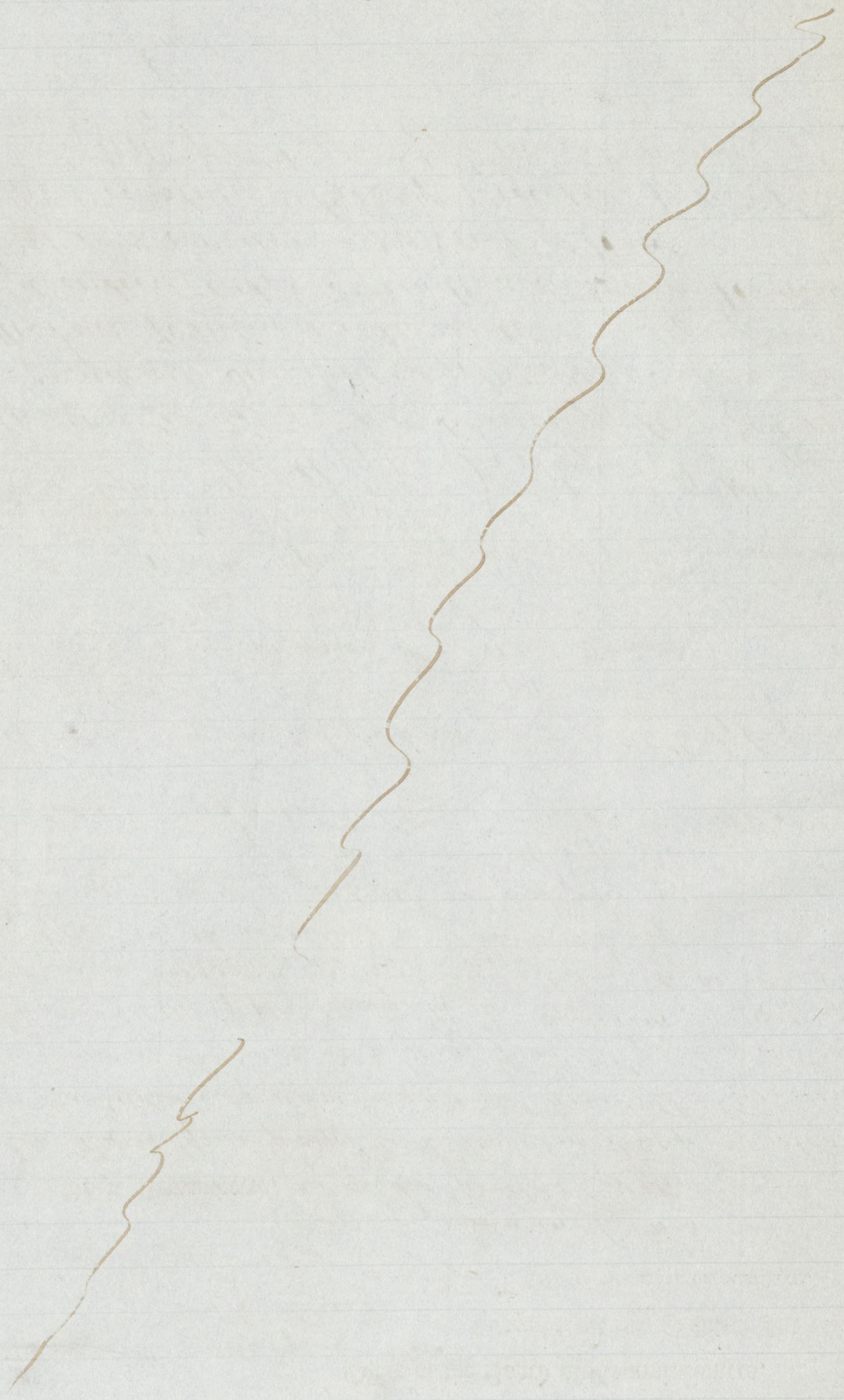
San Francisco Nov. 22<sup>nd</sup> 1853.

In case No 467 vsi Domingo for a lot near  
San Gabriel Commissioner Thompson Camp-  
bell denounced the opinion of the Board confirm-  
ing the claim:

(see page 13 of this Transcript)

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## 3) Petition

To the Hon. the Board of U. S. Land Commissioners Appointed to settle private land claims in California

The Petition of Jose Domingo an Indian of San Gabriel and son of the late Felipe an emancipated Indian of San Gabriel respectfully represents that on or about the month of April A. D. 1845 Pio Pico then Governor of California in the name of the Mexican Nation by virtue of the laws then in force granted in full property unto said Felipe an emancipated Indian of San Gabriel a tract or lot of land near San Gabriel in Los Angeles County of about three hundred and fifty Varas by two hundred and fifty Varas as described in the papers relating to said grant of land in the Archives now in custody of the U. S. Surveyor General for California a copy of the same being herewith filed as part of this petition and marked Exhibit "A," and a translation of said copy marked Exhibit "B."

And your petitioner further shows that the original grant of said lot of land has been nearly destroyed although small parts of the same are now in the possession of your petitioner ready to be produced and proved.

And your petitioner further shows that the said Felipe died about the year 1848 leaving a will whereby said lot of land was bequeathed to your petitioner that a copy of said will is herewith filed as a part of this petition and the original is now in the possession of your petitioner ready to be produced and proved.

And your petitioner further shows that the said Felipe from the date of said Grant to the time of his death occupied and improved said lot of land built a house and lived in it with his family and ever since the death of said Felipe your petitioner has lived with his mother upon said lot of land occupying and cultivating the same for support.

There is no conflicting claim thereto known to your petitioner - The said papers have never been surveyed by the U. S. Surveyor General for California the evidence upon which your petitioner relies in support of this claim consists of the Record of this grant and papers in the Archives now in custody of the U. S. Surveyor General for California the papers in possession of your petitioner to be produced and

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prova and the testimony of witnesses to be produced before your Hon Board

Respectfully Submitted for such action as the Justice and Nature of this Claim may require

E. C. Crosby

Filed in Office No 8 of Records for Claimants 1852

Geo Fisher Secy

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Los Angeles No 9th 1852

Deposition of Michael White On this day before Lewis Neilson Keale Commissioner Michael White a witness in behalf of the claimant Jose Domingo petition No 467 and was duly sworn his Evidence being given in English

The U S Associate Law Agent was present In answer to inquiries by the claimants concerning the witness testified as follows

My name is Michael White My age is forty two years & I reside at San Gabriel in the Locality of Los Angeles I have lived in California twenty two years; I am acquainted with the hand writing and signature of Pio Pico Juan Bandini Hugo Reid & Felipe Reid A paper is now shown me purporting to be a grant to Felipe an Indian dated 19th of April 1845 The signatures of the said several persons on said paper I believe to be genuine said Hugo Reid was an acting Justice of the Peace May 5th 1845 the paper is hereto annexed & marked He He No 1.

I am acquainted with the hand writing & signature of Amador Surani A paper is now shown me purporting to be the last will of Felipe Naguason dated 11th September 1848 I believe the signature of said Amador Surani to be genuine The said Felipe Naguason is the same person to whom the grant was made by Governor Pio Pico before mentioned Jose Domingo in whose favor the will was made is the son of Felipe; Felipe was in the occupation of the land previous to the grant & he continued to occupy it as long as he lived He had an Indian house or Shanty on the land in which he lived & in which the family live to the present time; said last mentioned paper is hereto annexed & marked He He No 2

Sworn & Subscribed before me Michael White

Lewis Neilson Keale Comm

Filed in Office No 9 1852

Geo Fisher Secy



464

f

1845

I. D. D. 12

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Expediente promovido por Felipe natural de D. Gabriel en pretencion de un corto terreno de la Mision.

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



2. O. D. N

Excmo Señor Governador Interim del departamto  
 Felipe indigena segregado de la Ex. Mision  
 de San Gabriel. ante V. E. respetuosamte con  
 la mejor forma, y como mas haya lugar en derecho  
 se presente diciendo; Pues hace algunos años  
 Angeles con el permiso de la Mision que  
 bre 18 de 1845 } ocupa un terreno al Oriente del  
 Informe el } Establiemto que contiene tres  
 R. P. Mtro. } cientos cincuenta varas de largo  
 de la mision } y doscientos cincuenta de ancho  
 de San Gabriel a donde sonas de sembrar semillas  
 Rico. } para la manencion de mi familia,  
 he plantado hace tres años ochocientas  
 parras y varios arboles frutales; A. V. E  
 Duplico que lo digno mandar librarne al titulo  
 correspondiente. previo los informes de estilo.  
 Por tanto duplico a la recta justificacion de  
 V. E que se digno acceder a esta mi solicitud  
 Es gracia que se pida juro lo necesario y  
 admitiendome lo presente en papel comun  
 por no haber en el lugar del Sello que cor-  
 responde. San Gabriel <sup>14 de</sup> 16 de 1845.

Expediente

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Felipe

En Virtud del informe que se me pide  
 se le puede conceder al chico Felipe  
 casado con dos hijos el terreno que solicito  
 por sus meritos personales

D. Thomas Estmaza

3. O. D. N

Angel Abril 19 de 1845.  
 Se le concede al interesado el terreno que  
 pretende; estienndole el titulo respectivo  
 para su resguardo.

Rico

Que da tomada razon de este titulo en el



7

libros respectivos.

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Office of the Surveyor General of the United States for California  
 Samuel D. King Surveyor General of the United States for the State of California  
 and as such now having under my charge and control a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California do hereby certify that the three preceding and herewith annexed pages of tracing paper numbered from one to three inclusive and each of which is verified by my initials S. D. K. exhibit true and accurate copies of certain documents on file in this Office

In testimony whereof I have hereunto signed my name and affixed my private seal (not having a seal of Office at the City of San Francisco Cal. this 29<sup>th</sup> day of October 1852.

Saml. D. King

Survey. Genl. Cal.

Filed in Office Nov: 8<sup>th</sup> 1852

Geo. Geisher Secy.



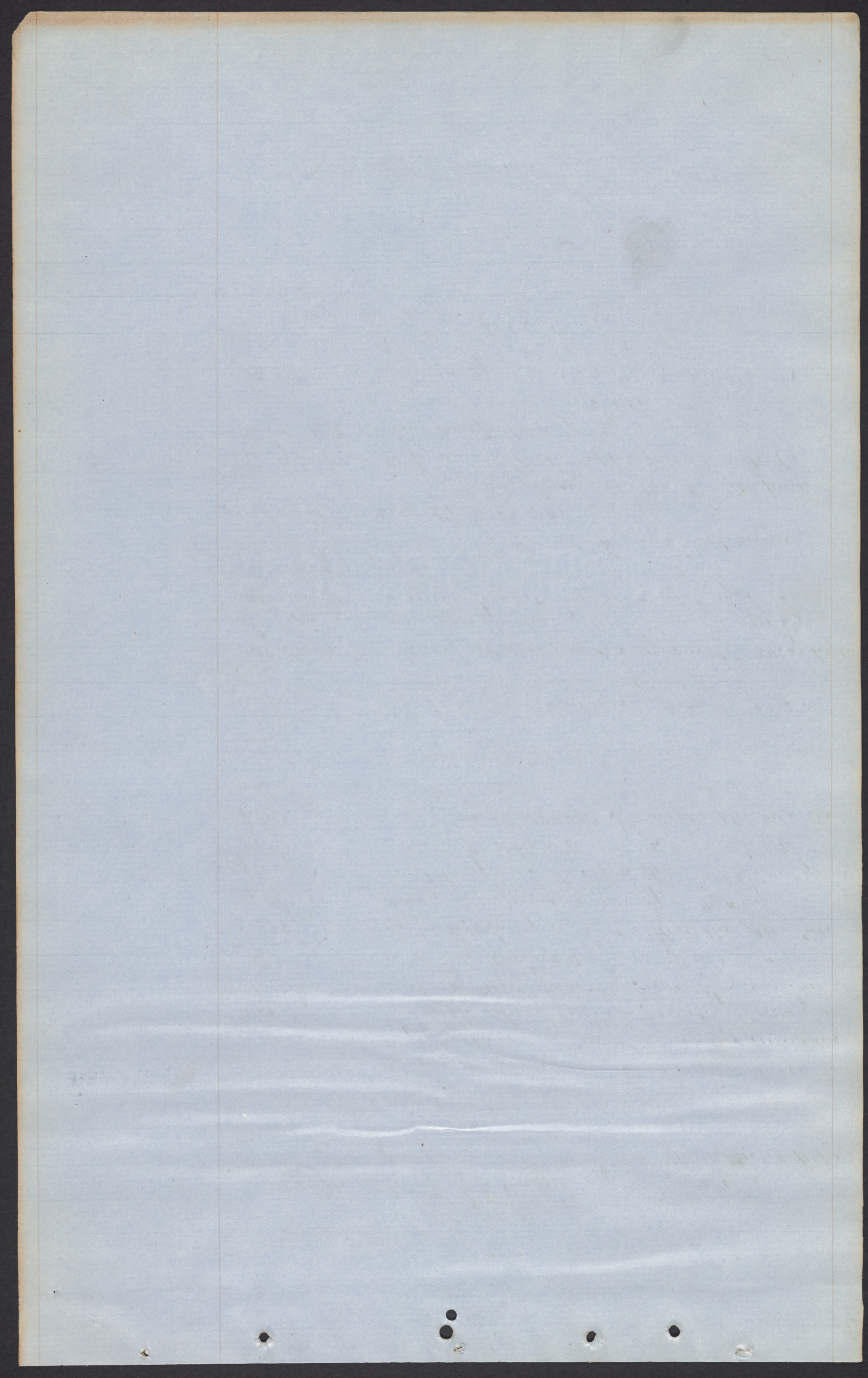




Exhibit B.  
Translation of  
Espediente

To his Excellency the Governor ad interim of the  
Department

I elise an Indian emancipated from  
the Ex Mission of San Gabriel before your Excellency  
Respectfully in the best form and to the utmost possi-  
ble intent of the law I have for several years by per-  
mission of the Mission occupied a lot of land at the  
North West of the Establishment containing three  
hundred and fifty Varas in length and two hundred  
and fifty in breadth when besides planting seeds for  
the maintenance of my family I set three years  
ago six hundred pear trees & various fruit trees  
I beseech your Excellency to Order that the due title  
of the same may be issued to me after taking the  
formal reports whereon I beseech the righteous Equity  
of your Excellency to dignify to vouch safe this my  
petition It is a grace I solicit I make the mesa-  
ry verifications &c under oath; Admit this petition  
on common paper there being none at this place  
of the appropriate stamp

San Gabriel April 16 1845  
I elise

By Virtue of the report demanded of me the Mesphyte  
I elise Maria and father of two Children may  
obtain the tract he solicits an account of his  
personal merits

For Thomas Estenaga  
Angels April 19<sup>th</sup> 1845

The tract solicited by the petitioner  
is granted to him Let the appropriate title be  
made out for his protection

Pico

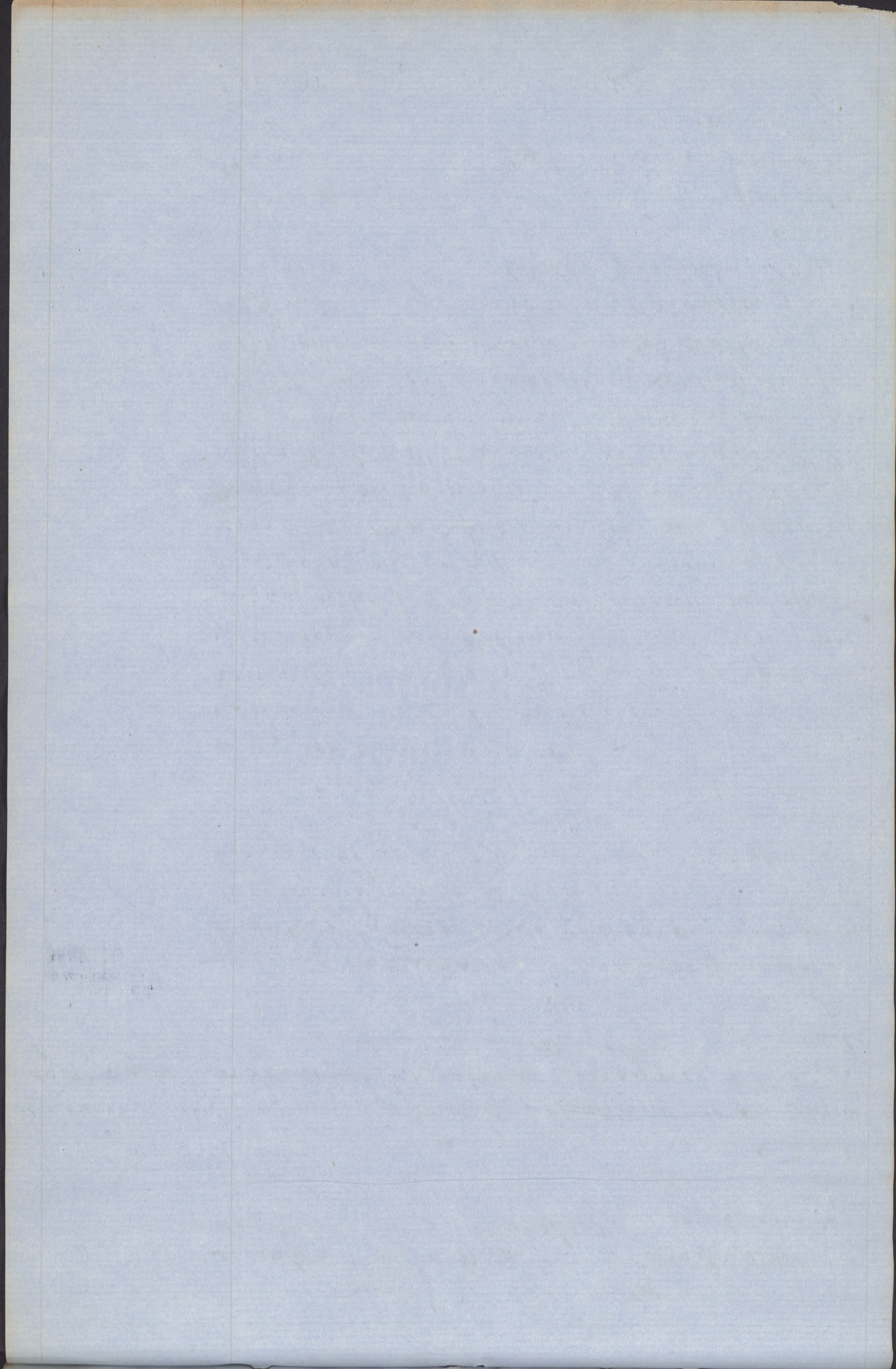
This title is entered of Record in the proper Book

I was in Office Nov 8<sup>th</sup>  
1852

Geo Fisher

Sur







9

Doc H. H. N.º 2 - Tablicim<sup>nto</sup> de la mision del Arcangel S. Ga  
ann d to the Dep. - briel dijo que aunque he sido ingrato a los  
of michael White beneficios de Dios soy cristiano por su divina  
before Com. gracia por lo cual me glorio y eres en el encfo  
Heland Hall. ble ministerio de la Santissima Trinidad

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En el nombre de Dios todopoderoso y de la  
siempre Virgen Maria y de todo la Corte  
del Cielo dijo yo Felipe llamados de este es-  
Dios Padre y Dios hijo Dios Espiritu Santo  
que son tres personas distintos y un solo  
Dios Verdadero, eres que la segunda persona  
que es el hijo Dios se hizo hombre en el vientre  
Virginal de la Virgen Maria por obra del  
Espiritu Santo que este mismo y hijo de Dios  
es nuestro. J. C. padecio y murio en la Santa  
Cruz por salvar a nosotros pecadores eres que  
resucito al tercer dia subis a los Cielos y esta  
sentado a la diestra Dios padre todo poderoso  
y eres que al fin del mundo ha de venir ha  
juzgar y habar haladano conforme sus obras  
a los buenos vida perdurable y a los malos pena  
y muerte eterna protesto y dijo que eres en el  
Santissimo Sacramento del Altar de este  
el verdadero cuerpo y sangre de nuestro S. J. C  
dijo estando en mi entero juicio que si por sugestio  
del demonio o por privacion de sentido dijere  
algo contrario ha estos prepositos desde luego  
los hanulo y any por invalido ha usen y ha todos  
sus pompas y vanidades. igualmente dijo  
que si Dios me enbia la muerte mi cuerpo se a  
enterado en el Campo Santo de la Iglesia del  
Arcangel S. Gabriel y tengo de claro ser casado con  
Pascuala y tengo un hijo Varon llamado Jose  
Domingo y tengo de claro que es mi ultima Voluntad.



-ta de dejar de Alvasea à Blas Gonzales, de jo  
 un terreno de siembre para beneficio de mi hijo  
 y se compone el terreno de Norte hasta tres cien-  
 -tas cincuenta varas de largo de oriente a po-  
 -nente doscientas y cincuenta varas de ancho  
 y tres hasadores, y una hacha y una legua Posito  
 y ten de Claro, segundo a Alvasea llamado Cesilio  
 y ten de Claro que para descargo de mi conscien-  
 -cia en el tribunal de Dios no debente llamados  
 y menos me deben a mi y para que Costa en  
 todo tiempo de jo esto estando en mis únicos sen-  
 -tidos y si mañana otro día hubiere algun  
 reclamo ò debito contra mi desde luego le doy  
 por nulo y para resguardo de mi hijo y primer  
 Alvasea y segundo y si este en la misión del  
 Arcángel S. Gabriel à los 11 días del mes  
 Sep<sup>bre</sup> del año de 1848.

Felipe Naynasim +  
 Y se esto ante del Alcalde que lo es ne ceso-  
 -rio y se esto. y testigos y por no saber firmar  
 hicieron una Cruz.

Simeon Idyubit +  
 Francisco Villa Jorge Guapabit +  
 Amader Sorani  
 Sealed in Office Nov. 9<sup>th</sup> 1852

Leo Fisher Secy



Exhibit D  
Translation of  
Will of Felipe

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In the Name of God Almighty and of the ever  
 Virgin Mary and of all the Court of Heaven I Felipe  
 Maynium of this Establishment of the Mission of  
 the Archangel San Gabriel do say that although I  
 have been ungrateful for the benefits of God I am  
 a Christian by his divine grace wherein I glory  
 and believe in the ineffable Mystery of the most  
 Holy Trinity, God the Father, God the Son, God the  
 Holy Ghost who are three distinct persons and only  
 one true God I believe that the second person who is  
 God the Son made himself man in the Virgin womb  
 of the Virgin Mary by the operation of the Holy Ghost  
 that the same Son of God is our Lord Jesus Christ  
 he suffered and died on the Holy Cross to save us  
 sinners, I believe that he resuscitated the third day  
 went up to the Heavens and is seated at the right  
 hand of God the Father Almighty and I believe that  
 at the end of the world he is to come to judge and  
 give to each one according to his works to the good  
 live forever more, to the bad punishment and death  
 eternal, I protest and say that I believe in the most  
 Holy Sacraments of the Altar when is the true body  
 and blood of our Lord Jesus Christ; I say being in  
 my entire mind that if through suggestion of the  
 Devil or through loss of reason I should say ought  
 contrary to these statements from this moment  
 I annul the same and I renounce Lucifer and  
 all his pomps and vanities and I likewise say that  
 if God sends me death my body shall be buried in the  
 Holy Ground of the Church of the Archangel San Gabriel  
 Item I declare that I am married with Pascuala  
 and I have a Male Child called Jose Domingo  
 Item I declare that it is my last will to leave as  
 Executor Blas Gonzales I leave a planting field for  
 the benefit of my Son and the field contains from  
 North to South three hundred and fifty Varas in  
 length and from East to West two hundred and  
 fifty Varas in breadth and three peck axes and a  
 old man  
 Item I declare for the second Executor the person  
 named Le celo Item I declare for the discharge of  
 my Conscience in the tribunal of God that I do not  
 owe to any one still less does any one owe me,  
 and in testifying thereof for all time I leave this being



in My business and if tomorrow or another day  
any claim or debt should arise against me from  
this moment I pronounce it null and for the protec  
tion of My Son and first and second Executors I  
made these presents at the Missim of the Archangel  
San Gabriel on the 17<sup>th</sup> day of the month of Septem  
ber of the year 1848

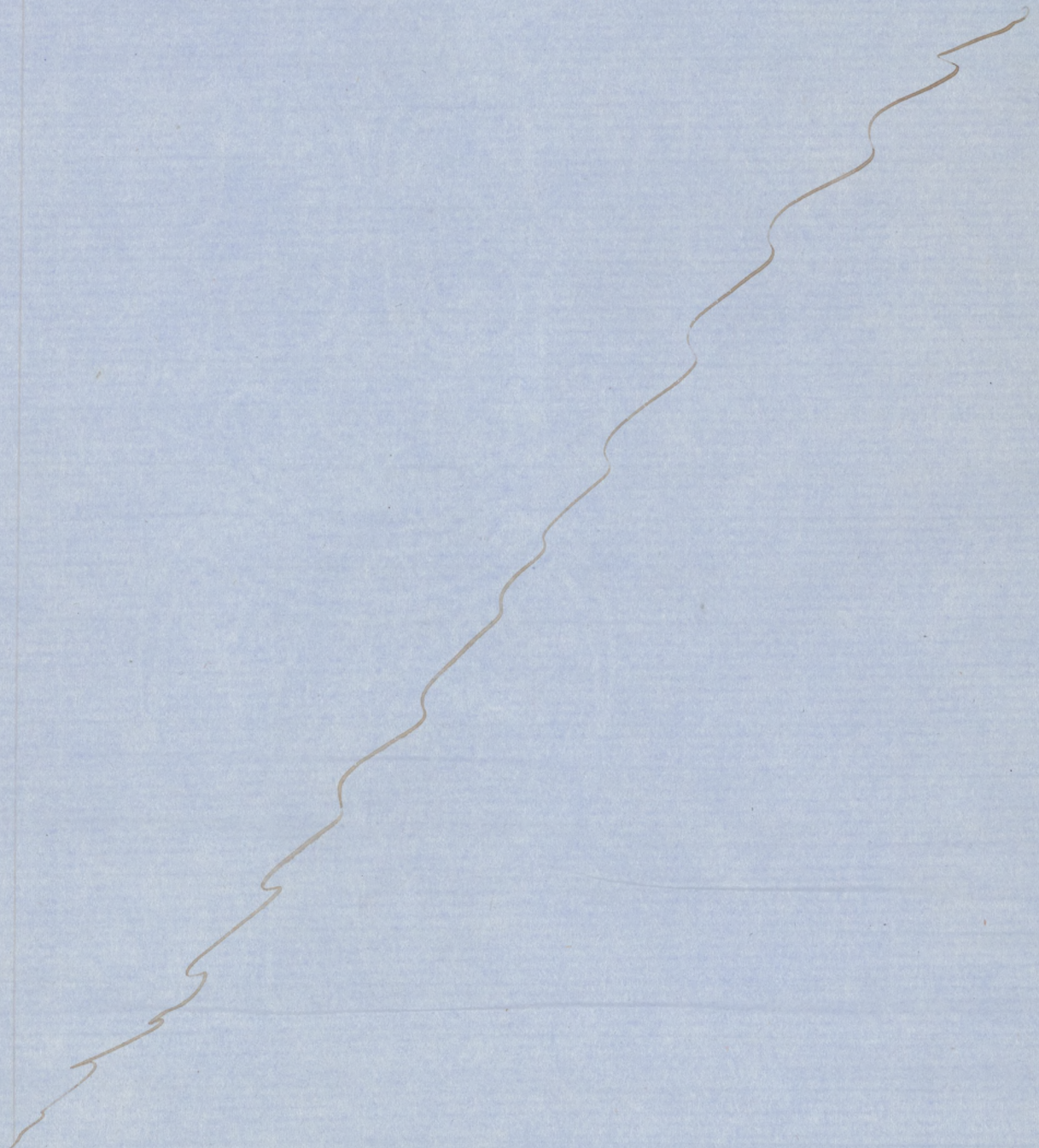
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Felipe Waynoem +

I made these presents before the Alcaide who is  
Cesaris Apario + and witnesses who not knowing how  
to write made the sign of the Cross

Simon Layubit +      Jorge Guapiatit +  
Francisco Villa      Anadío Serrani

Fida in Office No 8  
1852      Geo Fisher  
Lay





Por medio jurma Local de la  
Exema ..... mental y Gobernador in  
terino del Depav.....

Por cuanto Felipe Ind.....  
Doe: H. H. No. de San Gabriel ha pretendido para su  
1. annex: to Dep beneficio y el de su familia la propiedad  
of Michel White de un terreno de trescientas cincuenta varas  
de largo y doscientas cincuenta varas de  
ancho situado al Nor. Oeste de la expresada  
Mision y que tiene ocupado con siembras  
una ..... bolesputa ..... practica  
das las d. .... vementes ..... lasgo  
y bajo las condiciones sigtes:

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1<sup>a</sup> El terreno de que se hace donacion es de  
trescientas cincuenta varas de largo y dos-  
cientas cincuenta de ancho de tierra de  
labor el juez respectivo le dara la posesion  
en virtud de este despacho, haciendo p  
por los linderos correspondtes

2<sup>a</sup> Lo disputaria libre y exclusiva  
..... nandolo al uso que mas le conven-  
ga:

En consecuencia mande que si-  
viendole ..... titulo el presente y teniendose  
por y Valido, se tome Rayon de el en el libro  
a que corresponde, y se entregue al  
tercerado para su resguardo y demas fines  
Dado en la Ciudad de Los Angeles.....  
de 1845.

(Signed) Pio Pico.

Signed J. Quem Bandini. Ojo.  
Queda tomada Rayon de este superior  
despacho en el libro respectivo.

Angeles fecha ut supra (signed) Bandini  
Adminis<sup>m</sup> Auxiliar  
de justicia in } Presente Manuel

Antonio no parte de la Mision, Don Felipe  
Reid y prosper, testigos, medi desde un  
Roble grande rumbo Ouel Este trescientas  
y cincuenta varas hasta la Sequina del  
terreno de Francisco Salis..... ven de  
ocho chicos salis rumbo Nor. Este queda  
evidente ..... al camino y se mide



=un trescientos y cincuenta ---  
por todo el camino rumbo Nor. Este, quedando  
el --- del Nor. Este con trescientos  
Alcancas de ancho por que asi exige el terreno  
para que haya anegado, quedo posesion  
ado --- interesado y satisfecho y uno que  
de los testigos firmo y el otro por no saber firmo  
mas puso una Cruz.

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San Gabriel Mayo 2. de 1845.  
(Signed) P. Hugo Reid  
Presenciamos  
Signed Felipe Reid.  
proseio. +.

Filed in Office November 8<sup>th</sup>  
1852.  
Signed: Lisha Scery

N.B. The dots in the above document  
show several portions torn out in the Orig<sup>l</sup>



Pio Pico Senior Member of the Most Excellent Departmental Assembly and Governor ad interim of the Department.

Translation of Doc. H. B. No. 1 to depo. of Michael White. Whereas Felipe Ind. . . . of San Gabriel has petitioned for his own benefit and that of his family the ownership of a piece of land three hundred and fifty varas in length & two hundred and fifty varas in width situated northeasterly of said Mission, and which he has occupied with plantings, stock and fruit trees, the proper proceedings having been had according to laws and regulations in the exercise of the powers vested in me in the name of the Mexican Nation by decree of this day I have concluded to grant him the ownership of the said land, it being understood to be in entire conformity with the laws and under the following conditions:

1<sup>st</sup> The land hereby granted is three hundred and fifty varas long by two hundred and fifty in width of tillable land; the respective judge shall give him possession thereof by virtue of this Patent, causing the corresponding boundaries of the same to be established.

2<sup>d</sup> He shall enjoy it freely and exclusively appropriating it to such uses as may suit him.

Therefore the present serving him as a title and being held as firm and valid, I order it to be entered in the proper Book and delivered to the interested party for his security and other purposes. Given in the City of Los Angeles . . . . .

1845.

(Signed) Pio Pico

(Signed) Juan Bandini

Secy.

Entry is made of this Patent in the proper Book - Angeles, date as above,

(Signed) Bandini.



Auxiliar Administration  
of  
Justice

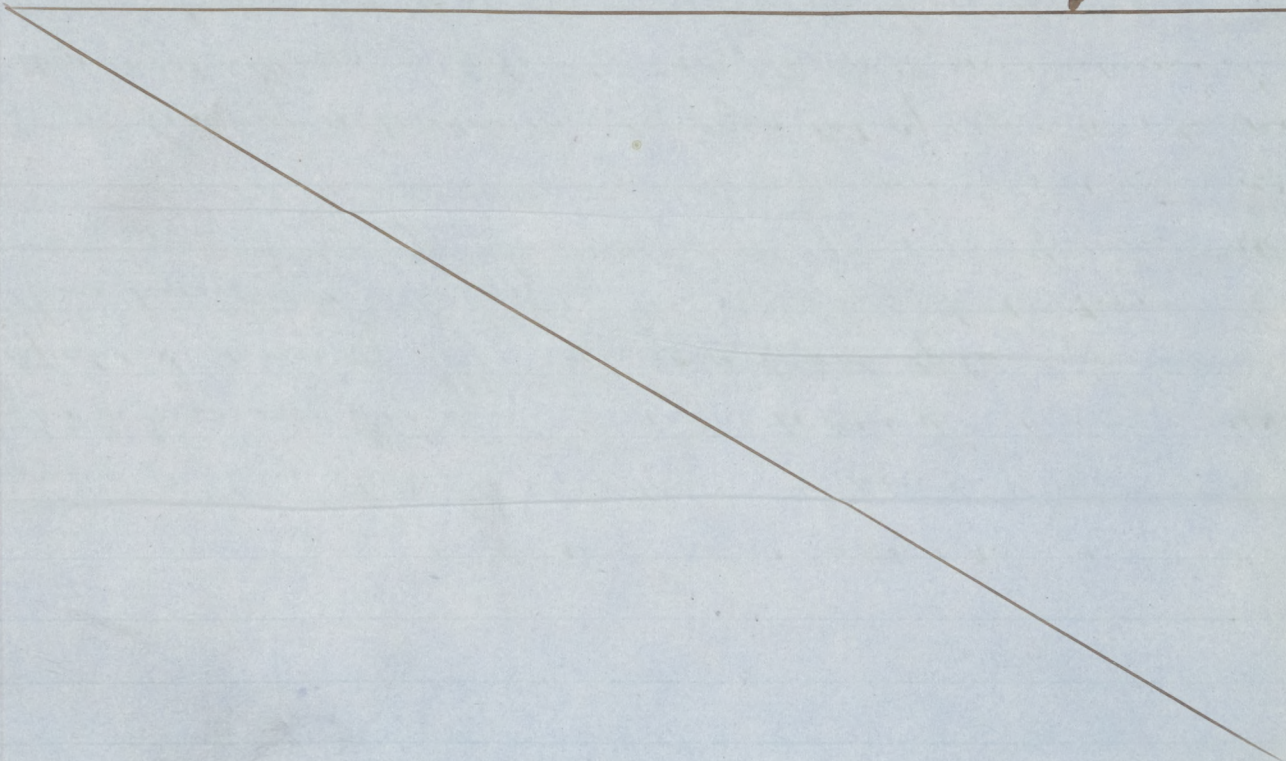
Mamul Antonio

being present on behalf of the Mission  
and Don Felipe Reid and Prospero  
as witnesses, I measured from a large  
oak course South east three hundred  
and fifty varas to the corner of the  
land of Francisco Sales..... land  
of said Chico Sales lies adjoining.....  
to the road and three hundred and fifty  
varas were measured along the road course  
Northwest, the..... lying Northwest by  
three hundred varas in width, because this  
..... the land that it may be ad-  
justed. The possession was given to the in-  
terested party to his satisfaction, and one  
of the witnesses signed with me and  
the other not knowing how to write affixed  
his cross - San Gabriel, May 5, 1845.

Before us (Signed) P. Hugo Reid.  
(Signed) Felipe Reid  
(Signed) Prospero +

A true and correct Translation  
made and filed in office Nov. 8<sup>th</sup> 1852  
Geo. Fisher  
Secy.

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Opinion of the Board

Jose Domingo }  
vs }  
The United States }

Near San Gabriel  
In Las Angeles Territory

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The Claimant in this case Represents in his petition that on or about the month of April AD 1853 Governor Pio Pico granted to one Felipe an emancipated Indian of San Gabriel a tract of land about three hundred and fifty Varas in length by two hundred and fifty Varas in breadth It is further set forth in said petition that the said Felipe and about the year 1848 leaving a Will whereby said lot of land was bequeathed to the Claimant in the case, the petition contains the further statement that the said Felipe from the date of his grant to the time of his death occupied and improved said lot of land that he built a house and lived in it with his family and that ever since the death of said Felipe the Claimant has lived with his Mother on said lot of ground occupying and cultivating it for their support, in support of the foregoing allegations the Claimant has placed on file the original grant to him which although very much mutilated is sufficiently authenticated and proved to establish its genuineness beyond all question: The Claimant has also placed on file an instrument which purports to be the Will referred to in his Petition together with a translation of the same, But no translation has been furnished either of the grant or of the Certificate of Measurement and as both these documents are of vital consequence in establishing the Claimants right to Confirmation it is not a little singular that the translation should have been overlooked There is no proof that any approval was ever made by the Departmental Assembly, It is proved by the deposition of Michael Abate that Felipe Rayonsum is the same person to whom the grant was made by Governor Pio Pico and that Jose Domingo is the son of the said Felipe He also states in his deposition that Felipe was in the occupation of the land granted previous to the grant and that he continued to occupy it as long as he lived that he had an Indian house on the place in which he lived and in which the family have continued to live since his death, The Petition contains no allegation that the Claimant Jose Domingo the son of the grantee and therefore entitled to Confirmation as the heir of his Father but sets his claim altogether on the title of Felipe the Will appears to have been made on the 17<sup>th</sup> of September



AD 1848 and is what would be termed under the Mexican Law an open or Muncipative Will, at the time the Will in question was made the Mexican Law was in force in this State it is therefore subject to all the rules which were at that applicable to such instruments. The Will it appears was signed by the testator but his signature is not proved it is stated at the bottom of the Will that it was made in the presence of the Alcalde Leosario Aprego and from other witnesses whose names are stated one of whose signatures Amadio Surani is proved to be in his hand writing; This is all the proof made by the Claimants in regard to the Will, the original Will was submitted as evidence in the case together with all the other papers on file without objection on the part of the Officer representing the Government. The proof of this Will is so incomplete that not withstanding it was admitted without objection we cannot take notice of it as proof of title the only purpose for which it was introduced in the absence of every semblance of authentication required by the Mexican Law, the Mexican Law requires three witnesses to be present an open or Muncipative Will was made it appears from the signing that four witnesses were present besides the Alcalde two of whom signed with their marks and the signature of only one of the other witnesses is proved there is no proof of the testator signing who also signed with a mark the Will is therefore presented without proof of any kind except the hand writing of one subscribing witness. It does not appear from endorsement or other wise that it was ever Registered and no foundation is laid upon which to base even a presumption that that requirement of the Law was complied with the Will is in no sense a public writing and to entitle it to admission for any purpose proof not only of the legal number of subscribing witnesses was necessary but proof of its execution by the testator was indispensable. In the case of Panama vs Jones 16 R 488 the question of Wills under the Mexican Law is very fully and ably discussed the Will in that case was proved to have been subscribed by the requisite number of witnesses and although the testator had not signed it the Official Character of the Alcalde who also signed it and whose presence it was made was proved. It further appears from an endorsement made on the Will that it had been registered in the book of Records



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of the Alcalde the Court under all the circumstances was of opinion that the Will was sufficiently proved according to the laws and customs of the Country to entitle it to be received as evidence. Testing the document under consideration by the rules and principles which govern the Supreme Court in the case just referred to I am clearly of opinion that for want of authentication it cannot be received as evidence of title and indeed is wholly inadmissible for any other purpose.

The next question which presents itself for inquiry is whether the proof in this case entitles the Claimant to a confirmation as prayed for in his Petition. Although the petition contains no direct allegation that the Claimant is the son and heir of the Original grantee it is alleged that the Claimant ever since the death of Felipe lived with his mother on the land and the testimony of Michael White proves it beyond all question, leaving the Will then as proof of title wholly out of view. I think sufficient appears on the face of the papers on file to entitle the Claimant to demand of the United States a relinquishment of the land in question provided the Claimant is the sole heir of the original grantee and as such the legal successor of his rights. The evidence submitted by the Claimant shows that Felipe at the time of his death had a family and that they continued to live on the premises with the Claimant. It is alleged in the Will that the testator Felipe was married to an Pasanda and I think taking all the evidence together it may reasonably be inferred that the wife of Felipe survived him and that she continued to occupy the land in question in common with her son Domingo. Under the Mexican law property acquired by husband and wife during the marriage is held by them in common the husband it is true might under certain circumstances and for particular purposes dispose of their common property without the consent of the wife when there was no intention to deprive her but if the husband died without making any such disposition the wife was entitled to the one half of all the property acquired by them jointly during the marriage. In the case before us there is no claim set up by the wife but it having been made to appear that the father of the Claimant had a wife at the time of his death and that she might



have rights which through ignorance inadvertence or some other cause she had neglected to assert it is deemed just and in accordance with the principles of Equity which protects the absent as well as those who are immediately before the Court to make such a decree of Confirmation as will not prejudice her rights, Being fully satisfied that the grantee had shown equities which have passed to his legal representatives and that the land claimed was by the act of the former Government segregated from the Mass of the public domain we are of opinion that the same should be confirmed to the Claimant to the extent of the interest which he is entitled to receive as heir at law of his deceased Father without prejudice to the legal rights of the widow of the said Felipe. A Decree in conformity with this Opinion will be entered up

Filed in Office Nov 22 1853  
Geo Fisher  
Clerk

Decree

Jose Domingo  
vs  
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said Petitioner is valid to the extent of the interest which he is entitled to receive as heir at law of his deceased Father Felipe Hernandez and it is therefore decreed that the same be confirmed the lands of which Confirmation are hereby made are situated near and to the North West of the Mission of San Gabriel and are the same now occupied by the said Jose Domingo and are bounded and described as follows to wit Commencing at a big oak tree and running in a South East direction 350 Varas as far as the land of Francisco Salas thence running in a North West direction along the road three hundred and fifty Varas leaving on the North West three hundred Varas in breadth

Filed in Office Nov 22 1853  
Geo Fisher Clerk  
Alphus Filch  
Thompson Campbell  
R Aug Thompson

Commissioners



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Office of the Board of Commissioners,

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

I, *George Fisher*, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *Twenty* pages, numbered from 1 to *20*, 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. *407* on the Docket of the said Board, wherein *Jose Domingo is*

the Claimant against the United States, for the place known by the name of *A Lot of Ground at 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. 1854, and of the Independence of the United States of America the seventy=*eight*.

*Geo. Fisher*  
*G. Fisher*





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

No. *58*. Docket

THE UNITED STATES,

vs.

*José Domingo*

"*A lot at San Gabriel*"

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TRANSCRIPT OF THE RECORD  
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *467*.

Filed, *August 30th* 1854

*W. H. Carter*  
Clerk

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*Ms. 467*



58,

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Office of the Attorney General of the United States,

Washington, 30th Novemb 1854.

*José Domingo*

vs.

*The United States*

} 467.

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 58.

U. S. District Court

Southern District

The United States

vs

José Domingo

Appeal Notice -

Filed Jan'y 10<sup>th</sup> 1853.

J. S. Carr.  
CLK.



In the Dist Court of the U.S. for the Southern Dist of Cal.  
Hon J. S. K. Ogden - Judge.

N. 58,

Josi Domingo

N<sup>o</sup> of transcript 467.

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vs

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The United States.

On motion of P. Ord District Attorney of the United States for the Southern District of California, and on suggestion that the Transcript from the Office of the Commissioners to ascertain and settle the private land claims in the State of California, filed in the Office of the Clerk of this Court on the 30<sup>th</sup> of August 1854, is incomplete; it was ordered that the said transcript be sent back to the said Commissioners, that the same may be perfected, and there-  
-after returned to the files of the Clerk of this Court, for further proceedings.

P. Ord

District Atty, U.S.



No 58

order to return I am with  
a motion of U.S. atty.

Filed Apr 23 1855.

J. E. Fox  
clerk.



In the District Court of the United States, for the Southern District of Cal.:

José Domingo } N<sup>o</sup> 58.  
 ad. } (Transcript N<sup>o</sup> 467)  
 The United States }

On Motion of P. Ord, Attorney of the United States for the Southern District of California, and on suggesting to the Court, that the Transcript in the above entitled from the Office of the United States Land Commissioner, is imperfect, it is  
 Ordered, <sup>by the Court</sup> that the Clerk of this Court transmit the said transcript to said Land Commissioner, that the same may be perfected, and ~~thereafter~~ returned to said Clerk.

P. Ord  
 Attest.

The original title papers referred to in the opinion of the Court, does not appear in the Transcript.



N. 58.

Mr. Domingo

ad.

The United States.

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Order to send back  
Manuscript to Com. to  
be perfected.

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Filed Oct 22<sup>d</sup> 1833.

C. C. Jan.  
1834.

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P. Ord. N. 58.



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

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.

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*José Domingo, appellee*

*vs.*

*The United States, Appellant*

Docket No. 58.

Transcript No. 467.

**TO THE HON. ISAAC S. K. OGIER, JUDGE:**

The Petition of Pacificus Ord, a resident of said City, County, and State, 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 the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the 8<sup>th</sup> day of November A. D. 1852, *José Domingo*

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land or lot of land, near San Gabriel \_\_\_\_\_ in the County of Los Angeles State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 22<sup>nd</sup> day of November A. D. ~~1852~~ <sup>1853</sup>, the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the 30<sup>th</sup> day of August A. D. 1854, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 467; reference to which it is prayed may be had and made part of this petition. That on or about the 18<sup>th</sup> 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 the proceedings and decision of said Commissioners in said cause, and the papers and



evidence on which said decision was founded. That thereafter, to wit: <sup>or about</sup> on the 10<sup>th</sup> day of January A. D. 1855, the said Attorney-General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the Clerk of said District Court of the United States, that the appeal in said cause from the said decision of the said Commissioners, 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 land claimed, as aforesaid, is situate in the Southern District of California, and within the jurisdiction of this Honorable Court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision 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 the proceedings and decisions of said Commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said Commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the



said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, 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 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the ~~same~~ <sup>said claim</sup>, and decree the alleged title to be invalid: with costs and general relief.

P. Ord

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



No 58.

U. S. Dist Court.

South Dist of Cal.

The United States  
vs.  
app<sup>ts</sup>

José Domingo, et al.  
vs.  
app<sup>ees</sup>

Petition of the Assets  
for review.

Filed Jan 14<sup>th</sup> 1856.

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J. E. San  
C. H.



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

José Domingo Case No. 38.  
Appellee Lot near San Gabriel.  
vs Transcript 467.  
The United States  
Appellants

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PAGE 33

And now comes the above named  
Appellee by Jonathan P. Gott his <sup>Attorney</sup> Attorney  
and for answer to the Petition for Review  
filed in this case by the Appellants, says;

That his title to the lands claimed in  
this case is good and valid;

Wherefore he prays the Judgment of  
this Honorable Court that the decision of  
the United States Board of Land Commis-  
sioners may be affirmed, and his title  
to said lands may be decreed to be valid,  
and for his costs and charges in this be-  
half expended, and for such other or further  
and general relief as to Equity and good  
conscience may belong or the nature of his  
case may require.

~~Jonathan P. Gott~~

Attorney for Appellee.



I have served this answer upon P.  
Ord U.S. Atty, by delivering to him  
personally a true copy of the same  
at Los Angeles feby 19th 1856

Edward Hunter  
U.S. Marshal  
By M. Goodman Deputy.

Case No. 58.  
U.S. Dist Court, Southern  
Dist. of California.

Jane Domingo

vs

Adr

The United States

vs

Answer.

Filed February 15th 1856.

L. E. Lane  
Att.

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Jonathan P. Scott.

March 1st  
Henry Quinn



In the District Court of the United States for the  
Southern District of California. Monterey, September  
1857. Hon Isaac S. H. Ogden Judge.

José Domingo. Appellee } N. 58.

or  
The United States } From N. 467.  
Appellant

The Motion of Pacificus Ord. Attorney of the  
United States for the Southern District of California,  
and on suggesting to the Court that it is not the  
intention of the U. States, to prosecute & further  
the appeal in the above cause, it is ordered  
by the Court, that the appeal in said cause  
be dismissed, & that the claimant have  
leave to proceed upon the decree of the  
Commissioner heretofore rendered in his favor  
as a final decree. Isaac S. H. Ogden  
U. S. Dist. Judge



~~No 211.~~

No 58

~~Francisco Perez Torres~~

~~attorney~~

~~The United States~~

~~attorney~~

~~U. S. Dist. Court,~~

~~order summarizing appeal.~~

~~Filed June 15<sup>th</sup> 1857~~

~~A. S. Taylor~~

~~off. clk.~~

Jose Domingo

vs

The U States

Dismissal of appeal

↓ Filed June 15<sup>th</sup> 1857

A. S. Taylor

off. clk

58 SD



California Land Claims.  
Attorney General's Office  
3 Febrj 1857.

Sir:

In the case of the claim of  
Jose Domingo, confirmed to the  
claimant by the Commissioners,  
Case no. four hundred and six-  
ty-seven, (467), appeal will  
not be prosecuted by the United  
States.

I am

Respectfully,

Chauncey

Pacificus M Esq  
U. S. Attorney,  
Los Angeles



No 58

↓ Filed 4<sup>th</sup> March 1858  
for 8<sup>th</sup> June 1857

Esquis call  
of M. Coleman  
Sep



Appellant.

vs.

Jose Domingo.  
appellee.

Lot near San Gabriel