

CASE No.

264

SOUTHERN DISTRICT

LA SOLEDAD GRANT

CAVE J. COUTTS

CLAIMANT

Microfilm

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LAND CASE 264 SD

19 pgs.

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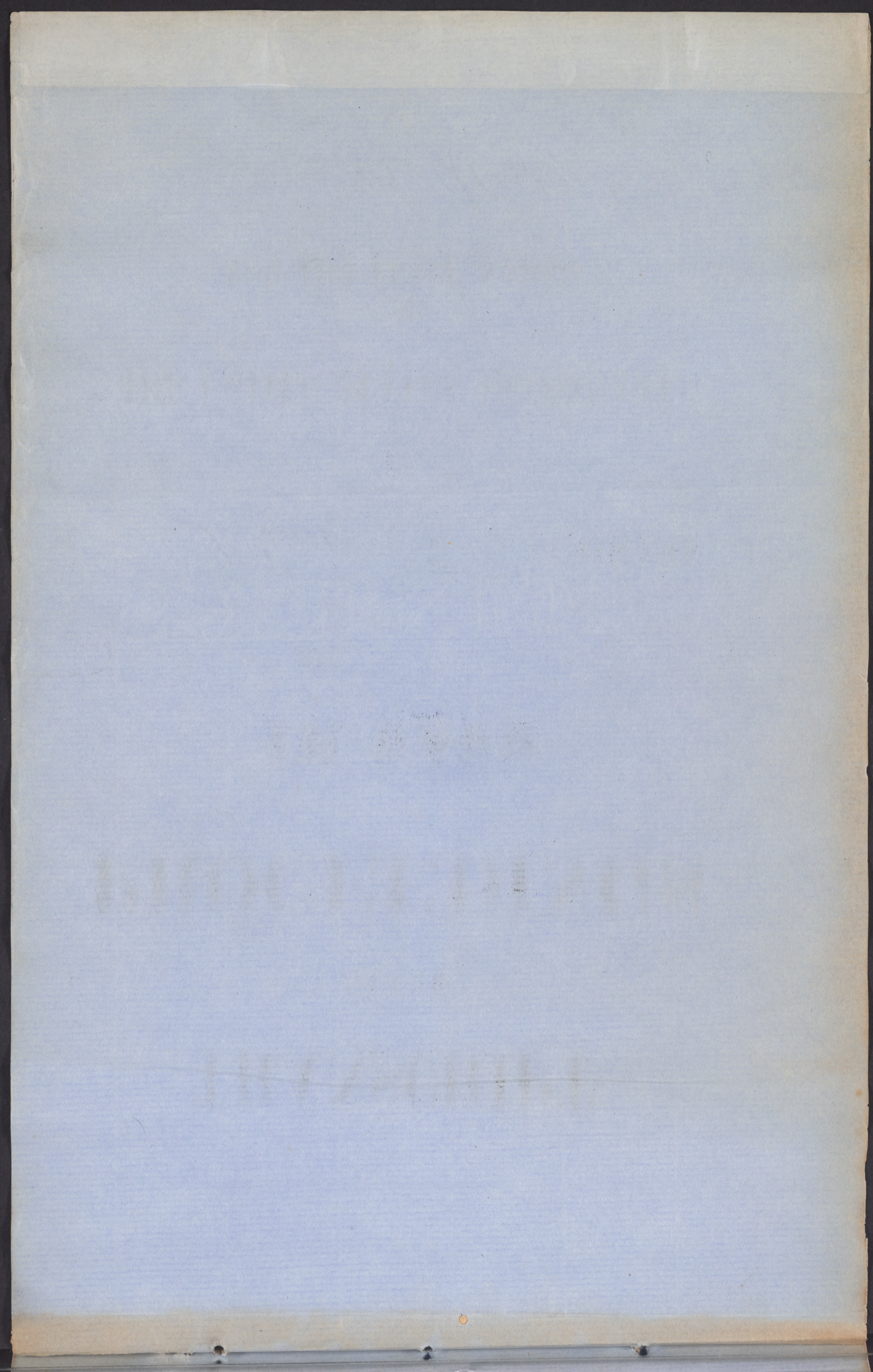
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J.



TRANSCRIPT

264 SD
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. *485*

Carre J Corvett

CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"La Soledad"

FOR THE LETTERS

AND THE LETTERS DEPARTMENT

OFFICE

IN THE

PROCEDURE

OF

THE

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

264 SD
PAGE 2

Be it Remembered, that on this *thirteenth* 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 *Caro J. Coultz*,
for the Place named
La Soledad,
was presented, and ordered to be filed and docketed with No. *485* and is as follows, to wit;

(Vide page *3* of this Transcript.)

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

San Francisco December 5' 1854.
Case no. 485, *Caro J. Coultz* for the place named "La Soledad," was ordered to be placed at the foot of the 3^d class Cases on the Trial Docket.

San Francisco Dec. 18' 1854.
In the same Case the deposition of *Santiago E. Arguello*, a witness in behalf of the Claimant, taken before Commissioner *Alpheus Felch*, was filed.

(Vide page *3* of this Transcript.)

San Francisco Dec. 19' 1854.
Case no. 485 was submitted under the Rule of *91st* March 1854.

San Francisco Jan. 23^d 1855.
In the same Case Commissioner *R. Aug. Thompson*

2

delivered the opinion of the Board respecting
the claim:

(Vide page 15 of this Transcript.)

And the following order was made, to wit:

(Vide page 16 of this Transcript.)

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264 SD  
PAGE 3



3 Petition

To the Board of Commissioners for ascertaining and settling private Land claims in the State of California.

Your petitioner Juan I Leocatis a resident of the County of San Diego State of California respectfully represents to your Honor able Board, that he claims a certain tract of Land called "La Soledad" situated in the County of San Diego in said State of California containing One, "Sitio de ganados Mayra" more or less; that he claims the same by purchase from Francisco Manuel Alvarado, a Mexican by birth to whom said Land was granted under the Authority of the Mexican Government by Don Leopoldo Antonio Lemillo Provisional Governor of the Department of the Californias under date of April 13th 1838. The transfer of said Land from the said Francisco Manuel Alvarado to the said Juan I Leocatis was made on the day of -

Your petitioner would further represent that judicial possession of said Land was given to said grantee on the day of and the born since thereof designated and defined, and that he and those claiming under him, have been in the peaceable possession thereof ever since, and that he knows of no interfering claim.

Your petition presents herewith his Expediente concerning the Original grant of said Land in the Spanish Language, together with a translation of the same, and will make further proof of title as required by the Board.

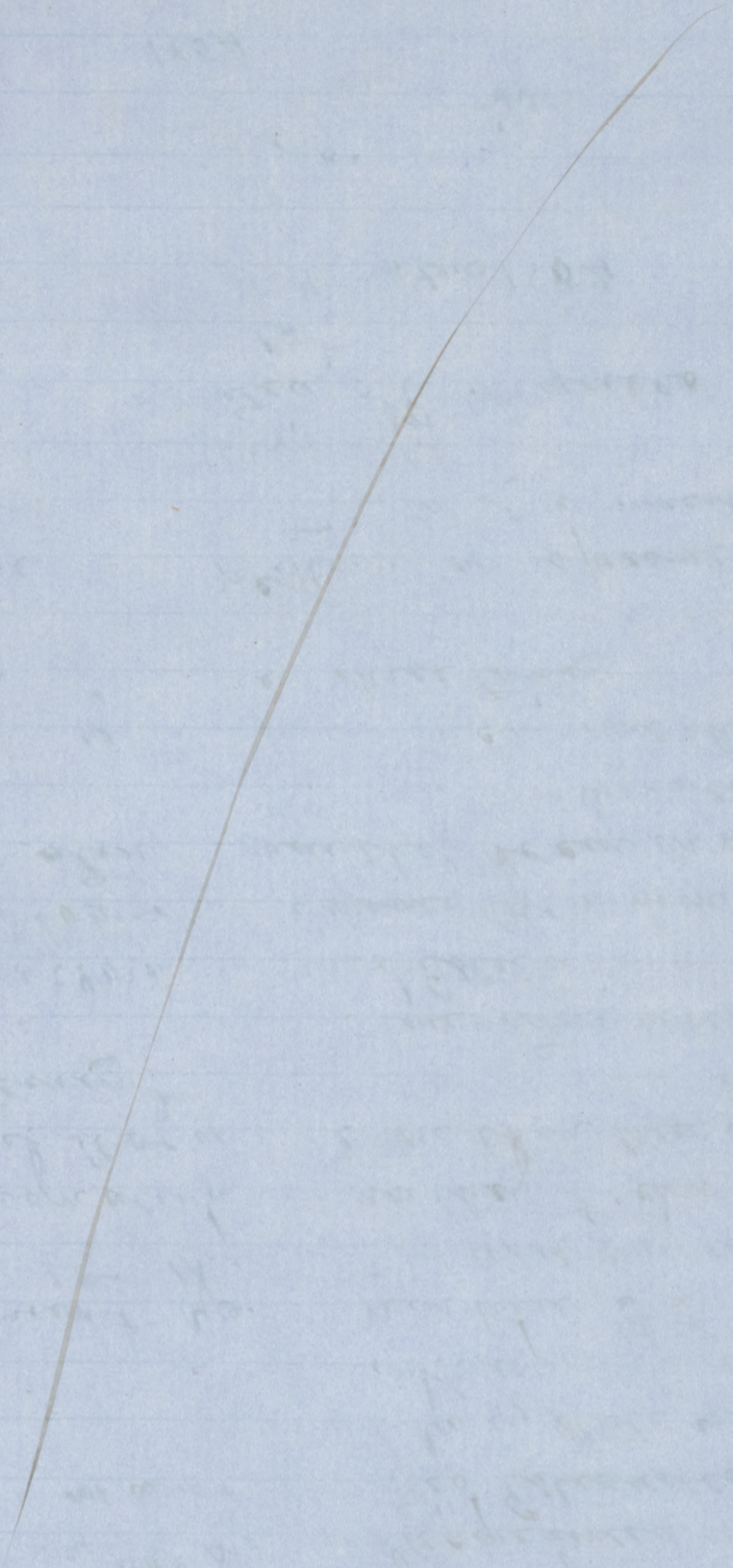
Your petitioner prays your Honorable Board to take into Consideration his claims to said tract of Land and decree his title to be valid and confirm the same.

And your petitioner will ever pray

C. E. Carr Attorney

Filed in office Nov. 13 1853 Geo. Fisher Secy  
Recorded in Record of Petitions pages 447.9448  
Vol 1 Geo. Fisher Secy

264 SD  
PAGE 4



Deposition of United States Land Commissioner  
S. E. Arqueles San Francisco Dec. 18. 1854

On this day before Commissioner Alpheus Felch came Santiago E. Arqueles a witness on behalf of the claimant Leon J. Cortis in case No. 485, who after being duly sworn deposed as follows, his testimony being interpreted by the Interpreter of the Board

264 SD  
PAGE 5

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

Answer. My name is Santiago E. Arqueles, my age is forty years, and my residence is in San Diego County, State of California.

Question 2. Are you acquainted with the hand writing of Jose Antonio Esteveles and of Carlos Antonio Laureles, if yes, state your means of knowledge and look upon the document now shown to you marked P & No 1 Exhibited to this deposition and say whether or not their signatures which they occur on and upon said document are their true and genuine signatures?

Answer. I am acquainted with the hand writing of Jose Antonio Esteveles and Carlos Antonio Laureles having often seen them write. Their signatures which they occur on said document are their true and genuine signatures. That of Jose Antonio Esteveles once and that of Carlos Antonio Laureles three times.

The Land Agent Mr McKim was present at the taking of this deposition and executed his report to authenticate the depositions.

Santiago E. Arqueles  
Subscribed and sworn to  
before me this 18th day of December 1854

Alpheus Felch  
Commissioner

Filed in Office Dec. 18. 1854

Geo. Fisher



7

Excmo Gov Gobernador

La Soledad de 1838.

B. Expedt.

J.L. No. 1.

264 SD  
PAGE 6

Por admitido, mi  
pame el en cargo  
de justicia de este  
puerto si el terreno q.  
solicita la parte de  
D<sup>ra</sup> Francisca Maria  
Alvarado pertenece  
a la propiedad de  
alguna Mision o  
particular y si en  
perjuicio de tercero  
le puede ser adjudi-  
cado. En caso de que  
diligencia usifasele  
al solicitante el dia  
no del mencionado  
terreno y agregado a  
este es el D<sup>o</sup> Juan  
a este Gobierno. El  
Sr D<sup>o</sup> Carlos Anto.  
nio Carrillo Goberna-  
dor provisional del  
departamento de  
California asi lo  
decreto mando y firmo  
de que doy fe.  
Carlos Ant<sup>o</sup>  
Carrillo

Carlos Ant<sup>o</sup>  
Carrillo

Puerto de S. Diego Abril 10. de 1838.

Excmo Gov.

El terreno nombrado la Soledad q.  
solicita el D<sup>ra</sup> Francisca Maria Alvarado no pertenece  
a la propiedad de ninguna Mision ni parti-  
cular hallandose valdido puede adjudicarse  
se en propiedad al solicitante. Lo of. tengo  
el honor de informar a V. E. p<sup>o</sup> su superior  
resolucion como me lo previene en el decreto  
que antese de.

Puerto de S. Diego y Abril 12 de 1838

El Ciudadano Francisco  
Maria Alvarado ve eno de  
este puerto ante la justifica-  
cion de V. E. como mejor pro-  
ceda compareco y digo:  
Que teniendo en posesion el  
paraje conocido con el nom-  
bre de los Peñasquitos y no  
permitiendo este por su peque-  
na estension que mantenga  
un numero suficiente de  
ganado mayor para la man-  
tencion de mi familia;  
ocurre a V. E. suplicandole  
tenga a bien concederme  
la propiedad del terreno  
conocido con el nombre  
de la Soledad que se halla  
absolutamente valdido en  
ya en esta oportuni-  
dad presentare a V. E.  
Por lo espuesto respetuosa-  
mente ruego se sirva ase-  
der am<sup>o</sup> suplica, en lo of.  
recibré gracia y justicia  
que imploro pidiendo lo  
necesario de y dismi-  
lando la falta de papel  
sellado por no haber del  
sello que corresponde en  
este punto.

Francisco Maria Alvarado

8

Otro si digo: Hallandose el vecindario de este punto sin terrenos para emprender las siembras necesarias à su subsistencia, me de mi deber observar à V. E. que en el título de concesion que se le espida al interesado existe una clausula por la cual este vecindario obtenga la facultad de poder hacer sus siembras en el espresado parage de la Soledad.

264 SD  
PAGE 7

D<sup>a</sup> Diego fecha ut supra.

Jose A. Castañillo

D<sup>a</sup> Diego Abril 13. de 1838.

Vista la solicitud con que da principio este expediente, el informe del Jefe en cargo de Justicia de este Puerto y lo demas que ver conviene, usando de las facultades que me son conferidas he venido en conceder à nombre de la Nacion Mexicana el parage conocido con el nombre de Ca. Soledad al Sr. Francisco Maria Alvarado de conformidad con el informe del mencionado Jefe y en cargo de Justicia el Sr. D<sup>a</sup> Carlos Ant. Carrillo, Gobernador provisional del departamento de California así lo decreto mandé y firmé de que doy fe. Carrillo.

Carlos Antonio Carrillo, Gobernador provisional del departamento de California por cuanto D<sup>a</sup> Francisco Maria Alvarado mexicano por nacimiento ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de Ca. Soledad colindante con los peñasquitos y tierras de la Nacion llamada de D<sup>a</sup> Buena Ventura, practicadas previamente las diligencias y averiguaciones convenientes segun lo dispuesto por leyes y reglamentos: usando de las facultades que me son conferidas à nombre de la Nacion Mexicana, por decreto de este dia he venido en conceder al referido Don Francisco Maria Alvarado el terreno

9  
mencionado La Doleidad de el arandole  
la propiedad de el por las presentes letras  
à Reserva de la Aprobacion de la Caxma  
Junta Departamental y bajo las condici-  
ones siguientes.

264 SD  
PAGE 8

1ª Que se someterà à las que estableciere  
el reglamento que se ha de formar para  
la distribucion de terrenos baldios y  
que entre tanto ni el agraciado ni sus here-  
deros podran dividir ni enagenar el que  
se le adjudique, imponer censo ni en su  
prenda aunque sea por causa piedadosa  
hipoteca ni otorgarvamen ni pasarlo à  
manos muertas.

2ª Pochá cercarlo sin perjudicar las ha-  
vecias, caminos y servidumbres; lo disputare  
libre y esclusivamte destinandolo al cultivo  
que mas le acomode, pero permitira que los  
vecinos del puerto de San Diego hagan en  
el las siembras precisas à su subsistencia

3ª Solicitara del juez respectivo que le de  
posesion juridica en virtud de este des-  
pacho por el cual se demarcaran los linde-  
ros en cuyos limites ponchá à demas de las  
Moloneras, algunos arboles frutales o sil-  
vestres de alguna utilidad.

4ª El terreno de que se le hace donacion  
es de un sitio de ganado mayor poco mas o  
menos segun esplica el disenõ que corre en  
el expediente. el juez que diere la posesion  
lo harà medi conforme à Ordenanza para  
señalar los linderos quedando el sobrante  
que resulte à la estacion para los usos con-  
vinientes.

5ª Si contorniere à estas condiciones  
perdere su derecho al terreno y sera denun-  
ciable por otro.

Por consecuencia  
manchi que viviendo de titulo el presente  
y temiendo se por firme y vale dero se tome  
razon de el, y se entregue al interesado  
para su resguardo y demas fines.

Dado en San Diego à trece de Abril de  
de mil ochocientos treinta y ocho en

10  
papel común por no haber del sellado correspondiente.

Carlos Ant.  
Carrillo.

Madrid Office Nov. 13<sup>th</sup> 1852

Geo. Fisher Esq.

264 SD

PAGE 9



11 Translation of  
Expediente

To His Excellency the Governor  
The citizen Francisco Ma. Alvarado  
resident of this port in the most respectful manner  
appears before your Excellency and says:

That possessing the "paraje" known  
as "Las Pecesquitos" which not being large enough  
to raise a sufficient number of cattle for the  
support of my family I solicit your Excellency  
to grant me the Land known as "La Soledad"  
which is entirely vacant, a plan or map of which  
will be hereafter presented. Whichever I respect  
fully request that you should grant my request  
which I will receive as a favor. I enclose  
what is necessary &c. Apologizing for this  
common not having sealed paper.  
Port of San Diego April 10th 1838  
Francisco M<sup>o</sup>. Alvarado

264 SD  
PAGE 10

(Marginal Decree)

San Diego April 11th 1838  
Let this be admitted. Let the "encargado" Justice  
of this Port ascertain if the Land solicited by  
Don Francisco Marco Alvarado is the property  
of any Mexican or any particular person, and if  
it cannot be granted to him without injury to  
third parties. The formalities having been com-  
pleted with the design of the above Land will  
be reviewed and attached to this Expediente  
and sent to the Government. His Excellency  
Don Carlos Antonio Larraeola personal Governor  
of the Department of California thus Orders  
and signs - which I certify  
Carlos Antonio Larraeola

Excellency Sir  
The Land called La Soledad prayed  
for by the Citizen Francisco Marco Alvarado is  
the property of no Mexican or particular individ-  
ual, and being vacant, may be granted to the  
petitioner. Which I have the honor of inform-  
ing your Excellency of for your Superior's atten-  
tion.

Port of San Diego April 12th 1838

I further say that the community of this port  
being without lands to raise the crops necessary

In its subsistence I think it my duty to remark to your Excellency that in the grant to be made to the petitioner a clause should be inserted pertaining to this Community the proceeds of rearing their crops on the adjacent land of the "Soleada" San Diego - State as above

Jose A. Estedillo

San Diego April 13th 1838

264 SD  
PAGE 11

In consideration of the solicitation at the beginning of this Expediente the information of the needs of this Port and other requisite formalities, and in virtue of the powers conferred upon me in the name of the Mexican Nation I have granted the land known as the "Soleada" to the Citizen Francisco Maria Alvarado agreeably to the report of the above named Judge - Carlos Antonio Carrillo Provisional Governor of California of legal force this Decree reads & says which I certify -

Carrillo  
*(Signature)*

Carlos Antonio Carrillo Provisional Governor of the Department of California

In as much as Don Francisco Maria Alvarado a Mexican by birth has solicited for his personal benefit and that of his family the land known by the name of the Soleada situated by the Presqu coast and lands of the Nation called of San Buenaventura; having previously complied with all the requisites and formalities of the laws and regulations, in virtue of the powers conferred upon me in the name of the Mexican Nation

I have by decree of this day concluded to grant to the said Francisco Maria Alvarado the aforementioned land "La Soleada" declaring it his property by these presents, reserving it to the approval of the Departmental Assembly and under the following conditions.

1st. He shall submit to the requirements of the regulations in relation to the distribution of Public Lands, and at this time the interested party shall place no encumbrance whatever

13

On the Land granted to him, of a piece or other  
Nature

2<sup>o</sup>. He may enclose it without prejudice to the  
crop cocones and sweetpeas; he shall enjoy it  
freely and Excessively, devoting it to the culture  
most agreeable to himself, but he shall permit  
the inhabitants of the part of San Diego to  
raise on it the crops necessary for their  
subsistence

264 SD  
PAGE 12

3<sup>o</sup> He shall select the proper Judge to give him  
the Decree popipem in virtue of this  
Dispatch by whom shall be marked the  
boundaries on whose limits shall be placed  
for Land marks four or five trees of some  
utility

4<sup>th</sup>. The Land hereby granted is of "One Sitio  
de ganado Mayor" More or less as explained by  
the design annexed to the Expediente; the Judge  
who shall give the popipem shall cause it  
measured in accordance with the Ordinance  
to fix the boundaries, the Command resulting  
to the Nation for its convenient use

5<sup>th</sup> If he contravene these Conditions he will  
lose his right to the Land which may be  
announced.

In consequence I order that holding  
this title as firm and valid, it be registered  
and delivered to the interested party for his  
security and further ends.

Given at San Diego April 13<sup>th</sup> 1838  
On this Common paper in the absence of  
Sealed paper

Carlos Anto. Canillo

Filed in Office Nov. 13. 1853

Geo. Joshua Bey

14



15-Opinion

Case I Cases of "La Soledad"  
vs  
The United States } 1 square leagues  
in San Diego

264 SD  
PAGE 13

The Only Documentary Evidence offered in support of this claim consists of an Original Expediente containing 1<sup>st</sup> a petition addressed to the Governor by Francisco M. Alvarado dated April 10<sup>th</sup> 1838 soliciting a grant of the land known as "La Soledad" 2<sup>o</sup> A Mayoral decree entered on said petition dated April 11<sup>th</sup> 1838 and signed by Carlos Antonio Carrillo referring the same to the Justice of the Port of San Diego for the necessary information - 3<sup>o</sup> A Report signed by Jose A. Estrella dated April 12<sup>th</sup> 1838 declaring the land vacant and recommending the grant - 4<sup>th</sup> a decree of Concepcion signed "Carrillo" dated April 13<sup>th</sup> 1838 declaring that Carlos Antonio Carrillo possessed Governor of California had by virtue of the authority conferred upon him granted the land called the Soledad to the Citizen Francisco Manuel Alvarado - 5<sup>th</sup> A formal title of the same date by which Carlos Antonio Carrillo as provincial Governor of the Department of the Californias grants the land called La Soledad to the said Alvarado and discharging it as bounded by the Ponaquitos and the Canas of the Nation called San Buenaventura - The 4<sup>th</sup> condition of the grant declares it to be of the extent of "One Sitio de ganado Mayor More or less as explained by the deseno annexed to the Expediente."

The genuineness of the signatures of all these documents is proved by the depositions of Santiago El Arqueles. This constitutes the whole testimony in the case. There is nothing to show by what authority Carrillo exercised the functions of Governor by virtue of which this grant purports to be made. There is no proof that the grantee ever used in possession of or occupied the premises in any manner. No deseno is produced nor is there any other evidence by which the square leagues of land

16  
could be identified and its boundaries established  
The evidence is clearly insufficient according  
to the former ruling of the Commission to  
sustain the validity of the claim, and an  
averse decree will therefore be entered

Tellico in Office Jun 23<sup>rd</sup> 1855

Geo. Fisher Secy

264 SD  
PAGE 14

Case of locusts }  
The United States }  
vs }

Decree

In this case on hearing the proofs & allegations  
it is adjudged by the Commission that the  
claim of the petitioner is not valid, and  
it is therefore decreed that the application  
for a Confirmation be denied

Alpheus Felch }  
A. Aug Thompson }  
S. B. Farnell }  
Commissioners

Tellico in Office Jun 23<sup>rd</sup> 1855

Geo. Fisher Secy

And it appearing to the satisfaction of the  
Board that the land hereby adjudicated  
is situated in the Southern District of Cal  
ifornia It is hereby ordered that two trans-  
cripts of the proceedings and decision in this  
case be made out and duly certified by the  
Secretary One of set and the papers and evidence  
upon which the same are founded, be made  
out and duly certified by the Secretary - One  
of which transcripts shall be filed with the  
clerk of the United States District Court  
for the Southern District of California  
and the other be transmitted to the Attorney  
General of the United States

Office of the Board of Commissioners,

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

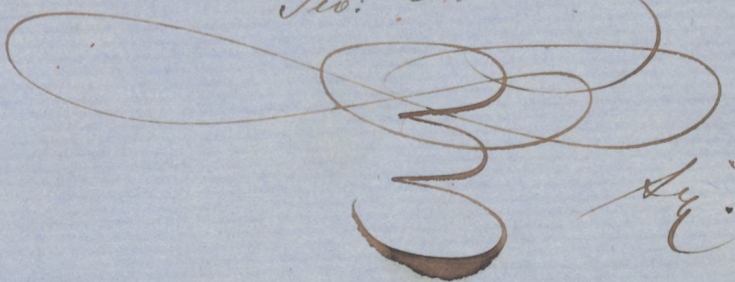

264 SD  
PAGE 15

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 *Sixteen* pages, numbered from  
1 to *16*, both inclusive, to contain a true, correct and full Tran-  
script 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. *485* on the Docket of the said Board,  
wherein

*Carre J. Cortts* is  
the Claimant against the United States, for the place known by  
the name of "*San Soledad*."

In Testimony Whereof, I hereunto set my hand  
and affix my private Seal (not having a Seal  
of Office) at San Francisco, California, this  
*Seventh* day of *July*  
A. D. 1853, and of the Independence of the  
United States of America the ~~seventy~~ *eighty* ~~third~~

*Geo. Fisher*





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

No. 264      **264**

THE UNITED STATES,

vs.

*Carre J. Conitts,*  
*La Soledad* **264**

TRANSCRIPT OF THE RECORD  
FROM THE  
BOARD OF U. S. LAND COMMISSIONERS,  
In Case No. *485*

Filed, *July 12* 15 1857  
*b. E. Kern*  
Clerk  
By *A. W. Clark*  
Deputy

**264**

*814-85*



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

N<sup>o</sup>. 264.

264 SD

PAGE 16

Case J. Coultts

vs. Appellant

The United States, Appellee

(Transcript N<sup>o</sup>. 485.)

An appeal from the

U.S. Land Court:

San Francisco for Cal<sup>o</sup>.

On Motion of J. O. H. U. S. Attorney, for the Southern District of California, and on showing to the Court that no notice of intention to prosecute the appeal in the above entitled cause, has been filed according to law. It is ordered by the Court that this cause be dismissed.

J. O. H.

U.S. Dist. Atty.

No 264.

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

Cave J. Couth, <sup>oplt</sup>

vs.

The United States.  
Appel.

Motion to Dismiss Appeal

Filed Aug 25<sup>th</sup> 1856.

C. E. Van  
Cock

~~264~~ SD

PAGE 17

J. Ord. Wally.

264 SD  
PAGE 18

Office of the Board of Commissioners,

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

San Francisco, July 7<sup>th</sup> 1855

C. E. Carr Esq.

Clerk of the U. S. District Court for the

Southern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 485 on the Docket of the said Board, wherein

Case J. Cortts is —  
the Claimant against the United States, for the place known by the name of "Sea Sdedad."

and request your receipt for the same.

I am, Respectfully,

Your Obit Servant,

G. Fisher.

No 264

W. S. Dist Court  
Dodge Dist of Cal

J. Counts  
appell

vs  
The United States  
appell

Motion & answer  
appeal

264 SD  
PAGE 19

Plord  
W. S. D. C.