

CASE No.

282

SOUTHERN DISTRICT

---

AGUAJITO GRANT

---

MIGUEL VILLAGRAN

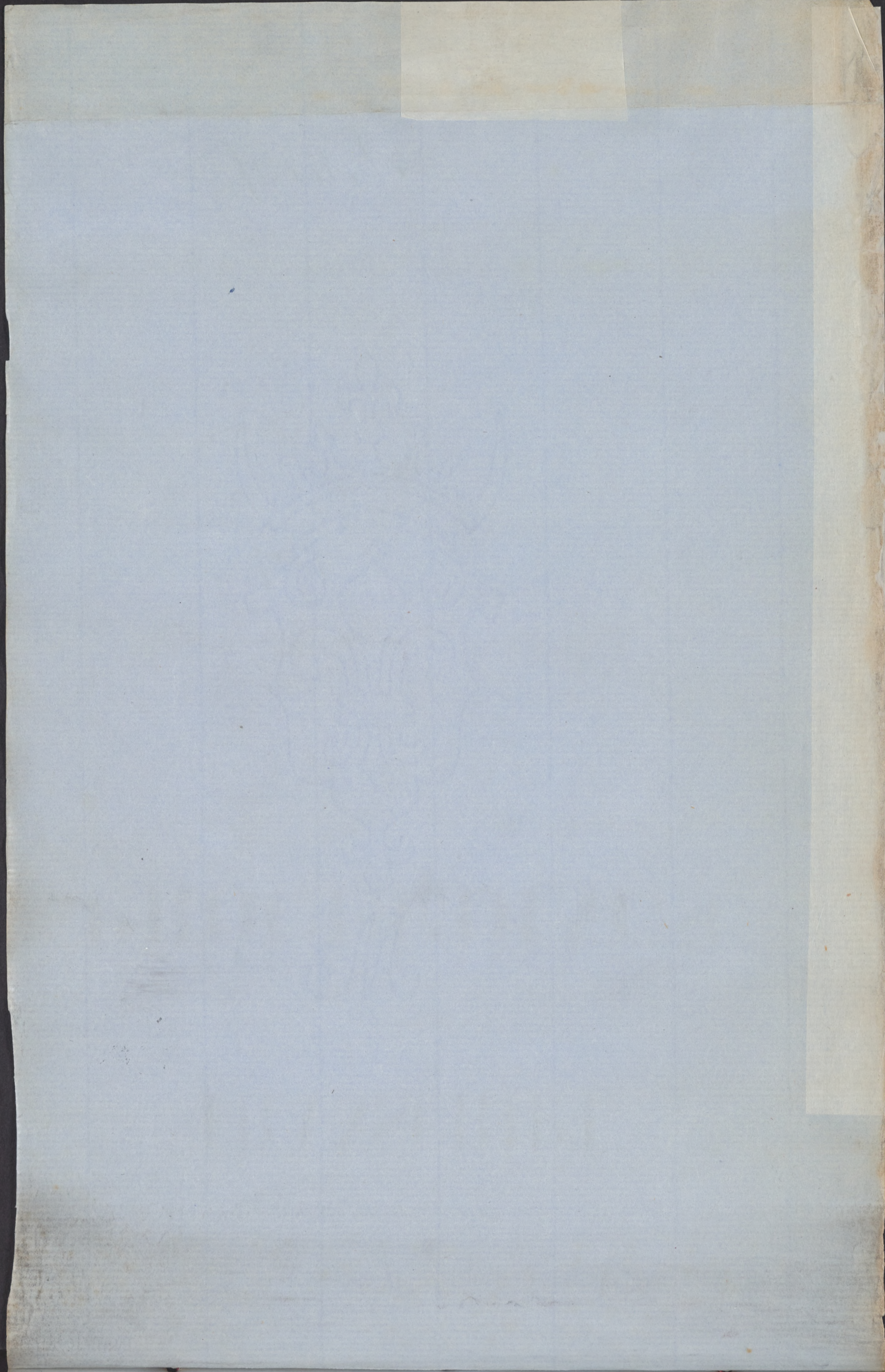
CLAIMNAT

LAND CASE 282 SD 51 pgs.

100% COTTON FIBER  
BROWN BOND  
Manufactured

678

2009



# TRANSCRIPT

282 SD  
PAGE 1

OF THE

# PROCEEDINGS

IN CASE

NO.

*678.*

*Miguel Villagran*

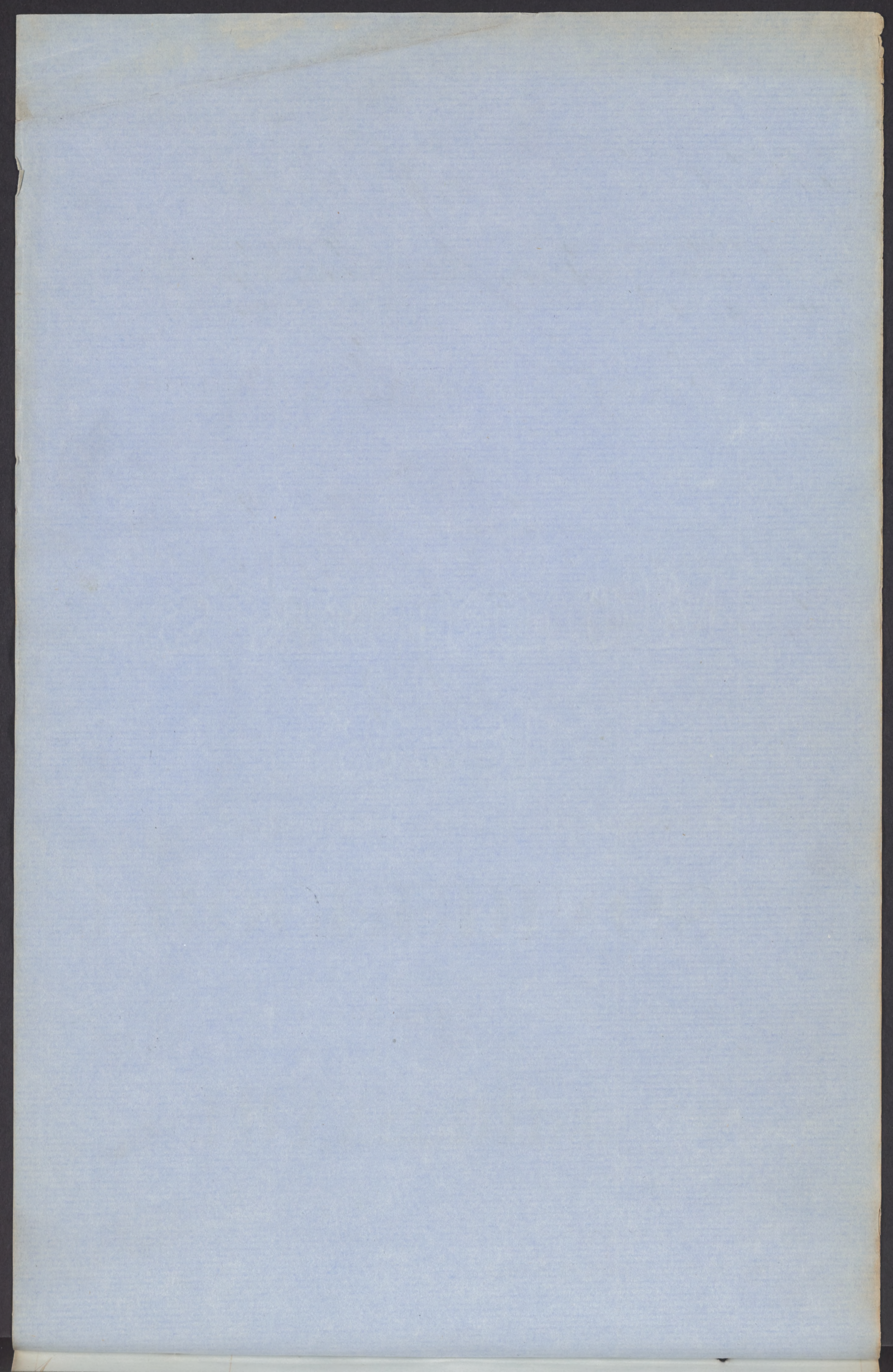
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*Aguajito*



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 first day of March, Anno Domini One Thousand Eight Hundred and Fifty-three, 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;

282 SD  
PAGE 2

The Petition of Miguel Villagran, for the Place named "Aguajito" was presented, and ordered to be filed and docketed with No. 678 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 May 13' 1854.  
In Case no. 678, Miguel Villagran for the place named "Aguajito", the deposition of José Antonio Rodriguez, a witness in behalf of the claimant, taken before Commissioner Peter Sott, was filed;

(Vide page 4 of this Transcript.)

San Francisco, January 2' 1855.  
Case no. 678, on motion of the Counsel for the claimants, with the consent of the U. S. Land Agent, was ordered to be placed at the foot of the 4' class cases on the Trial Docket.

San Francisco January 16' 1855.  
Case no. 678 was submitted under the Rule of March 21' 1854.

San Francisco February 9<sup>th</sup> 1855.

In the same case the deposition of Cornelio Perez, a witness in behalf of the claimant, taken before Commissioner Peter Sott, was filed;  
(Vide page 9 of this Transcript)

282 SD  
PAGE 3

San Francisco February 13<sup>th</sup> 1855.

In the same case the Counsel for the claimant filed the following Stipulation, to wit:  
(Vide page 18 of this Transcript)

San Francisco February 21<sup>st</sup> 1855.

In the same case Commissioner Alpheus Fitch delivered the Opinion of the Board confirming the claim.

(Vide page 19 of this Transcript)

San Francisco Feby 27<sup>th</sup> 1855.

The following order was made, to wit:  
(Vide page 23 of this Transcript)

5



3  
To The Honorable Commissioners of the  
Board for the Settlement of Private Land  
Claims in the State of California.

Your Petitioner Miguel Villagran  
states to your Honorable Board that on  
the 20. day of November 1837 Juan B.  
Alvarado then and there being Governor  
of Upper California then a Territory of the  
Mexican Nation, & having full power and  
authority under the laws and usages then  
in force in upper California granted to  
your Petitioner five hundred varas square  
in the County of Santa Cruz & being near,  
at the time of the grant the Pueblo of  
Branceforte now usually called Santa  
Cruz which land was called the "Aguajito"  
bounded from the north to the south to the  
entrance of the Canada & from thence to the  
upper part of the land of Juan Pinto  
from West to North West coming out  
from the Canal a little ahead of the  
Willow Swamps. Which grant was  
valid by the laws and usages of the said  
Mexican Government & Your Petitioner  
resided on the same before the grant was  
made & ever since & therefore Your Petitioner  
prays the same may be confirmed and made  
valid to him & whatever else shall be proper  
in the premises, & for more particular  
evidence he refers to the original Expediente  
or papers marked "B" as in duty bound  
he will ever pray &c.

Wilson Hitchcock & Janquin  
Attys for Petitioner

Filed in Office March 1, 1853.  
Geo. Fisher Secy,

282 SD  
PAGE 4

Petition.

4  
United States of America }  
State of California }  
3

San Francisco May 13, 1854.

This day personally came before Peter Scott a Commissioner for taking Testimony to be used before the Board of W. S. Land Commissioners in said State, José Antonio Rodríguez, a witness on behalf of the Claimant in case No 678 on the docket of said Board, wherein Miguel Villagran is Claimant, and said witness being duly sworn on oath deposed in Spanish, interpreted into English by the Interpreter to said Board as follows

Deposition of  
José Antonio  
Rodríguez

To wit:

The W. S. Land Agent is present.  
Questions by Counsel for Claimant,  
1 Question, What is your name, age, and residence?

Answer, My name is José Antonio Rodríguez, my age 57 years, my residence Santa Cruz County California.

2<sup>nd</sup> Question, Are you acquainted with Miguel Villagran, and with the place called "Aguajito", if yea, how long have you known them, and state what you know of said Villagran having occupied said "Aguajito"?

Answer, I know both the person Villagran, and the place "Aguajito". I have known him about twenty five years, and the place about 30 years, and I know him to have been in the occupation of the place some 17 or 18 years. He built a house on the land

5  
the same year, he took possession and lives in it with his family, he made a corral and enclosed about  $\frac{1}{2}$  of the land, and planted what he enclosed, he had a few oxen and cows, he cultivated and worked the place.

3<sup>rd</sup> Question. Look at the document marked "A" Expediente filed in this case, and state whether the signature of Gov Alvarado on the third page of said document is genuine and your means of knowledge?

Answer. I recognize this as Alvarado's genuine signature, I have seen him write.

4<sup>th</sup> Question. Did Miguel Villagran ever receive juridical possession, if yes, when, how, by whom, and state who was present, who were the assisting witnesses, and the circumstances?

Answer. I do not recollect whether he received juridical possession or not, but I measured the land for him in pursuance of an order from Gov. Alvarado to me directed, I cannot recollect the date, it was the same year or about the year that he moved on to the land, he was living on it at the time I measured it for him, He measured it with a cord of 25 varas length, beginning at the Aguahito (a small spring) The assisting witnesses were Agustin Ramirez and Juan Piko, Villagran and his son Miguel were the only persons I recollect as being present.

5<sup>th</sup> Question. What were the boundaries of the land which you measured?

Answer. Going from Santa Cruz to Monterey the Aguajito is on the left hand side of the road, about a half mile from the Mission of Santa Cruz, and near the road we measured from Aguajito to the Fanzon de en Medio (middle ditch) I do not recollect how many varas thence to the "Encino" thence to the "Laurel" near the house of said Villagran, these three objects and the Aguajito were established as the boundaries of the land we measured.

6 Question. Who was Alcalde of Santa Cruz in the year 1846?

Answer. Macedonio Lorengana was Alcalde that year.

7<sup>th</sup> Question. Do you know the hand writing of said Lorengana, if you know do you know it, and look at the document "A" Expediente" and say whether the signature of said Lorengana on the 2<sup>nd</sup> page of said document is genuine?

Answer. I know his hand writing. I have seen him write, I am not very well acquainted with his handwriting. This is his signature and genuine.

8<sup>th</sup> Question. Are you acquainted with a tract of land adjoining the tract you have described, and above it on the stream, if you state what you know of its being occupied or cultivated and by whom, when and how?

Answer. I know nothing of said Villagran, occupying or cultivating any land except the tract I have described and which I measured.

Cross Examined by W. S. Law Agent  
1<sup>st</sup> Question. State where  
you resided in 1837, and whether you then  
held any office?

Answer, I lived at Santa  
Cruz Mission, but do not recollect whether  
I held any office then. I was twice  
sheriff but cannot recollect the dates.

2<sup>nd</sup> Question. Why did  
Governor Alvarado appoint you to mea-  
sure the land for Villagran?

Answer, Because I  
was then Alcalde?

3<sup>rd</sup> Question. How long  
was you Alcalde?

Answer, One year.

4<sup>th</sup> Question. When were  
you Alcalde and did you give judicial  
possession of land to any individual's as  
such Alcalde, if yes, to how many and to  
whom?

Answer, I was Alcalde  
when I gave possession to said Villagran,  
I cannot remember the year, I do not  
recollect giving any other judicial pos-  
session while I was Alcalde to any  
other person.

5<sup>th</sup> Question. Who presented  
to you the order of the Governor to measure  
Villagran's land, when and where, and  
was there any writing made as record  
of said measurement?

Answer. It was delivered  
to me at my own house, at the Mission of  
Santa Cruz by a messenger from the Governor,  
I cannot recollect the time.

There was a record made of the measurement

8

of the land, signed by myself, and the assisting witnesses, either the same day or the next, That record was deposited in the Archives of Santa Cruz by me as Alcalde. I do not know where it now is, or whether the Archives are there yet or not.

282 SD  
PAGE 8

6<sup>th</sup> Question. Look at the 7<sup>th</sup> page of the document before shown you and explain the meaning of the writing over your name and rubric.

Answer. I do not know the hand writing of this paper, I made the rubric; but I did not do it in 1849. I held no office at that time nor since the American War, I have no recollection of any such paper, I do not know what it means.

7<sup>th</sup> Question. How much land is contained in what was measured by you for Villagran?

Answer. From the house to the oak might be about 1200 varas and the Aynajito to the Sangon de en medio about 1000 varas; and about 1000 varas from these to the house. I do not know how much it contains exactly.

8<sup>th</sup> Question. When you measured the land, had you any title with you, and how did you know the boundaries?

Answer. I had no title with me, and the only way I know the boundaries Macedonio Lorenzana who was my secretary told me the boundaries

Antonio R. (Rubric)

Subscribed and sworn to before me  
May 13, 1854. Peter Scott Commissioner  
for taking testimony &c

Filed in Office  
May 13, 1854.  
Gen. Fisher  
Secy

United States of America  
State of California

3/3

San Francisco, Feb 6, 1853,

This day before Peter Scott, Commissioner for taking testimony to be used before the Board of U.S. Land Commissioners in said State, Cornelio Perez a witness on behalf of the claimant Miguel Villagran in case No 678 on the Docket of said Board, and said witness before testifying being sworn deposed in Spanish which was interpreted as follows to wit:

The U.S. Associate Land Agents present.

Questions by Mr. Gregory for claimant  
1<sup>st</sup> Question. What is your name, age, and residence?

Answer. My name is Cornelio Perez, my age 44 years, my residence in Santa Cruz County Cal

2<sup>nd</sup> Question. State what you know of the boundaries of a tract of land in Santa Cruz County called "Arroyoto" and your means of knowing them?

Answer. I have been acquainted with this tract of land adjoining it, between it and the sea. I have often been on the land. It is bounded on one side by a stream called Arroyito which divides it from the lands of the Rodrigues a boundary on another side is a gully, a ditch which was the dividing line between it and vacant lands at the time the possession was given, and which

282 SD  
PAGE 10

Deposition  
of  
Cornelio Perez

10  
are now occupied by some American  
on the bank of that ditch is a large stake  
driven down, from which in a direct line  
to a stake driven on the line of the land  
I used to own, is another boundary  
which also divided this track from  
vacant lands, and from the last men-  
tioned stake passing an oak tree and  
running to an estero is another boundary  
which divides this track from the  
land I formerly owned,

282 SD  
PAGE 11

3<sup>rd</sup> Question, What is  
the size of the track of land in question?

Answer, It is about 500  
varas wide, and 1000 varas long more or  
less.

4<sup>th</sup> Question, State how  
long Miguel Villagraw lived on said  
track in question?

Answer, He lived on  
it with his family more than twenty years  
and still lives on it, he went there  
with his family and built a house  
on it before he petitioned for the land,

Cross-Examined by W. S. Law Agent

5<sup>th</sup> Question, What  
is the shape of the track of land called  
"Arroyito"?

Answer, It is a quadrangle  
about 1000 varas long, and about  
500 varas wide, its width is quite  
uniform.

6<sup>th</sup> Question, Do you  
know the points of the compass,

Answer, No I do not  
know any thing about them.



11  
3<sup>rd</sup> Question. How do you know that the boundaries you have mentioned are the proper boundaries of this Ranch?

Answer. I saw the Alcalde Antonio Rodriguez give juridical possession of the land. I went there to see that they did not encroach upon my land.

4<sup>th</sup> Question. When was that juridical possession given, who were present, and what was done on that occasion?

Answer. I cannot remember accurately at present, but it is somewhere about sixteen years ago, said Villagran was there, and one Miguel Ramirez, Rafael Robles, and Gregorio Jorio, were present, I was there part of the time, and saw where they drove the stakes, said Ramirez, Robles, and Jorio are dead. The Alcalde and Villagran are living. They measured the land with a rope the length of which I do not remember, they drove the stakes which I have mentioned, they were driving the one next the canyon when I left them there. I was there with them perhaps an hour or less. I cannot say exactly how long, some of the party were on horseback, but I do not remember which ones, I was on horseback. I do not remember which of them carried the cord for measuring.

5<sup>th</sup> Question. Had you been notified of a Colindante to attend the act of juridical possession?

Answer, I had not.

6<sup>th</sup> Question, What part of the boundaries were they measuring when you went there?

Answer, They were measuring the straight line between the two stakes I have mentioned, and dividing the stake next to my land.

282 SD  
PAGE 13

7<sup>th</sup> Question, How many stakes did you see them drive, and where was the last one driven?

Answer, I saw them drive two stakes, the last one was on the bank of the Gully before mentioned.

8<sup>th</sup> Question, Do you know said boundaries in any other way than by what you saw that day, if yes how otherwise do you know them?

Answer, I only know from that measurement, and from Villagran telling me that day these were his boundaries.

Cornelio X Perez  
marks.

Subscribed & Sworn to  
before me on this 6<sup>th</sup>  
day of February A.D. 1853,

Peter Lody  
Commissioner

Filed in Office Feby 9, 1853,  
Geo. Fisher  
Sec.

1.13

Lor. Dues 2.<sup>o</sup> Constitucional de la Villa de Branciforte y de Sta Cruz D<sup>n</sup> Macceonio Lorenzo.

Miguel Villagrana Vecino de la Villa de Branciforte Puesto ante la Superioridad de V. con la mayor subvencion y respecto que debo ante V. conp- anesco y digo q. agr. presente que siervo crecida mi familia suplico a V. me conceda un pedazo de tierra baldia que liudo junto la que me tiene conseruida el Gobierno Depart- amental q. otro terreno que pretendo en existencia es Cuatrocientas varas de largo y trescientas de ancho que sona merced que recibire de V.

282 SD  
PAGE 14

A

Expediente

Por tanto A. V. suplico me conceda esta peticion de lo que hire agradecido. Villa de Branciforte Abr. 6 de 1846. Miguel Villagrana.

Por cuanto el Ciudad<sup>o</sup> Villagrana ha pretendido que le haumente un pedazo de tierra baldia que liudo junto la que el Gobierno Departamental le conserdio y como pido una 1.<sup>a</sup> instancia y como el Gobierno Departamental me conserdio la facultad pa<sup>a</sup> conserder terrenos ha las personas que se presentaren he venido conserder la propiedad y doy este titulo al interesado para subsiguencia, Sta Cruz Juno 5. de 1846.

Por cuanto Miguel Villagrana ha pretendido quinientas varas de terreno en la villa de Branciforte en el parage nombrado el Atquefite para poder sembrarlo y cultivarlo sin inconveniente alguno. puenos los correspondientes informes del Alcalde auxiliar de dicha Villa he venido en concederle el numero de varas del terreno mencionado para que pueda labrar en el sembrarlo y hacer casa entendido en q. quedara sujeto a los reglamentos que en todo tiempo se estable- can por estar situado en los ejidos de dicha villa.

A efecto se presentara con el Alcalde del lugar quien lo hara medir el terreno que lo porra en posesion.

Es dado en Monterey a 10 de Noviembre de 1837. Juan B. Alvarado.

Recorded July the 19. 1850 in Book A page fourteen among the records of Sta Cruz County State of Cal.

Sta Cruz 14 de Agosto de 1849.  
Certifico al ver de dar posesion al interesado Miguel

14

282 SD  
PAGE 15

Villagran con tres testigos de asistencia Miguel  
Pranvirez firmados Rafael Robles y Gregorio Lorieu  
de Norte a Sur se comencio las medidas al boca  
de la Cañada pasan a la Cubuena de la tierra de  
firmado Juan Perito del oriente por el N. O. Saleu  
por consiguiente al laurel por un lado delante del  
Sauce de un demandado oloy esto para que enuta.  
Antonio Rodriguez.

Silla de Bonaparte Junio 13 de 1834.

Aleguino bajo de mi firma como juez de la expresada  
Villa que ariendos queoludo conformes adverti a Villa  
Gran que llamo enjena mas cuestion como tambien  
le adverti de que la tierra que esta pagado al litano  
era de Alejandro Rodriguez para que conste con  
el primero en lo suscribo no empesaban faues cuestion  
y para que los jueces, heneoleros no tuvieran que enles  
tarse en este asunto deajo el presente documento  
en poder de Villagran para su resguardo y de sus  
fines.

Como juez del lugar. José Joaquin Buelun

Filed in office. March. 1<sup>st</sup> 1853.

Geo. Fisher. Secy.

15  
Branceforte June 13, 1834.

I affirm under my seal and signature as Judge of the said Town: that Francisco Inarey & Miguel Villagran having had some misunderstanding relative to a parcel of land in the Arroyito (small creek) I proceeded to conciliate them and having acted conformably I advised Villagran not to renew the difficulty, as also I made known to him, that the small piece of land adjoining the "Estero" belonged to Alexander Rodrigues for it is evident that in the event it would not belong to either of them, and so that in future the Judges would not be puzzled on this subject I place this present document in the possession of Villagran for his security and further ends.

As Judge of the place  
(signed) José Joaquin Buelna

Whereas Miguel Villagran has solicited for five hundred varas of land in the town of Branceforte in the place called the "Arroyito" so as to enclose and cultivate it without any inconvenience whatever the proper informations being previously taken by the Assistant Alcalde of said Town, I have resolved to concede to him the number of varas of land mentioned, so that he may cultivate the same, enclose it and build a house thereupon, it being understood that it remains subject to the regulations which at all times may be established; so as to determine upon the environs of said town. Therefore he shall present himself to the Alcalde of the place

282 SD  
PAGE 16

Translation

B.

14  
who shall cause the land to be measured and shall put him in possession.

Given in Monterey the 20<sup>th</sup> of November  
(Signed) Juan B. Alvarado.

282 SD  
PAGE 17

Don Don Masedonio Loosengana 2<sup>nd</sup> Constitutional Judge of the Town of Branceforte and of Santa Cruz

I, Miguel Villagran resident of the Town of Branceforte enjoined before the Superior Authority of your Honor, with all due respect & Submission, I present myself and set forth, that having an increasing family I entreat your Honor to grant me a parcel of vacant land immediately adjoining that conceded to me by the Departmental Government, that said land which I solicit is four hundred varas in length and three hundred varas in width, and that it will be a favor I shall receive from you.

Wherefore I beg of your Honor to grant me what I solicit for which I will remain grateful.

Town of Branceforte Feby 1846,

(Signed) Miguel Villagran

Wherefore the Citizen Miguel Villagran has solicited an augmentation of a parcel of vacant land contiguous to that conceded to him by the Departmental Government, and as this petition is in due form, and as the Departmental Govt has conferred upon me the authority to grant lands to those petitioning for them I have resolved to make a grant in fee simple, and do give this title to the interested party for his security.

11  
Santa Cruz Feb 5<sup>th</sup> 1846,  
(Signed) Masadonia Lorengana

Santa Cruz 17. August 1849.  
I certify on sight to give possession  
to the interested party Miguel Villagran  
with three attesting witnesses, Miguel Ramirez  
the late Rafael Robles and Gregorio Jorja  
I commenced the measurement from  
North to South to the entrance of the Canada  
(Valley) we proceeded to the upper part of  
the land of the late Juan Pinto from West  
to North West coming out, consequently  
from the Laurel a little ahead of the willow  
swamp.

I give this so as to be valid,  
(Signed) Antonio Rodriguez,

Filed in Office March 1<sup>st</sup> 1853,  
G. J. Fisher  
Sec,

18

Miguel Villagran }  
vs. }  
The United States }

282 SD  
PAGE 19

Before the Board of U.S. Land Commission-  
ers to ascertain and settle the private Land  
claims in the State of California.

It is hereby stipulated and agreed  
that the deposition of Cornelio Percy taken  
in this case on the 6<sup>th</sup> day of February  
A.D. 1855 before Commissioner Peter Gott  
be considered as evidence in this case  
and as though it had been filed before  
the submission of said case,  
San Francisco 13<sup>th</sup> Feby 1855,

Stipulation

Leon's Blanding  
Asso Law Agent.

Filed in Office Feby 13, 1855,

Geo. Fisher  
Sec.



Case No. 100

Miguel Villagran }  
 vs } Don 500 Varas square  
 The United States } of land in the place  
 called Agujito in  
 Santa Cruz County.

282 SD  
 PAGE 20

Opinion by  
 Commissioner  
 Alphens Tuleh

The Claimant has presented and proved a document issued by Governor Alvarado dated November 20, 1837, granting to him 500 varas of land in the place called the Agujito for the purpose of building thereon a house and of enclosing and cultivating the land.

The grantee was required to present himself to the Alcalde of the place and obtain from him the measurement of the quantity of land granted.

Testimony is given showing that the Alcalde soon after the grant made a measurement of land in the proper locality to the petitioner under an order from the Governor.

No record or written evidence of the proceedings is introduced, but we think enough is shown to prove that the possession was given and boundaries assigned under the grant in question.

The Alcalde, Rodrigues, is himself a witness and described the lines run and the monuments established by him. He gives, however, the length of only two of these lines, and these from vague recollection only, while none of the angles are specified.

Three of the corners are specified and

permanent objects while the fourth is on the Sanyon de en Medio (middle ditch) without any specified point fixing its position.

It would seem from these data that the land can be so surveyed as to answer these calls establishing the corner last referred to at such a point on the Sanyon as to embrace within its area the quantity intended to be granted.

One other witness has testified in the case relative to the location and boundaries of the land claimed, but the area as specified by him is evidently larger than that described by the Alcalde as measured by him, and larger than the terms of the grant allow. We shall therefore adopt substantially the description as given in the testimony of the former.

The proof shows that Villazana built a house on the premises and moved into it about the time when the grant was made, that he has about one half of the premises enclosed and planted the first year, and that he has ever since continued his occupation and residence on said place.

In addition to the above evidence of title, a document is filed and proved purporting to be a grant of a piece of land adjoining the above four hundred varas in length and three hundred in width, made by Macedonio Lorengana, on the fifth day of February, 1846.

This document is not referred to in the claimant's petition to the Commission and it does not clearly appear whether

he claims any right, under it or not,  
But as Locelegana is not shown to have  
had any authority to make a grant of  
any portion of the public domain,  
and as there is no sufficient description  
given in the papers or the testimony  
to define and segregate the land intended  
to be conceded, if such power existed  
there is nothing in this part of the  
case upon which a confirmation can  
be based.

282 SD  
PAGE 22

As to the other portion however,  
the petitioner is entitled to a decree in his  
favor.

Confirmed

Filed in Office July 20, 1855,  
Geo. Fishers Sec.

Miguel Villagran }  
vs }  
The United States }

Decree

In this case on  
hearing the proofs and allegations it is  
adjudged by the Commission that the claim  
of the said petitioner is valid; and it  
is therefore decreed that the same be  
confirmed.

The land of which confirmation is  
hereby made is situated in Santa Cruz  
County and is known by the name of Agua-  
yito and is the same land on which said  
Villagran has had his residence during  
many years last past, and is bounded and  
described as follows to wit:

Beginning at the "Aguajito" which is on the left hand side of the road going from the Mission of Santa Cruz to Monterey and near said road, and running from said Aguajito to the Canyon de en medio, thence to the "Encino", thence to the "Seauel" near the house of said Villiguan, and thence to the beginning point at the Aguajito running said last mentioned line so as to include said Villiguan's house; and the line first above described is to strike the said "Canyon de en Medio" at such a point that said line with the other lines above described shall encompass an area of ground equal to five hundred varas square.

Alphens Felch

R. Aug Thompson

J. B. Farwell

Commissioners

Filed in Office July 20. 1853,

Geo. Fisher Sec

And it appearing to the satisfaction of this Board that the Land hereby adjudicated is situated in the Southern District of California it is hereby ordered that two Transcripts of the proceedings and of the decisions in this case and of 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.

385

282 SD  
PAGE 25

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 three* pages, numbered from  
1 to *23*, 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 *several* Witnesses, upon which the same is founded, on file in this  
Office in Case No. *178*, on the Docket of the said Board,  
with

*Miguel Villagrán* is  
the Plaintiff against the United States, for the place known by  
the name of *"Aguajito"*

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 first* day of August.  
A. D. 1855, and of the Independence of the  
United States of America the *seventy-eighth*

*Geo. Fisher*

282

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

No. 282.

THE UNITED STATES,

vs.

282

*Miguel Villagran.*  
*"Aguapito."*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *678.*

Filed, Oct 4<sup>th</sup> 1855

*J. E. Carr.*  
*clerk*

282

*Handwritten notes on the right edge of the cover, including the number 282 and other illegible characters.*





Office of the Attorney General of the United States,

Washington, 10. October, 1855.

678. / "Aguajito" —

Miguel Villagran, claimant.

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 15<sup>th</sup> day of ~~September~~, 1855, 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 282.

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

The United States, Appr

vs

Miguel Villagran.

Appeal house.

Filed Nov 20<sup>th</sup> 1855.

C. E. San  
Clerk.

282 SD

PAGE 27

Miguel Villagran  
 Appellee  
 vs.  
 The United States  
 Appellant

In the United  
 States District Court  
 for the Southern Dis-  
 trict of California  
 No 282.  
 (Transcript no. 678.)

Hon J. S. R. Oyer, Judge of said Court.

And now comes the said Appellee  
 by his attorney D. J. Gregory and answers  
 to the petition for a review filed in  
 this case. For answer says, that his  
 title to the tract of land called "Agua-  
 jito" and more particularly descri-  
 bed in the said petition & the trans-  
 cript therein referred to, is a good  
 and valid title.

Wherefore the said Miguel Villagran  
 prays, that the decision of the Board  
 of United States Land Commissioners  
 rendered in the said cause, may be  
 affirmed by this Court, that his ti-  
 tle to the said land may be declared  
 to be a good valid title.

D. J. Gregory  
 Atty for Appellee

I have served this Answer upon P. O. &  
U. S. Atty by delivering to him a true  
Copy of the same at Los Angeles  
January 10th 1856

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

No 282,

Answer \$3.00

Original bill of exchange

Appellee

The United States

Appellant.

United States Dist.

Court.

Southern Dist.

California

Answer

Filed Aug 9<sup>th</sup> 1856  
C. E. [unclear]  
[unclear]

282 SD  
PAGE 29

D. J. [unclear]

UNITED STATES OF AMERICA, }

SS.

282 SD

Southern District of California,

PAGE 30

The President of the United States,

TO

Miguel Villagran

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you in the District Court of the United States, in and for the Southern District of California, on the 9th day of January, in the year of our Lord one thousand eight hundred and fifty-six, at the City and County of Los Angeles, in said District, by

John M. Smith, Dist. Atty.

Praying the Court to review the decision of the Board of Land Commissioners confirming your claim to a tract of land called "Aguafito"

and that 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 the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this 9th day of January A. D. 1856.

J. E. San

CLERK.



Marshal East

For copying summons, 60  
" Summons " 3,00  
" " Return 3,00  
\$6.60

No. 282,

UNITED STATES OF AMERICA,

Southern District of California,

U. S. District Court.

Miguel Velazquez  
vs  
The United States

SUMMONS.

Received Jan 9. 1856 185

U. S. MARSHAL.

282 SD  
PAGE 31

I served this Summons, together with a certified copy of the Petition, upon *J. S. Gregory*  
*Atty for Miguel Velazquez*

at *Los Angeles*  
the *9<sup>th</sup>* day of *Jan*

in the Southern District of California, on  
A. D. 1856.

Sworn to and subscribed before me, *this 9<sup>th</sup>*  
*9 day a.d. 1856.*  
*[Signature]*  
CLERK.

*[Signature]*  
U. S. MARSHAL.

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

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



282 SD  
PAGE 32

Miguel Villagran, Appellee  
~~vs.~~  
The United States, Appellant

Docket No. 282

Transcript No. 678.

**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 1<sup>st</sup> day of March A. D. 1853, Miguel Villagran

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 called "Aguajito" in the County of Santa Cruz 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 20<sup>th</sup> day of February A. D. 1855, the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the 4<sup>th</sup> day of October A. D. 1855, 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. 678; reference to which it is prayed may be had and made part of this petition. That on or about the 15<sup>th</sup> day of September A. D. 1855, 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>about</sup> on the 20<sup>th</sup> day of November 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.

282 SD  
PAGE 33

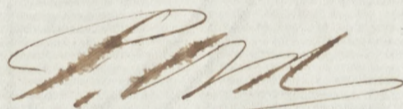
And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the



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, and decree the alleged title to be invalid: with costs and general relief.

282 SD  
PAGE 34



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

No 282.

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

Miguel Villagran  
appie

ass.

The United States  
applh.

Petition of US Atty for  
Review & c.

Filed Jan'y 9<sup>th</sup> 1856.  
C. E. Jan  
ck.

282 SD  
PAGE 35

P. O. C. US Atty.

Miguel Villagran  
Appellant } In the United  
The United States } States District Court  
} for the Southern  
} District of California  
appellee }  
Case no. 282.

282 SD  
PAGE 36

Claim for the place called Agrijito

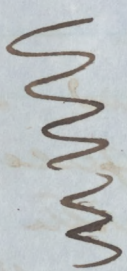
California }  
San Angeles County } D. J. Gregory being  
} by me duly sworn  
} Deponee, and I say that  
he is attorney for the appellant in  
the above entitled cause; that he is per-  
sonally acquainted with the said ap-  
pellant, and that he also knows the  
land claimed in this case. And depo-  
nent further says, that from his knowl-  
edge of the character of the said claimant,  
he has no doubt of the genuineness of the  
alleged grant under which he claims,  
and that he believes the the signature of  
Juan B. Alvarado, thereto signed, to be the  
genuine signature of the said Alvarado,  
and that it was attached or signed thereto  
by him while he was acting Governor  
of the then Territory of Upper California,  
and that in the said grant was made by  
him as such Governor. And the de-  
ponent further says, that from his knowledge  
of the said tract of land therein named,  
he the deponent believes it possible of  
being easily identified, the same being

bounded on the East by a creek of running water, and on the North, or the West, by a gulch, running nearly at right angles with the said stream. And this affiant further says, that if a new trial of the said cause be granted to the said Appellant, he believes he dependent will be able to establish the genuineness of the said grant, and also the said boundaries; that no further testimony in this case was taken before the trial of the same was had in this Court, because the points upon which the said grant was decided to be invalid were not raised by counsel before the Board of Commissioners, and more especially on account of the poverty of the said claimant, he being so poor, that not as many witnesses were examined, as would have been, but for the reason of his want of means; but dependent says that if a new trial of said cause be granted as aforesaid, he believes that the necessary testimony to establish the said claim will be procured, as the said tract of land, is the home- stead and place of residence of the said Appellant, & upon which he has lived for a great number of years. Dependent further says that he dependent has no interest whatever in the contingent or otherwise, in the said cause.

Know to subscribe  
before me this 19th  
day of July 1857

Durall S. Gregory

J. Evans  
Clerk



MS. A. 9. 2. 38

No 282.

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

Miguel Villagana  
applt

vs.

The United States  
Appée.

Affidavit of D.S.  
Gregory

Filed Aug 18<sup>th</sup> 1856.

282 SD  
PAGE 39

J. E. Lang  
Clerk

*[Faint handwritten notes in the left margin, including the number 382 and various illegible scribbles.]*

The United States vs. Miguel Villagrand  
appellant. vs. appellant  
U. S. Dist. Court for the Southern District of California.

282 SD

PAGE 40

Docket No. 282.

On motion of Counsel, J. J. Gregory, & it satisfactorily appearing to the Court that the original claimant in this case had died since the confirmation of the claim by the Board of United States Land Commissioners, & that Miguel Villagrand junior, Carpio Villagrand, & Eugenio Villagrand

are his lawful heirs, & that his widow is still living

It is therefore ordered by the Court that the said <sup>widow</sup> may be substituted on the record <sup>ing</sup> of this case, in place of the said original claimant.

No 282

Order  
of Substitution.

Filed 18<sup>th</sup> June 1858  
Lester C. B.  
of St. Albans  
Vt.

282 SD  
PAGE 41



United States District Court for the  
Southern District of California

Hon. Isaac S. K. Ogier Judge

The United States

v. appellant

The Heirs of and legal  
representatives of  
Miguel Vallegran

Docket No 252 -

Transcript No 678 -

Claim for land in  
Santa Cruz County  
known by the name  
of "Aguagita" -

The Attorney General of the United States  
having given notice that the appeal  
from the Decree of the Board of United  
States Land Commissioners confirming the  
said claim will not be prosecuted by the  
United States and a stipulation having  
been entered into by the United States District  
Attorney and the Attorney for the claimants  
that the appeal from the decision of the said  
Commissioners will not be prosecuted and  
that ~~at~~ the decree of the said Commissioners  
be made final and that the appeal to  
this Court be dismissed -

It is therefore ordered, adjudged and decreed  
that the appeal from the decision of the said  
Commissioners be and the same is hereby va-  
cated, that the said decision be made final  
and that the claimants have leave to proceed  
under the said decree as under a final  
decree -

Done in Chambers -  
the 15<sup>th</sup> day of Apr. 1858  
Isaac S. K. Ogier  
U.S. District Judge

No. 282.

Miguel Villagran  
appellee  
vs

The United States  
Appellant.

Order to dismiss appeal

Filed Nov. 10<sup>th</sup> 1888  
B. Sims, Clk.  
H. H. Stetson,  
Atty.

282 SD

PAGE 43

United States District Court for the  
Southern District of California.

The United States }  
                  appellant }                   Docket No 282  
                  vs.                    }                   Transcript No 678 - Claim  
The heirs of and } for lands in Santa Cruz  
legal representatives of } County known by the name  
Miguel Vallegran } of "Aguagita".  
                  appellants.

The Attorney General for the United States  
having given notice that it is not the in-  
tention of the United States to prosecute  
the appeal in the above case from the  
decision of the Land Commissioners which  
notice has been heretofore filed.

It is therefore hereby stipulated and  
agreed by and between the Attorney of the  
United States and D. S. Gregory Attorney  
for said appellees that the decree of the  
U.S. Land Commission heretofore rendered  
in said case confirming said claims  
be and the same is hereby made final  
and that the said appeal to this Court  
be dismissed.

June 21, 1858                   P. M. Mally

D. S. Gregory  
Atty for Appellants.

No. 282

Miguel Villagran  
Appellee  
vs  
The United States  
Appellant

Stipulation of parties.

Filed Nov. 16<sup>th</sup> 1858  
S. Sims, Clk.  
Per W. W. Peterson,  
Atty

282 SD  
PAGE 45

California Land Claims.  
Attorney General's Office  
5 Feby 1857.

Sir:  
In the case of the claim of  
Miguel Villagran, confirmed to  
the claimant by the Commissioners,  
Case no. Six hundred and Seventy-  
eight, (678), appeal will not be  
prosecuted by the United States.

Yr. Am.  
Respectfully,  
C. Smith

Practising Ad. Eq.  
U. S. Attorney,  
Los Angeles.

No 282

Filed this 1<sup>st</sup> Feb; 1858  
at  
J. M. Coleman  
Att

282 SD  
PAGE 47

The United States. appellants

vs.

Miguel Bllugran, appellee

The claim in this case is founded upon ~~a document~~ <sup>an</sup> alleged to be a grant from Governor Alvarado to the present claimant dated the 20<sup>th</sup> June 1834. —

The document filed, ~~and support~~ of the claim is certainly the most indefinite and irregular of its kind, which has ever been brought to the notice of the court. It certainly can not be considered as the final title which was generally issued by the Californic Government to the grantees of land, as it has none of the conditions which were required by the Colonization laws of Mexico. Moreover it does not purport to be <sup>given</sup> in the name of the Mexican nation, it is not signed by Alvarado as Governor, nor is there the usual preamble setting forth that ~~the authority of the Government~~, it is not upon the usual stamped paper, nor is there anything about it to show it in the usual terms in which decrees of concession were made. There is indeed nothing about it to entitle it to be considered as an official document except that it is signed by Juan B Alvarado, the words used in the instrument, are not words of grant, and if it was really issued by Alvarado as Governor, it could only have been intended as a permission to occupy

and Cultivall, there is no description  
of the land in the document, which  
is introduced as a grant; ~~and in which~~  
~~part, to be the relation of the claimant.~~  
There is no evidence that proper judicial  
possession of the land was given  
Rodriguez a witness introduced on the  
part of the claimant says that he gave  
measured the land for claimant about  
the time the grant was made, by virtue  
of an order from Governor Alvarado.  
and that a record of the possession  
was ~~kept~~ and filed in the archives of  
Santa Cruz, this record is not produced  
nor <sup>an</sup> certified copy, nor is there any  
thing to show that any effort has been  
made to obtain it, this certainly should  
have been done before the evidence of  
witnesses was received to prove that  
possession was given, but were this  
evidence if it were competent, does  
not describe the land so that it can be  
identified, the witness gives what he  
says were the boundaries, but he describes  
a quantity of land within three town  
leagues three times as great as the  
quantity called for in the alleged  
grant; there are no eastern limits  
called for in the grant within which  
the land granted may be located.  
and if it is said ~~they~~ <sup>it</sup> ~~was~~ <sup>to be</sup> located  
within the boundaries of the Hase  
Aguafrita, there is no evidence in the  
record of what those boundaries  
are.



The witnesses who says that he gave the  
possession, says that in giving the  
possession he had no title before him  
that he did not know the boundary  
himself, but that he learned them  
from some other man, who was  
his secretary told him what they were.

This is certainly all too indefinite and  
vague to have any force; more especially  
when it comes in support, of what  
to say the best is a much suspicious  
document. - I can see nothing in the  
one which ought to entitle the claimant  
to a confirmation, and therefore  
the claim must be rejected, and  
a decree will be entered accordingly.

282 SD

PAGE 50

United States

by

Michael Blagman

Opinion