

PRIVATE LAND-CLAIMS IN NEW MEXICO.

APRIL 8, 1872.—Ordered to be printed.

Mr. MERCUR, from the Committee on Private Land Claims, introduced the following

P A P E R S :

*Transcript of private land-claim No. 50, known as the Cañada de los Apaches grant, made to Antonio Sedillo, April 20, 1769, and approved by the surveyor general of New Mexico, June 15, 1871.*

UNITED STATES OF AMERICA,  
*Territory of New Mexico :*

To General T. RUSH SPENCER, *Surveyor General of New Mexico :*

Your petitioner, Felipe Chavez, for himself and as agent for the heirs and legal representatives of Antonio Sedillo, deceased, respectfully represents that in the year seventeen hundred and sixty-nine, one Antonio Sedillo petitioned to his excellency Pedro Fermin de Mendenueta, of the order of Santiago, colonel of the royal army, governor and captain general of the province of New Mexico, for a grant of land situated upon the west bank of the Rio Puerco, in what is now known as the counties of Bernalillo and Valencia, in the Territory of New Mexico, setting forth in his said petition that the grant of land solicited was a portion of the same land which had formerly been granted to himself and others, and upon which they had lived four years, and that it had then been abandoned three years, owing to the great risk and the small force for a defense on such a frontier; that the land petitioned for by him was situated at the end of said former grant and called "La Cañada de los Apaches;" stating the boundaries thereto, and also stating that if at any time the said former grant should become settled, he should put no obstacle to their enjoying it if they did not prejudice him in the possession of his part, which he so humbly asks for, and which he claims on account of having no land of his own where to maintain his large family, and because he was a poor man and had rendered service for more than twenty years in the royal army as a private soldier, as a corporal, as a sergeant, and on many occasions as a commanding judge, and at that date serving as chief alcalde of the neighboring pueblos of Acoma, Laguna, and Zuña; that the said governor and captain general, after considering said petition, did, on the 20th day of April of said year decree as follows: At the city of Santa Fé, on the 20th day of April, in the year 1769, the above petition was presented by the petitioner, and in consideration of his services and for other reasons which he sets forth, I, I. Pedro Fermia de Mendinueta, of the order of Santiago, colonel of the royal army, governor and captain general of this province of New Mexico, declared that in the name of His Majesty the King, conceded and do concede as a grant to Antonio Sedillo the tract

of land he asks for, with the boundaries he mentions, and under the conditions in his petition contained, and also that he settle the tract in the terms and forms prescribed by the royal laws. And said grant I make to him, his children, and heirs, and successors, under the corresponding conditions; and I confer all necessary legal authority to Carlos Mirabal to proceed after summoning the adjoining settlers, and, if no contradiction is raised by a legitimate party, to put the said Antonio Sedillo in possession of the tract of land aforesaid in the accustomed manner, and making a duplicate of the whole, he shall deliver it to the aforementioned Sedillo, that it may serve him as a sufficient title, &c.

It appears from the title-papers, now filed in this case, that they are the same identical original papers executed to said Antonio Sedillo at that time, as will fully appear in proof, by a comparison of the signatures of said governor and captain general subscribed upon the original title-papers of grants to land in files Nos. 581, 582, 583, 584, and 791, now in the office of the surveyor general of New Mexico, and which title-papers were taken from the ancient territorial archives where they were found at the time of the acquisition of said territory by the United States Government, and which are recognized and known to be genuine original title-papers.

Your petitioner further states that the said grant of land was settled and occupied by said Antonio Sedillo, in conformity with the laws, usages, and customs of Spain and the requirements of said decree; that he erected buildings upon the same, and that it has been in successive occupation of said Sedillo, his heirs and legal representatives, from the date of the grant to the present time, with the exception of such times as was beyond the power of the settlers to remain in occupation thereof, without sacrificing their lives to the hostile frontier Indian tribes; and as a proof of these statements your petitioner respectfully refers to the testimony adduced in the claim No. 93, reported from your office in November, 1870, regarding the settlement, occupation, and subsequent abandonment of the land-grant known as the San Blas and San Fernando or Rio Puerco grant, which tract of land is situated immediately to the north and adjoining the lands of said Sedillo, which evidence, given by aged persons yet living who were born and raised in said settlements, fully proved the occupancy and improvement of the same and the neighboring settlements until they became untenable by reason of frequent attacks from said Indians, and even to the present day that section of country is at times known to be unsafe and untenable from the same causes; that as a proof that said Antonio Sedillo was placed in full and complete possession of said grant of lands under the decree of said governor and captain general, is evidenced in instruments of writing made and certified to by Carlos José Peres de Mirabal, upon whom was conferred full authority to give full and complete possession of the same. It is therein stated that in obedience to the said decree, he, the said Mirabal, on the 25th day of the month of April, in the year 1769, proceeded to the tract granted, and, with attending witnesses, placed said Antonio Sedillo in royal possession of the same, after summoning the adjoining settlers, as also the Navajo Apache Indians, who saw the petition and declared it did not injure or conflict with their possessions; and he, the said Mirabal, seeing that no other person claimed a right to the property granted, placed the said Antonio Sedillo in possession in the name of His Majesty the King, and which he received as a royal and true grant with its boundaries on the east the Rio Puerco; on the west the point of a table land which runs in said direction and which comes out of said Cañada de los Apaches; on the north the grant of the Rio Puerco, and

on the south the boundary of Mateo Pino; that said act of possession is written upon the same sheet of paper containing said petition and decree, and bears the same evidence of great age with them. A further proof of the genuineness of these title-papers is also found upon the records made under what is known as the "Kearney code of laws," established for the Territory of New Mexico at the time of the acquisition of the same by the United States, and reference is made to pages 14 and 15, in book B of records in the custody of your office, for a full and complete record of these title-papers under the provision of said laws.

Your petitioner further states that said land grant was never surveyed, and that it is impossible for him to state the actual number of leagues and acres contained within the boundaries of the same, but that from a personal knowledge of the well-known and visible landmarks to the boundaries stated in the act of possession aforementioned, an approximate estimate of its extent places its width from east to west at about four leagues, and its length from north to south at about six leagues, containing an area of about twenty-four square leagues Spanish measure, and which title-deeds and stated land-marks and boundaries have heretofore been recognized and respected by the former Spanish and Mexican governments, as also by the neighboring settlers, as the grant and possessions of Antonio Sedillo; that the map accompanying this petition and original title-papers represents as accurately as can be determined the lines of said grant in connection with the township-lines of the public surveys of the United States. Your petitioner relying upon the historical fact that the land comprehended in this grant, at its date, was within the unquestioned dominions of the Crown of Spain, and that the governor and captain general of this province, at that time, had full power and authority under the laws of Spain to make the grant; that the title-papers to the same are regular in form and made by the proper officer, shows *prima-facie* evidence that it was a legal act and within the power of said governor and captain general to make it, and he now submits the papers in this case for your consideration and action in the premises, and prays for your approval of the same as a perfect grant, with your recommendation that Congress confirms the same to the legal representatives of Antonio Sedillo, deceased.

FELIPE CHAVEZ,

*For the heirs and legal representatives of Antonio Sedillo, deceased,*

By JOHN GWYN, JR., and

H. HILGERT,

*Attorneys.*

AÑO DE 1769.

*Merced de tierras hecha a Antonio Sedillo.*

Sr. Gr. y Cappn. General, Antio. Sedillo, sarjento reformado de este real precidio, postrado con la devida veneracion qe. devo ante la grandesa de V. S., paresco en la mejor forma que en derecho aiga lugar; diciendo Sr. que entienpo qe. governoeste reino el Sr. Dn. Franco. Antto. Marin del Valle, presentamos escrito entre yo i otros vecinos pidiendo un citio de tieras el cual llaman Los Quelites, el que se nos concedio de mersed, i tuvimos poblado quatro as. el que ba para tres qe. se despoblo por el mucho riesgo qe. en el ai, i ser pocas las fuersas para semijant frontera. Por lo que atendiende al catolico selo de V. S. me postro rendido ante su real patrocirmio pidiendo me conseda V. S. un pedaso

de tierra que en el remate de medidas del espresado citio tengo registrado, que llaman la Cañada de los Apaches. Oiendo sus linderos por el oriente un sero que llaman el Sero Colorado donde remata el lindero de los de Atrisco; por el poniente la punta de una mesa qe corre para el d'ho viento qe. sale de la espresada cañada; por el norte con la mersed de los pobladores del Rio Puerco, por el sur con el lindero de Don Mateo Pino. Esto espero del christianicimo selo de V. S., pues ei en algun tiempo se llegare a poblar d'ho paraje no pondre ningun obste para que gozen de ello, no perjudicandome a mi en lo de mi parte que tan rendidamente pido; pues este es motivado a no tener un pedaso de tierra propia endonde poderme mantener con tan crecida familia como me allo, i ser un hombre pobre, pues me ocupado en el real servicio veinte i tantos as. de soldado raso, de cavo i de sarjento i de juez comandante en varias ocaciones i en la auctualidad de alcalde maior de los pueblos de Acoma, Laguna, Suñi. Por todo lo cual A. V. S. pido i suplico sea mui servido atenderme i mirarme con la miseracion qe. acostunbra, i proveerme este mi escrito qe. de ello resevere vien i merced. Jurando con la solemnidad devida no ser de malicia i en lo neserario, &c.

ANTIO SEDILLO.

En esta villa de Sta. Fé, en veinte dias del mes de Abril de mil setecientos sesenta y nueve años, se presento la antecedente peticion, por el contenido en ella y en su vista atento a sus servicios y demas rasones que expone yo Dn. Pedro Fermin de Mendinueta, del orden de Santiago, coronel de los reales egercitos, govor. y capn. genl. de este reino del Nuevo Mexico, dije: que en nombre de su magd. (que Dios guarde) concedia y concedo de merced a Antonio Sedillo el sitio de tierras que pide bajo los linderos que nomina, y de las condiciones en su pedimento contenidas, y con la de poblar dho. sitio en el termino y forma que previenen las reales leyes, y de no venderlo a persona eclesiastica, y sin perjuicio de tercero que mejor dro. tenga; y dicha merced se la hago para el, sus hijos y herederos y sucesores, bajo las correspondientes condiciones. Y doi comision bastante quanta por dro. es necesario a Dn. Carlos Mirabal para que, precediendo citacion de los colindantes y no resultando contradiccion de lejitima parte, ponga en posesion del enunciado sitio de tierras al ya dho. Antonio Sedillo en la forma acostumbrada y segundo testimonio de todo selo, entregara al mencionado Sedillo para que le sirva de bastaute titulo, y devolvera los originales para colocarlos endonde corresponde. Y asi lo probebi, mande, y firme el enunciado govo. y capn. general con los ynfrascriptos testigos de mi asistencia, a falta de escribanos que no los a y en esta governacion de clase alguna; de que doi fee.

PEDRO FERM'N DE MENDINUETA.

MATEO DE PEÑAREDONDA.

ANTONIO MORETO.

En este paraje de Santa Cruz de Guadalupe, jurisdiccion de la villa de Albuquerque, en veinte i cinco dias del mes de Abril del presente año de mil setecientos sesenta y nueve as. parecio presente ante mi Dn. Carlos José Perez de Mirabal, el Cappn. Antonio Sedillo, con la mersed de tierras dada por el Sr. Dn. Pedro Fermin de Mendinueta, cavallero del orden de Santiago, coronel de los rs. exercitos, gr., y cappn. general de este reino castellano de sus rs. fuersas i precidios; en atencion a lo que su señoria provee i manda pase al citio ia mencionado, en compania de dos testigos de acistencia qe. lo son el Cappn. Baltasar Baca y Manuel Tores, a dar la posecion real con la citacion de los colindantes, aci de Atrisco como del

Rio Puerco, quienes vieron el pedimento i proveído; qe. lo fueron Manuel Vaca, José Chavez, y el teniente autual Juan Bautista Montaña, como tambien los Apaches Navajoes quienes dixeron que estava vien lo pedido, i que no tenian qe. pedir contra la posecion que se liva a dar; i viendo que no avia quien tuviera derecho a ello, cojé de la mano al espresado Sedillo, lo pasee, aranco sacate, tiro piedras, i todos dijimos Biva el rei mi señor; donde le di posecion en nombre de su magestad, qe. Ds. guarde, la que recibio real i verdadera, con sus linderos, por el oriente el Rio Puerco; por el poniente, la punta de una mesa qe. core para dho. viento qe. sale de la dha. Cañada de los Apaches; por el norte con la mersed del Rio Puerco; por el sur con el lindero de Dn. Mateo Pino. Y para que conste lo firmo con los ia referidos testigos de mi acis'e icia, en dl o dia, mes i año, a falta de escrivano real o publico qe. no lo ai en este reino; de que doi fee.

CARLOS JPH. PEREZ DE MIRABAL.

Te: BALTASAR BACA.

Tetio.: MANUEL TORES.

#### YEAR OF 1769.

To his excellency the governor and captain general, I, Antonio Sedillo, a reformed sergeant of this presidio, humbly appear with due veneration before your greatness, in the best form in which I am permitted to do, and say to you, sir, that at the time when this kingdom was governed by his excellency Francisco Antonio Marin de Valle, I and other neighbors of mine presented a petition asking a grant of lands called "Los Quelites," which was granted and given to us, and which we inhabited for four years, and it is now near three years since the same was abandoned on account of the great risk and the small forces we had for such a frontier. I therefore apply to the Catholic zeal of your excellency, and humbly kneel down before your royal patronage, asking that your excellency concede to me a tract of land, which at the end of the aforementioned land grant I have registered, and which is called La Cañada de los Apaches. Its boundaries on the east is a hill called Serro Colorado, which is the boundary of those of Atrisco; on the west the point of a table-land, which runs in said direction, and which comes out of the said Cañada; on the north the grant of the settlers of Rio Puerco; on the south the boundary of Mateo Pino. This I expect from the Christian zeal of your excellency, and if at any time the said place should become settled, I shall put no obstacle to their enjoying it, if they do not prejudice me in the possession of my part, which I so humbly ask for, and which I claim on account of having no land of my own where to maintain my large family, and because I am a poor man, and have been for over twenty years in the royal service, as a private soldier, as a corporal, as a sergeant, and on various occasions as a commanding judge, and at present as chief alcalde of the pueblos of Acoma, Laguna, and Zuñi, for all of which I pray your excellency to be pleased to direct your attention to me, and to favor me with your accustomed kindness, and to grant my petition, whereby I will receive benefit and grace. I declare with due solemnity that it is not from malice, and as may be necessary.

ANTONIO SEDILLO.

At the city of Santa Fé, on the 20th day of the month of April, one thousand seven hundred and sixty-nine, the above petition was presented by the petitioner, and in consideration of his services, and for

other reasons which he sets forth, I, Pedro Fermin de Mendinueta, of the order of Santiago, colonel of the royal army, governor, and captain-general of this province of New Mexico, declared, that in the name of His Majesty (whom God protect) conceded, and do concede, as a grant to Antonio Sedillo, the tract of land he asks for, with the boundaries he mentions, and under the conditions in his petition contained; and also that he settle the tract in the terms and forms prescribed by the royal laws; and further that he do not sell the same to any ecclesiastical party, and without prejudice to any third party having a better right; and said grant I make to him, his children, and heirs and successors, under the corresponding conditions, and confer all necessary legal authority to Carlos Mirabal, to proceed after summoning the adjoining settlers, and, if no contradiction is raised by a legitimate party, to put said Antonio Sedillo in possession of the tract of land aforesaid, in the accustomed manner, and, making a duplicate of the whole, he shall deliver it to the aforementioned Sedillo that it may serve him as a sufficient title, and he shall return the originals that they may be filed where they belong, and thus I, said governor and captain-general, provided, ordered, and signed, and with the undersigned attending witnesses, there being no notary of any kind in this jurisdiction, to which I certify.

PEDRO FERMIN DE MENDINUETA.

MATHEO DE PEÑAREDONDA.

ANTONIO MORETO.

At this place of Santa Cruz de Guadalupe, jurisdiction of the city of Albuquerque, on the 25th day of the month of April of the present year, one thousand seven hundred and sixty-nine, appeared before me, Carlos José Peres de Mirabal, Captain Antonio Sedillo, with the grant of lands given by His Excellency Pedro Fermin de Mendinueta, knight of the order of Santiago, colonel of the royal armies, governor and captain general of this province, castellan of its royal forces and garrison. In consideration of what his excellency provides and commands, I proceeded to the aforementioned tract, accompanied by two attending witnesses, these being Captain Baltasar Baca and Manuel Torres, to give royal possession, summoning the adjoining settlers of Atrisco, as well as those of the Rio Puerco, who saw the petition and decree, viz: Manuel Vaca, Jose Chaves, and the present Lieutenant Juan Bautista Montaña, as also the Navajo Apaches, who said that the petition was good, and that they had nothing to interpose against the possession about to be given, and, seeing that no person had a right to it, I took the aforementioned Sedillo by the hand, led him around; he pulled up grass, threw stones, and all of us shouted long live my lord, the King, when I gave him possession in the name of His Majesty, whom God preserve, which he received as a royal and true grant, with its boundaries on the east, the Puerco River on the west, the point of a table land which runs in the said direction, and which comes out of said Cañada de los Apaches on the north, the grant of the Rio Puerco on the south, the boundary of Mateo Pino; and in testimony whereof I sign this, together with the aforementioned witnesses of my attendance, on said day, month, and year for the want of a royal or public notary, there being none in this province, to which I certify.

CARLOS JOSÉ PEREZ DE MIRABAL.

Witness: BALTASAR BACA.

Witness: MANUEL TORRES.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, John Gwyn, of the city of Santa Fé, in the said county and Territory, upon my oath, state that the foregoing transcript contains a full, true, and correct translation of the original title, papers to Antonia Sedillo, in the Spanish language, to the best of my knowledge and belief.

JOHN GWYN.

Subscribed and sworn to before me this 6th day of April, A. D. 1871.

[SEAL.]

M. A. BREEDEN,

*Deputy Clerk United States District Court,  
First Judicial District, New Mexico.*

SURVEYOR GENERAL'S OFFICE,

*Santa Fé, New Mexico, June 8, 1871.*

The foregoing translation, upon comparison with the original in Spanish, being found correct, the same is hereby adopted.

DAVID J. MILLER, *Translator.*

## ANTONIO SEDILLO.

This claim was filed for investigation in this office April 6, and set for trial May 3, 1871.

It appears from the title papers filed in the case that in the month of April, 1769, Antonio Sedillo petitioned the governor and captain general of the province of New Mexico, then one of the ultramarine possessions of the Spanish government, for a tract of land situated in the present county of Bernalillo, known as the Cañada de los Apaches, the boundaries of which tract he stated in his petition as—on the north, the grant to the settlers of the Rio Puerco; on the east a red hill; on the south, the boundary of the land of Mateo Pino; and on the west, the point of a mesa extending out of the said cañada.

The petitioner states that he, in conjunction with sundry other individuals, had formerly applied for and obtained a grant for a certain tract of land known as the Quelites, adjoining the tract now in question, which Quelites tract the grantees had occupied four years, but which nearly three years before they abandoned on account of the exposed and dangerous frontier position of the place, and he declares that in the event of the Quelites tract being again occupied he would interpose no claim, but would allow the settlers so far as he was concerned freely to enjoy the land, provided they did not molest him in the possession he then applied for, should the same be granted him, basing his claim to a grant for the land on the circumstance that he had long and faithfully served the state in civil and military employments, had a large family, and was destitute of land for their support.

On the 20th of the same month and year the Spanish governor and captain general of the province, acknowledging the truth and justice of Sedillo's petition, decreed to him and his children and his successors a grant in fee for the tract of land prayed for, with the boundaries, and under the conditions stated and proposed by the grantee in his application, and under the further condition that he settle the land within the term prescribed by law, and never sell the same into mortmain, authorizing and directing the commissioner, by him then specially appointed for the purpose, to place the grantee in formal legal possession of the land so granted.

On the 25th of the same month the commissioner, as appears from his certificate of that date, in virtue and pursuance of the governor and

captain general's decree of the 20th, proceeded to the tract granted, and having summoned the adjoining settlers, and each of these having declared to him he had no objection to the execution of the grant, thereupon formally placed the said Antonio Sedillo in full possession, with the ceremonies customary under the Spanish law and usage in such cases, stating in the act of possession the boundaries of the tract as follows: On the east, the Puerco River; on the west, the point of a mesa extending westwardly out of the Cañada de los Apaches; on the north, the land of the people of the Rio Puerco, and on the south, the land of Mateo Pino, embracing probably an area of about twenty-four square leagues, or one hundred and six thousand two hundred and seventy-two acres of land.

The title papers in this case are the originals, being the petition of the grantee, Antonio Sedillo, the decree thereon of Governor and Captain General Pedro Fermin de Mendinueta, and the act of possession executed by Commissioner Carlos José Perez de Mirabal, the whole appearing on a single sheet of paper. The official signatures the document bears purport to be originals, and from a comparison of them with others by the same men, found among our old archives, they are believed to be genuine.

There has been made known to the surveyor general no opposition to the recognition and confirmation of this claim. The land in question, it is notorious, is at present, and has for many years back, if not interruptedly since the date of the grant, been in the occupation of the grantee and those claiming under him.

The claim in this case, to wit, for the land embraced within the natural boundaries above stated, is believed and held to be a good and genuine one under the laws, usages, and customs of the Spanish and Mexican governments, and under the treaty of Guadalupe Hidalgo, wherefore the same is hereby approved as such, and transmitted with the papers in the case for the action of Congress in the premises.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, June 15, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 6, 1871.*

The foregoing transcript contains true copies of the papers on file in this office, constituting private land-claim approved as No. 50 by the surveyor general June 15, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

---

*Transcript of private land-claim No. 51, under grant to Nerio Antonio Montoya of November 12, 1831; approved by the surveyor general of Mexico June 20, 1871.*

*To the surveyor general of New Mexico, Hon. T. Rush Spencer :*

Your petitioner, J. Francisco Chaves, a citizen of the United States, and a resident of the county of Valencia, in said Territory, most respectfully begs to represent that he is the legal representative of Nerio Antonio Montolla, who, on the 28th day of February, A. D. 1831, (in conformity to the colonization laws of the Republic of Mexico,) peti-



tioned the constitutional council of the corporation of Tomé, in said Territory, to grant to him and his heirs a tract of land which is now situate in the county of Valencia, of said Territory, and known as the Ojo del Medio grant, for reasons set forth in his said petition. The constitutional council of the corporation of Tomé took action upon said petition on the 19th day of March, A. D. 1831; and recommended that the territorial deputation act favorably upon said petition, and grant to said petitioner his request. The territorial deputation acted upon said petition, and report upon the 12th day of November, A. D. 1831, and commanded by decree, then issued, that the said grant be made to said Nerio Antonio Montolla, and that the alcalde of the jurisdiction where said lands was situated proceed to place Nerio Antonio Montolla in possession of said grant.

A copy of the petition made by Nerio Antonio Montolla, the proceedings of the constitutional council of the corporation of Tomé, the proceedings and decree of the territorial deputation, the alcalde's document, the act of possession, the conveyance by which claimant derives title, and a translated and certified copy of all these documents, as also a plat of said tract of land, are hereby annexed herewith and made a part of this petition. The metes and bounds of said grant of land are: On the east, the Apache Rancheria; on the west, the Central Spring; on the north, the highest part of the cañon mountain ridge, the same at which the spring is situated, and on the south, to commencement of the little valley of the Cuerdo, up to a spring situated therein, commonly called the Cuerdo Spring.

Claimant represents that he has a perfect title to said grant; that he knows of no adverse title thereto, and believes none exists, as it would have been filed had there one existed; this claim having been filed by Henry Connelly on the 19th day of December, A. D. 1863, and numbered eighty-seven. Grantee and legal representatives up to present claimant have been in the quiet, peaceful, and continuous possession of said grant up to the present time. Said grant is supposed to contain about

This claim is now presented for approbation, under the provisions of the act of Congress approved on the 22d day of July, A. D. 1854.

J. FRANCISCO CHAVES,  
By J. BONIFACIO CHAVES,  
*Attorney for Claimant.*

*Muy Ylustre Ayuntamiento. de Tomé :*

El c. Nerio Antonio Montoya, vecino del puesto de Valencia, ante V. S., con el mas profundo respecto, paresco y digo: Que hallandome en dicho puesto de Valencia reducido solamente a la rama que corresponde a mi esposa sin saber qual pueda tocarle por estar el referido sitio. en comunado y sin esperansas de que aunque sea repartido haya de tocarme una parte concederale, conque pueda acudir a la precisa subsistencia de una crecida familia que me rodea, respecto de ser corto y muchos los poseidores vajo esta su pocicion, me veo en la imperiosa nesecidad de manifestarlo a V. S. para que tenga la dignacion de tomar en consideracion esta mi situacion, y por un efecto de su notoria bondad tenerla igualmte. de poner a continuacion su informe a la Exma. Diputacion para que S. E. en vista de este y de lo que expongo pueda dictaminar, si lo tuviere a bien, el que se me posecione desde el ojo de en medio hasta la rancheria que den para el ambito, como de media legua, por todo el cañon, distante una de la merced del Manzano, cullo sitio baldio y a mi concepto sin perjuicio de los havitantes de la comprehencion de esta jurisdiccion, por lo que respecta a pasteos y aguas de sus ganados, causa

la incomodidad del cañon en que se haya el mencionado sitio, y la cantidad de agua que encierra; y util solamente a una corta siembra a la que unicamente me intereso, y de la que lla berifique el año passado, la que sin embargo de no averla podido acistir completamente por la larga distancia, no dejo de alleviarme su corto producto. Por todo lo cual a V. S., humilde y sumicamte. pido y suplico sea muy servido de hacer como solicito; que en ello recibire gracia y justicia. Juro no proceder de malicia y en lo necesario, &c. Ba en este papel comun por no haver en esta jurisdiccion del sello que corresponde. Quedando con obligacion de agregar el aspiado.

NERIO ANTO. MONTOLLA.

VALENCIA, *Febrero 28 de*, 1831.

*Ynforme del Alluntamiento.*

Tomé, Marzo 19 de 1831.—Convencido este r. alluntamiento de las poderosas razones que el suplicante ce pone, y el ningun perjuicio que resulta, antes si bastante beneficio al interes y aumento de la agricultura, pone su ynstancia a la exma. diputacion territorial quien como facultada puede acceder a la donacion del terreno que pide dho. suplicante, sin perjuicio de pastos y abrebaderos para los trancetantes.

JUAN BACA.

MIGUEL DE OLONA,  
*Rejidor Secretario.*

*Decreto de la Exma. Diputacion, (Quaderno 1º Fo. 2.)*

SANTA FÉ, *12 Nove. de*, 1831.

Su E. la diputacion de este terro., instruido del ynforme que a continuacion de esta ynstancia da el alluntamto. constitucional de Tomé, ha resuelto en seccion de hoy se done el terreno que solicita el impetrante, preveniendo al alc'e. de dha. jurisdiccion forme el correspondiente documento que asegure al agraciado en la merced que por este se le concede.

ABREU, *Secreto.*

*Documto. del Alce.*

El c. Miguel de Olona, segundo rejidor de esta r. alluntamto. de Toméy alcalde actual de la misma jurisdiccion &a: En cumplimiento de lo decretado por la exma. diputacion de este terro., con fha. 12 de Nbre del año corriento al margen de la instancia que, con f'ha 28 de Febrero, presento a este r. alluntam'to el c. Nerio Antonio Montoya, vecino de esta misma jurisdiccion, en culla instancia consta el ynforme queda esta alluntamto. por el qual à benido S. E. en agraciar con su solicitud à Montoya, consediendole plena y formal posesion del sitio que solicita en la banda opuesta de la sierra que es el ojo de en medio, y desde este hasta la rancheria que es la solicitud de el agraciado, y para que le sirba de titulo y à cer constar su propiedad en el espresado terreno, yo el nominado alcalde, con arreglo à lo dispuesto por S. E., y por la facultad que me es conferida por la ley, estiendo el presente documento actuando con testigos de asistencia por falta de todo escribano, que no lo hay segun derecho, y en este papel comun por la notaria falta del sellado; quedando obligado el agraciado á agregar el del sello que corresponde, quedando á el mismo tiempo en este archibo la instancia original de Montoya, como tambien puede el espresado Montoya el dia que guste y tenga à bien abisarme para pasar con el á posecionarle en la propiedad que se le concede con todas las formalidades que son de estilo, para que con libre poderio pueda gozar por si, sus hijos y subse-

res el terreno que en nombre de la soberania se le concede; y para toda constancia lo firme y otorgué en siete dias del mes de Dbre de mil ochocientos treinta y uno, con los de mi asistencia, como dicho es; de que doy fee.

MIGUEL DE OLONA.

Assa.: ISIDRO SAMORA.

Assa.: ANTONIO BARELA.

*Pocesion.*

En dose dias del mes de Dbre de mil ochocientos treinta y una, llo, el segundo rijidor de este r. alluntamiento y alcalde actual de esta jurisdiccion de Tomé, en vista de lo prevenido por la exma. diputacion de este terro. y con el abiso que tube del c. Nerio Antonio Montoya, pase con en al sitio que se le dona, y estando en el y no resultando perjuicio alguno le señale al espresado Montoya los linderos siguientes: Por el oriente la rancheria que llaman de los Apaches; por el poniente el ojo de en medio; por el norte lo alto del monte de la cuchilla del cañon mismo adonde esta el ojo, y por el sur el nacimiento de la Cañada del Cuerbo hasta un ojo que esta en la misma cañada que comunmente llaman el Ojo del Cuerboy; le adverti las condiciones espresas en el ynforme, en quanto à pastos y abrebaderos para los trancitantes, mandandole al mismo tiempo poner seis mojoneras firmes y citables, y entendido de todo lo coji de la mano y lo pasie por dicho terreno, aranco sacate, tiro piedras à los cuatro bientos, gritando por una y tres veses, Biba la soberania, en señal de berdadera posecion pacifica sin contradiccion. Y para que asi conste lo firme, yo dicho rejidor y alcalde actual, con los de mi asistencia como dicho es; de que doy fee.

MIGUEL DE OLONA.

Assa.: JUAN JOSÉ DE MADARIAGA.

Assa.: ANTO. BARELA.

En los Corrales, condado de Bernalio, a los dos dias del mes de Octubre de 1848, ante mi, Fernando Aragon alce. del mencionado condado, comparecieron Dn. Nerio Montoya, vico. del condado de Balencia y Dn. Juan Perea, vecino de Bernalio, y estando presentes dijo el primero que. traspasa todo su derecho y poderillo de este documento en el mencionado Perea y su hermana Da. Dolores Perea pa. qe. desde luego queden estos señores haciend el legal huso de este derecho como propios ullo qe es con mas huna huerta con cuatrosientos setenta y cuatro mates de huba; tres piezas de abitacion de palo; ochenta y seis arboles frutales de durasno y mansano; la tapia qe. resguarda la huerta; con dro. de q. si se derrota pueden fomentala de sus estramuros; tambien el documento y dro. de la asequia con qe le riega dha huerta; dies y nuebe frascos aguardiente; una aucion qe. tiene comprada a Manl. Sedio en el sitio de las Peraltas, los tres cuartos mencionados los dá con el solar y choreras correspondientes, y dice el otorgante qe. todo le presente en este documento lo esede a estos señores por la cantidad de cuatro mil quinientos ochenta y una cabezas de ganado menor de qe. les hera deudor, y otros picos qe. por efectos de tienda tambien debia; con cuya cantidad se an dado por pagados y satisfechos de la mencionada cantidad. Aci lo an otorgodo por auto y sertifico el presente, con los testigos de acist'a; de todo doy fee.

FERNANDO ARAGON, *Alcalde.*

NERIO ANO. MONTOYA.

De acista.: MARIO S. VERGARA.

De acista.: JUAN VIJIL.

## GEFATA. POLITICA DE NUEVO MEJICO.

Por el oficio de V. f. ha. 20 del corriente me he impuesto haver V. cumplido con el decreto de la exma. diputacion en que posesiona de un terreno al C. Nerio Antonio Montoya y pero con respecto a la consulta que V. me hace sobre cuantos deven de ser sus dros. digo que lo ignoro, y que puede V. si acaso gusta dirigir esa consulta al sor azesor que es el que en tales casos deve consultar á los juezes de 1<sup>a</sup> instancia.

Dios y libertad, Sante Fé, 22 de Decre. de 1831.

JOSÉ ANTO. CHAVES.

Sor. Regor. D. MIGUEL OLONA.

*To the honorable the corporation of Tomé :*

I, citizen Nerio Antonio Montoya, resident of the town of Valencia, appear with the greatest respect before your honorable body and state: that finding myself at the said place, Valencia, with only the family relations of my wife, and not knowing what may fall to her share, the said tract of land being owned among them, and having no confidence that, even should the same be divided out, any considerable portion would come to me on which to depend for the support of the large family by which I am surrounded, the land being small in quantity and the holders being numerous, under this apprehension I find myself under the imperious necessity of applying to your honorable body, that you be pleased to take this, my situation, in consideration, and that actuated by your well-known generosity you may further manifest the same by appending hereto your report to the most excellent deputation, so that that body, in view thereof and of what I myself represent, may, should it deem proper to do so, direct that I be placed in possession from the central spring to the Rancheria, about half a league in area along the cañon, and distant about one league from the Manzano grant, which tract is uncultivated, and, in my opinion, the grant would not be injurious to the inhabitants within this jurisdiction in regard to pasturing and water for their live-stock, owing to the barrenness of the cañon in which the said tract lies and the quantity of water it contains, and it is valuable only for cultivation on a small scale, for which purpose only I desire it, I having planted there last year, and the crop, though I could not tend it well, owing to the great distance, did not fail to relieve me with its limited production. For all which reasons I humbly and submissively ask and pray your honorable body to be pleased to do for me as I request, for I shall thereby receive favor and justice. I declare not to act in dissimulation, and whatever is necessary, &c.

This is written on this common paper, there being no paper of the proper stamp in this jurisdiction; the obligation to attach it remaining upon me. Valencia, February 28, 1831.

NERIO ANTONIO MONTOLLA.

*Report of the corporation council.*

TOMÉ, March 19, 1831.

This honorable council being convinced by the strong reasons set forth by the petitioner, and no injury resulting, but rather considerable advantage to the interests and the encouragement of agriculture, his petition will go before the most excellent territorial deputation, which, as the authority competent, may accede to the donation of the land prayed for by the said petitioner without injuring the pastures and watering places for the passers-by.

JUAN BAUA.

MIGUEL DE OLONA,  
*Member and Secretary.*

*Decree of the most excellent deputation, Book I, folio 2.*

SANTA FÉ, November 12, 1831.

The honorable the deputation of this territory having received the report of the constitutional council of Tomé, appended to this petition, has resolved in this day's session to grant the land prayed for by the petitioner, charging the alcalde of said jurisdiction to execute the document that will secure the grantee in the grant hereby made to him.

ABREU, *Secretary.**Alcalde's document.*

The citizen Miguel de Olona, second alderman of this honorable council of Tomé, and present alcalde of the same jurisdiction, &c.

In obedience to the decree of the most excellent deputation of this territory, made under date of November 12 of the current year, on the margin of the petition which, under date of February 28, the citizen Nerio Antonio Montoya, resident of this said jurisdiction, presented to this honorable council, and on which petition is recorded the report made by this council, in accordance with which report its excellency has deemed proper to accede to the petition of Montoya, granting him full and formal possession of the tract he prayed for on the opposite side of the mountain at the Central Spring, and from the latter to the Rancheria, which is according to the petition of the grantee; and in order to execute title to and secure to him as his own property the said land, I, the said alcalde, in pursuance of the order of its excellency, and by virtue of the power conferred on me by law, do execute to him this document, acting with attending witnesses for want of a notary, there being none such as the law requires, and on this common paper on account of the well-known lack of stamped paper, the grantee standing obligated to attach the proper revenue stamp, Montoya's original petition remaining in the mean time among the archives of this office; and the said Montoya, whenever he may choose or think best to do so, may notify me to proceed with him to the locality to place him in possession of the property granted him, with all the customary formality, to the end that with full control he may enjoy for himself, his children, and successors, the land which in the name of the nation is granted to him.

And for full security I signed and executed this on the seventh day of the month of December, one thousand eight hundred and thirty-one, with my attending witnesses as aforesaid; to all of which I certify.

MIGUEL DE OLONA.

Attending: ISIDRO SAMORA.

Attending: ANTONIO BARELA.

*Possession.*

On the twelfth day of the month of December, one thousand eight hundred and thirty-one, I, second alderman of this honorable council and present alcalde of this jurisdiction of Tomé, in compliance with the provision made by the most excellent deputation of this territory, and the notification given me by the citizen Nerio Antonio Montoya, proceeded with him to the tract of land granted to him, and standing thereupon, and no injury whatever resulting, I designated to the said Montoya the following boundaries: On the east, the so-called Apache Rancheria; on the west, the Central Spring; on the north, the highest part of the Cañon Mountain ridge, the same at which the spring is situated; and on the south, the commencement of the little valley of the

Cuerbo up to a spring situated therein commonly called the Cuerdo Spring; and I notified him of the conditions expressed in the report relative to pastures and watering-places for the use of passers-by, directing him at the same time to establish firm and permanent landmarks; and in confirmation of the whole, I took him by the hand and led him over said land, and he plucked up grass, cast stones toward the four cardinal points, shouting aloud, "Blessed be the nation!" once and thrice, in sign of true, peaceable, and unopposed possession.

And that it may so appear, I, said alderman and present alcalde, signed this document, with my attending witnesses, as aforesaid; to which I certify.

MIGUEL DE OLONA.

Attending: JUAN JOSIÉ DE MADARIAGA.

Attending: ANTONIO BARELA.

At Corrales, county of Bernalillo, on the 2d day of the month of October, 1848, before me, Fernando Aragon, alcalde of the said county, appeared Nerio Montoya, resident of the county of Valencia, and Juan Perea, resident of Bernalillo, and both being present, the former declared that he conveys all his right in and control over this document to the said Perea and his sister, Dolores Perea, to the end that henceforth they may be the proprietors thereof, making legal use of this title as their own property, which it is, together with a lot of land [huerta] containing four hundred and seventy-four grape-vines, three rooms, built of wood, for dwellings, eighty-six peach and apple fruit-trees, and the wall surrounding the grape-patch, with the privilege that should it fall down, they may rebuild it from the adjoining ground; also the document and right to the acequia irrigating said patch, nineteen jars [frascos] of brandy, a land claim [aucion] the vendor has purchased from Manuel Sedio at the place Las Peraltas, and the three rooms aforesaid he conveys, together with the lot and the eaves-drippings [chorreras] belonging thereto, and the vendor declares that all that is mentioned in this instrument he conveys [esede] to the said vendees for four thousand five hundred and eighty-one head of sheep and goats, [ganado menor,] for which, as well also as for some merchandise, he was in debt to them, for which property [cantidad] the said vendees acknowledged themselves paid and satisfied the said indebtedness.

Thus have the parties contracted before [me,] and I certify thereto with attending witnesses; to all of which I certify.

FERNANDO ARAGON, *Alcalde*.

NERIO ANTONIO MONTOYA.

Attending: MARCOS S. VERGARA.

Attending: JUAN BLJIL.

OFFICE OF THE POLITICAL CHIEF OF NEW MEXICO.

By your official communication of the 20th instant, I am advised of your having executed the decree of the most excellent deputation, granting to the citizen Nerio Antonio Montoya a tract of land.

But in regard to the inquiry you make of me as to how much your fee should be, I inform you that I am ignorant in the premises, and that you may, if you choose to do so, put the question to the assessor, [asesor] who is the officer to whom it belongs to advise the justices of first instance in such cases.

God and liberty. Santa Fé, December 22, 1831.

JOSÉ ANTONIO CHAVES.

To Alderman MIGUEL OLONA.

SURVEYOR GENERAL'S OFFICE, TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, December 19, 1863.*

The foregoing eight pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,  
*Translator.*

### NERIO ANTONIO MONTOYA.

This private land claim, No. 87, was filed in this office by Henry Connelly, and on the 20th of June, 1871, J. Bonifacio Chaves, as attorney for the present claimants, had the case called up before the surveyor general for his investigation and decision.

The title papers filed in the case, all embraced in a single document, consist of—

1. Copy of the petition of Nerio Antonio Montoya, dated February 28, 1831, to the ayuntamiento or corporation of Tomé, applying for a certain tract of land, about half a league in area, distant about one league from the Manzano grant, and asking a favorable report to the territorial deputation on his petition.

2. Copy of the reference dated March 19, by the ayuntamiento to the territorial deputation of the petition, with the recommendation that the grant applied for be made "without injuring the pastures and watering places for the passers-by."

3. Copy of the official statement, dated November 12, of the secretary of the territorial deputation, certifying that the deputation had on that day made the grant according to the petition and the recommendation it bore of the ayuntamiento, and had directed the alcalde of the jurisdiction of Tomé to place the grantee in possession of the land.

4. Copy of the certificate of the alcalde of Tomé, dated December 7, that the grant had been made to the petitioner Montoya by the deputation and statement of his readiness to execute the act of possession as authorized and directed by the deputation whenever the grantee should call on him to that end.

5. Copy of the act of possession, dated December 12, executed by the said alcalde, setting forth the following as the boundaries of the tract: On the east the Apache Rancheria, on the west the Central Spring, on the north the highest part of the Cañon Mountain ridge, and on the south up the Cuervo Valley to the Cuervo Spring.

6. An original deed of conveyance from said Nerio A. Montoya to Juan Perea and Dolores Perea for this land, together with certain other property, dated October 2, 1848.

7. An original communication from the political chief to the alcalde of Tomé, on the subject of the latter's fees for his services in executing the act of possession under the grant.

The tract in question is situated in the present county of Valencia, in this territory, and embraces, according to the plat furnished the surveyor general, about two thousand acres of land, or about two hundred and fourteen acres less than the half league originally estimated and applied for.

The fact of this grant is corroborated and established by the recorded proceedings of the session of November 12, 1831, of the territorial deputation of New Mexico, the original journal of the body for the year 1831 being on file among the old archives in this office, which journal, so far as important in connection with this claim, reads as follows: "A petition of the citizen Nerio Antonio Montoya, a resident of Valencia, pray-

ing for a donation for a tract of unoccupied and uncultivated arable land at the Manzano, within the limits of the Central Spring and the Rancheria, was taken up, and having considered the report of the respectable ayuntamiento of Tomé that there was no objection to the grant for the said tract, it was ordered that the same be made."

The grant in this case appears, therefore, to be absolute and perfect, wherefore the claim is held to be a good and valid one against the public domain of the United States under the laws, usages, and customs of Mexico and the treaty of Guadalupe Hidalgo, and the same is hereby approved as such, and the papers in the case transmitted for the action of the Congress of the United States, with the recommendation that the grant be confirmed to the grantee Nerio Antonio Montoya or his legal representatives.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, June 20, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 6, 1871.*

The foregoing transcript contains true copies of the papers on file in this office, constituting private land claim approved as No. 51 by the surveyor general June 20, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land claim No. 52, under grant to Roque Lovato, September 23, 1785, approved by the surveyor general of New Mexico, July 8, 1871.*

SANTA FÉ, NEW MEXICO, April 11, 1871.

*To General T. Rush Spencer, surveyor general of New Mexico:*

Your petitioner, Gaspar Ortiz y Alarid, for himself and for the heirs and legal representatives of Roque Lovato, deceased, respectfully represents that in the year 1785, when this territory was a province of New Spain, one Roque Lovato, an *attache* to the royal army at this city of Santa Fé, petitioned to his Excellency Juan Bautista de Anza, colonel of the royal army of His Majesty and civil and military governor of this province of New Mexico, for a piece of the public land in the suburbs of this city, on the north, for the purpose of building upon, cultivating, and inhabiting the same with his family, and asking to be placed in possession thereof without prejudice to any third person; that said governor, after considering said petition, did, on the 23d day of the month of September, in the year 1785, decree as follows: "The foregoing petition was presented by the party therein contained, (Roque Lovato,) which document I recognized and admitted, and in consideration of his prayer I have made, and do make, to the said Roque Lovato, in the name of his Majesty, whom may God preserve, the grant he asks for, without injury to any third party, and on the condition that he cultivate the land he refers to, in compliance with the requirements of the royal laws; and, for the purpose of giving him royal and personal possession, I commission and confer all necessary legal authority upon Second Lieutenant José Maldonado, to the end that, in virtue of this commission, and summoning the adjoining proprietors, and there resulting no injury to any other person, he may execute the same, measuring off the number of



varas called for on each course, and also placing permanent landmarks, which the petitioner will have to erect." The same decree also recites that this grant shall be entered in the government book, after the whole proceeding is concluded, and that he, the said governor, signed with his attending witnesses, for the lack of a public or royal notary, there being none in all this jurisdiction, and also transcribed the same upon common paper, for the want of the stamped, which he legalized as such stamped paper of the third seal, to which he certifies over his own signature and that of his said attending witnesses. These proceedings appear regular in form and in accordance with the established laws, customs, forms, and regulations of the Spanish government at that time; the action of Lieutenant José Maldonado, in obedience to the order contained in the decree aforesaid, is also evidenced in part in the notice given by him to the adjoining proprietors of the land petitioned for at Santa Fé on the 25th day of said month of September, 1785, to come forward on the succeeding day, and state whether there is any objection in the matter of the grant applied for by the petitioner, Roque Lovato; and it appearing in the transcript attached to these same documents that said Lieutenant Maldonado did, on the 26th of said month, in said year, proceed, with attending witnesses, to the tract of land registered by Roque Lovato, for the purpose of placing him in full royal possession of the same; and although the important part of said act of possession is now lost or destroyed, as will appear by affidavit of Gaspar Ortiz y Alarid in Exhibit A, herewith accompanying, the fact is notorious in this community that said Roque Lovato built houses upon and occupied the lands granted, and that the same has been in continuous and uninterrupted possession of said Lovato and his successors ever since the grant was made, the boundaries thereto being—on the east, some black hills; on the west, the main road running out of this city (Santa Fé) for the Rio Arriba country; on the north, the main ridge which divides the waters of the Rio Tesuque from the waters running into the rio de Santa Fé; on the south, the road running along the north boundary of the Muralla; lying and being in the northern suburbs of the city of Santa Fé, Territory of New Mexico; that the map herewith accompanying these original papers is a mere approximate location of said lands; no actual survey of the same ever having been made, it is impossible to state the exact number of acres contained in said grant, but the width of the same is believed to be about two miles from east to west, and three miles in length from north to south, containing an area of about six square miles, and about thirty-eight hundred and forty acres of land; that the accompanying conveyance of said lands by Josefa Armijo, the widow of said Roque Lovato, dated October 18, 1795, shows conclusively the boundaries to the same as recognized under the Spanish government at that date. Your petitioner firmly believes that a record was made in the proper book, in compliance with the decree of the governor aforesaid, but that said book of records cannot now be found, and is believed to have been long since lost or destroyed from the old archives. Your petitioner respectfully submits the original papers in this case with the accompanying proofs, above referred to, and asks that a day may be fixed upon for taking further evidence in the same, with a view of securing a recognition, approval, and confirmation of said grant by the Government of the United States in favor of the legal representatives of Roque Lovato, deceased.

GASPAR ORTIZ Y ALARID,  
By JOHN GUYN, JR.,  
*Attorney.*

*Sr. Coronel Gobernador y Capitan General deste rreino Don Juan Bautista de Anza :*

Roque Tobato, harnero deste rreal presidio de Santa Fé, hante usia paresco en la mexor forma qe. halla lugar, i al mio conbenga y digo: Señor, qe. por quanto me hallo sin un pedaso de tierra para poder bibir y fabricar casa y cultivar tierras para la mantension de mi familia, tengo rregistrado un pedaso de tierra rrealenga en las orillas desta billa, por la parte del norte qe. son las chorreras del difunto Don José Moreno y del Bachiller Don Santiago Rroibal, las mismas qe. pido há usia en nombre del rrei mi amo, Dios le guarde, de merse, la qe. espero se me hamplee en nombre de su majestad, posesionandome sin perjuicio de tercero. A usia pido i suplico sea mui serbido de faboreserme como yebo pedido; y juro en debida forma no ser de malisia i en lo necesario, &c.

ROQUE LOBATO.

En la villa de Santa Fé, en veinte y tres dias del mes de Septiembre de mil setecientos ochenta y cinco años: Ante mi, el Coronel de Cavalleria de los rs. exs. de su magd. Dn. Juan Bapta. de Anza. governador politico y militar de esta prova. del Nuevo Mexco., se presento la antecedente peticion por el contenido en ella que huve por tal y admitida; y en atencion a su solicitud concedia y concedi en nombre de su magd. (D. G.) al expresado Roque Lovato la merced que pide, sin perjuicio de tercero, y con la calidad de que cultive las tierras que expresa, conforme a lo prevenido por las rs. leyes, y á efecto de darle real y personal poseccion concesiono y doy facultad quanta de dro. se requiere al Segundo The. Dn. José Maldonado para que, en virtud de esta comicion, citando a los colinderantes y no resultando el enunziado perjuicio, lo verifique, midiendo las varas que tenga á todos rumbos que se expresaran en el correspondiente auto de poseccion, como las mojoneras estables que devera poner el impetrante; y concluido todo se me hara remision del original para asentar esta merced en el libro de gobierno. Asi lo providencie, mande y firme con los testigos de mi asistencia, a falta de escribano publico ni real, por no haverle en todo este gobierno, y en este papel que, a falta del sellado lo havilito por tal, y del sello tercero; de que doy fé.

JUAN BAPTA. DE ANZA.

Assa.: VICENTE TRONCOSO.

Assa.: FRANCO PEREZ SERRANO.

En la villa de Santa Fé, en veinte y cinco dias de el mes de Septiembre de mil setecientos ochenta y cinco, en virtud de lo mandado por el señor coronel y govr. de esta provincia Dn. Juan Baptista de Anza, comparecan los colindantes el dia de mañana, que somos veinte y seis, que lo son José Pacheco, Phelipe Sandobal, y Franzco. Cayetano, con su escrituras de venta real, y así mismo para que declaren si ay contradictorio en lo que pretende el ynpetrante Roque Lovato en la merced que solécita. Assi lo probebi, mande y firme con los infrascriptos testigos de asistencia, a falta de escrivanos publico ni real, que de ninguna clase los ay en esta governacion; de que doy fee.

JOSÉ MALDONADO.

Tgo.: BICENTE ARMIJO.

Testigo: SALVADOR NORO.

En la expresada villa de Santa Fé, en veinte y seis dias de dho. mes y

año, pase en compañía de los testigos de asistencia al sitio que tiene registrado Roque Lovato, endonde comparecieron los

En esta villa de Santa Fé, en dies i ocho del mes de Octubre de mil setecientos noventa y cinco años, ante mi Dn. Josef Miguel de la Peña, alcalde mayor y capitán a guerra de dicha villa y su jurisdicción, pareció ante me Josefa Armija, mujer que lo fue del soldado armero de este real precidio Roque Lovato, quien doi fee, que por quanto haver causado una dependencia su difunto marido en la casa de Dn. José Ortiz tuvo de poner en benta la casa de su morada y tierras i al soldado de esta villa de Santa Fé Josef Ribera, por la cantidad de quatrocientos cinquenta pesos de plata moneda merica, los que rrecibio a su entera satisfacion, y que asi mismo y por tanto otorgaba esta escritura en dicho soldado dándole y entergándole la posecion, que parara en su poder, de que fue donada por el rei nuestro señor, que Dios guarde, traspasando en el todo su derecho en dicha casa i tierras, las que se componen, siendo sus linderos por el oriente unos serros prietos; por el poniente el camino rrial que sale de esta villa para el Río Arriba, el bordo que divide los ejidos del Rrio de Tesuque y Sta. Fee, y por el sur el camino del norte de la Muralla, como asi mismo dijo que no havria nadien que le pusiera pleito ni demanda ninguna, y que si en algun dia saliere alguno á poner algun perjuicio que no sean oidos ni en juicio ne fuera del, y que saldra a la defensa asta dejarlo en quieta y pacifica posecion, pues tan justamente queda poseyendo por haverme dado su dinero limpio y á satisfacion. Y dá poder a las justicias de S. M., y en particular a las de esta villa, para que con todo rrigor de derecho le compelen y apremien á el cumplimiento de esta escritura, como si fuera por sentencia difinitiva de juez competente pasada en cosa juzgada; y para cuyo sanamiento obliga sus persona y bienes habidos y por haver. Todo lo cual otorgo la dicha Josefa Armija ante me, que lo auto como juez resetor, con los testigos de asistencia por no haver escrivano publico rrial en este rreino, y llo, dicho alcalde mayor, lo firme con los testigos de mi asistencia en la villa de Santa Fé; en dies i ocho dias del mes de Octubre de mil setecientos noventa y cinco; de que doy fee.

JOSEPH MIGUEL DE LA PEÑA.

Tes.: SANDOVAL FERNANDEZ.

MIGUEL SAEN GARBISO.

*To his excellency, governor and captain general of this kingdom, Colonel Juan Bautista de Anza.*

I, Roque Lovato, armorer of this royal garrison of Santa Fé, appear in the best allowable form and most convenient to me, and state that whereas I am destitute of any portion of land to enable me to live and build a house, and cultivate land for the support of my family, I have entered a piece of public land in the suburbs of this city, on the north, being the adjoining [chorreras] of José Morena, deceased, and of bachelor Santiago Roival, which land I ask of your excellency as a grant, in the name of my lord, God preserve him, and I trust will be given me, in the name of His Majesty, placing me in possession without prejudice to any third party.

I ask and pray that your excellency be pleased to grant me as I have requested, and I swear in due form not to act in malice, and as may be necessary, &c.

ROQUE LOVATO.

At the town of Santa Fé, on the 23d day of the month of September, 1785, before me, Juan Bautista de Anza, colonel of cavalry in the royal army of His Majesty, civil and military governor of this province of New Mexico, the foregoing petition was presented by the party therein contained, which document I recognized and admitted, and in consideration of his prayer I have made, and do make, to the said Roque Lovato, in the name of His Majesty, (whom God preserve,) the grant he asks, without injury to any third party, and on the condition that he cultivate the land he refers to, in compliance with the requirements of the royal laws; and for the purpose of giving him royal and personal possession, I commission and confer all necessary legal authority upon Second Lieutenant José Maldonado, to the end that in virtue of this commission, and summoning the adjoining proprietors, and there resulting none of the injury referred to, he may execute the same, measuring off the number of varas called for on each course, and which will be stated in the corresponding act of possession as well as also the permanent land-marks, which the petitioner will have to erect; and the whole being concluded he will transmit to me the original, so as to enter this grant in the government book. Thus I provided, commanded, and signed, with my attending witnesses, for lack of a public or royal notary, there being none in all this jurisdiction, and on this paper, which, for want of the stamped, I legalize as such as of the third seal, to which I certify.

JUAN BAUTISTA DE ANZA.

Attending: VICENTE TRONCOSO.

Attending: FRANCISCO PEREZ SERRANO.

At the town of Santa Fé, on the 25th day of the month of September, in the year 1785, in virtue of the command of Colonel Juan Bautista de Anza, governor of this province, the adjoining proprietors will come forward the 26th, (these being José Pacheco, Felipe Sandoval, and Francisco Cayetano,) with their deeds of title, and also to state whether there is any objection in the matter of the grant applied for by the petitioner, Roque Lovato. Thus I provided, ordered, and signed, with the undersigned, my attending witnesses, for want of a public or royal notary, of which there are none of any kind in this jurisdiction, to which I certify.

JOSÉ MALDONADO.

Witness: VICINTE ARMIJO.

Witness: SÁLVADOR NORO.

At said town of Santa Fé, on the 26th day of said month and year, I proceeded, in company with the attending witnesses, to the tract of land registered by Roque Lovato, where there personally appeared the  
(Balance of document lost or destroyed.)

TERRITORY OF NEW MEXICO, *County of Santa Fé* :

I, John Gwyn, jr., upon my oath, state that the foregoing transcript is a full, true, and correct translation of the original in the Spanish language, to the best of my knowledge and belief.

JOHN GWYN, JR.

Subscribed and sworn to before me this 12th day of April, A. D. 1871.

[SEAL.]

M. A. BRÉEDEN,

*Deputy Clerk, United States District Court,  
First Judicial District, New Mexico.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, July 1, 1871.*

The foregoing translation having been by me compared with its original, on file in this office, and found correct, the same is hereby adopted.  
DAV. J. MILLER, *Translator.*

At this city of Santa Fé, on the 18th day of the month of October, in the year 1795, before me, José Miguel de la Peña, chief alcalde and war captain of said city and its jurisdiction, Josefa Armijo appeared, formerly wife of the soldier Roque Lovato, armorer of this royal garrison, whom I know; that whereas her deceased husband having created a debt in the house of José Otiz, he was obliged to sell to the soldier of this town of Santa Fé, José Ribera, the house of his residence and the land, for the sum of \$450, in specie, which he received to his entire satisfaction, and that therefore she executed this document to the said soldier, giving and delivering to him the possession she held, which was granted by our lord the King, whom may God preserve, conveying to him all her right in said house and land, composed of, and the boundaries being—on the east, some black hills; on the west, the main road running out of this city for the Rio Arriba to the limits, which divide the pasture ground of the Tesuque River from Santa Fé; and on the south, the road on the north of the Muralla; and she also declared that there should be no one to interpose any suit or demand, and that should there at any time any one interpose any obstacle, the same should not be heeded in court nor out of court, and that she would proceed to the defense until leaving him in quiet and peaceable possession, for he justly possesses it, having paid good money to my satisfaction therefor, and she gives authority to the officers of justice of His Majesty, and particularly to those of this city, so that with full rigor of the law they may compel and oblige her to the performance of this instrument, the same as if done under definite judgment of a competent justice, pronounced in a matter adjudicated, and for the execution of which she binds herself and her estate, present and future; all of which the said Josefa Armijo declared before me, acting as special justice, (*juez receptor*), with attending witnesses, there being no public or royal notary in this province, and I, said chief alcalde, signed this with my attending witnesses, at the city of Santa Fé, on the eighteenth day of the month of October, seventeen hundred and ninety-five, to which I certify.

JOSÉ MIGUEL DE LA PEÑA.

FELIPE SANDOBAL FERNANDEZ.  
MIGUEL JEAN Y ARLESE.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, John Gwyn, jr., upon my oath, state that the foregoing transcript is a true and correct translation of the original in the Spanish language to the best of my knowledge and belief.

JOHN GWYN, JR.

Subscribed and sworn to before me this 12th day of April, A. D. 1871.  
[SEAL.]

M. A. BREEDEN,  
*Deputy Clerk, United States District Court,  
First Judicial District, New Mexico.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, July 1, 1871.*

The foregoing translation having been by me compared with its original in Spanish, on file in this office, and found correct, the same is hereby adopted.

DAV. J. MILLER, *Translator.*

## ROQUE LOVATO.

ANTONIO SENA, being by the surveyor general sworn on his oath, declares:

Questioned by JOHN GWYN, attorney for claimant:

Question. What is your name, where were you born, where have you always lived, and what is your age?—Answer. My name is Antonio Sena; I was born and have always lived here in Santa Fé, and am about sixty years of age.

Q. Do you know the tract of land granted to Roque Lovato?—A. I do.

Q. Where is it situated?—A. It is situated on the hill near Santa Fé, on the road to the Rio Arriba.

Q. Do you know the boundaries of the tract referred to, and, if so, mention them?—A. I do; they are as have been pointed out to me and as I have seen in the title papers, on the north the top of the dividing ridge between Santa Fé and Tesuque, on the south the road running along the foot of the hills eastward from the Muralla in Santa Fé, on the east some black hills, and on the west the road leading from Santa Fé to the Rio Arriba.

Q. Were the title papers complete when you saw them?—A. They were.

Q. Did the act of possession given by the alcalde of the land state the boundaries you have mentioned for the tract?—A. It did.

Q. In what year did you see the title papers, and what was the occasion of your examining the case as to boundaries?—A. It was in the year 1829 or 1830, and I examined the case for the reason that the owner was proposing to sell the tract to me.

Q. Has the land been occupied and houses built and occupied by the grantee Lovato and his successors?—A. It has been occupied, and I know that Jesus Rivera, one of Lovato's successors, occupied a house on the tract still there and still occupied as a dwelling.

Q. How did Rivera come in possession of the land?—A. I have seen the deed of conveyance to him of the land by Roque Lovato.

Q. Have you any interest directly or indirectly in this claim?—A. I have none.

Q. Do you know, and, if so, please state to whom Rivera sold the land?—A. I do; he sold to Gaspar Ortiz y Alarid.

Questioned by Surveyor General:

Q. Do you know, and, if so, please say when Señor Ortiz purchased the land?—A. I cannot say, but believe somewhere between the years 1855 and 1860.

Q. When did Señor Rivera acquire the land by purchase, if you can state?—A. I cannot say, but calculate it must have been along in 1770 or 1780 odd.

Q. Who owned it in 1830?—A. Jesus Rivera.

ANTONIO SENA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,  
Surveyor General.

RAMON SENA Y RIVERA SWORN.

Questioned by said attorney of present claimant:

Question. What is your age, where were you born, and where have

you always resided?—Answer. I am fifty-three years of age, and was born and have always resided in Santa Fé.

Q. Do you know the land granted by the Spanish Government to Roque Lovato?—A. I do.

Q. Have you ever seen and examined the original title papers to the land referred to, and, if so, when and under what circumstances?—A. I have seen them and examined them frequently, since the time I could read and up to the year 1840, when I married and left my father's house, said papers being during the time referred to in possession of my father.

Q. Who was your father, and what relation did your father bear to the grantee, Roque Lovato?—A. His name was Jesus Rivera, and he was the purchaser from said Lovato.

Q. Do you know the boundaries of the land in question, and, if so, please state them?—A. I know the boundaries; they are on the east some black hills, commonly called the Serro Alto, which can be seen to the east of this city, and from the city on the west the road running to the Rio Arriba, on the south the road leading along the foot of the hills northwardly from the Muralla, and on the north the dividing ridge between Santa Fé and Tesuque.

Q. When you examined the papers anterior to 1840 as stated, were they complete, and were the boundaries therein stated the same as those you have mentioned for the tract in question?—A. The papers were complete, and the boundaries are the same, as I am aware as well from my recollection of their statement in the act of possession as from my personal acquaintance with them.

Q. What are the distances one from the other of these boundaries north to south and east to west?—A. From my best judgment I calculate that between those north and south there is about one league and a half, and between those east and west about one league.

Q. Did your father hold and exercise absolute possession and control of the tract in question as successor of Roque Lovato?—A. He did.

Q. How long did he hold such possession and control, and how long did he live on the tract?—A. When I was born he was living on the land, and occupied it some forty or fifty years.

Q. Did your father cultivate the land or make any improvements on it?—A. He cultivated a portion of the tract and improved the principal house by rebuilding and improving it, being the original building built and formerly occupied by Roque Lovato.

Q. Please examine the sheet of paper handed you, purporting to be the original petition of Roque Lovato for the land in question, the decree of the civil and military provincial governor of New Mexico on said petition, and a portion of the act of possession for the land, said paper being the muniment of title filed in this case, and say whether the document is the same you have referred to as in possession of your father previous to 1840, and then seen and examined by you?—A. It is the original grant and the same I saw and examined when the same was in possession of my father at the time mentioned.

Q. Whom did your father dispose of this land to, how and when?—A. He disposed of it by sale to Gaspar Ortiz y Alarid, about the year 1850 or 1851.

Q. Have you any interest in this claim?—A. I have none.

RAMON SENA Y RIBERA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

ANTONIO SENA recalled.

Questioned by claimant:

Question. Do you know the signature of Governor Juan Bautista de Anza signed to the muniment in this case, and do you know the signature of José Maldonado mentioned in Governor Anza's decree of grant in said muniment, and, if so, do you believe said signatures to be genuine?—Answer. While I had charge for some years under the Mexican government of the archives in the government office I often saw the signature of Governor de Anza among the archives and became familiar with it, and the same also and for the same reason with the signature of José Maldonado, and I am satisfied both signatures in this case are genuine signatures.

ANTONIO SENA.

Sworn to and subscribed before me this May 3, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

TERRITORY OF NEW MEXICO,  
*County of Santa Fé:*

On this 8th day of April, in the year one thousand eight hundred and seventy-one, before me, the undersigned, clerk of the probate court in and for the county and Territory aforesaid, personally appeared Gaspar Ortiz y Alarid, a resident of Santa Fé, New Mexico, to me well known as a credible and respectable person, who, being by me duly sworn according to law, declares that his age is forty-six years; that during the years one thousand eight hundred and fifty-one, two, and three, and for many years previous thereto, he held in his possession, care, and keeping, the original title papers of Roque Lovato, deceased, for the grant of land made and decreed to said Roque Lovato, by Juan Bautista de Anza, governor and captain general of the province of New Mexico under the Spanish reign, in the year A. D. seventeen hundred and eighty-five; that said title papers were then complete, containing the transcript of the full proceedings of Lieutenant José Maldonado, upon whom was conferred full and complete legal authority by the decree of said governor and captain general to place said Roque Lovato in full and complete royal possession of said grant; that the portion of the proceedings in the original transcript of the act of possession by said Lieutenant José Maldonado which is now lost or destroyed, (the beginning or first part of which act of possession bears date at Santa Fé, New Mexico, September 26, 1785,) contained full and complete possession of the property granted, and stated the boundaries to the same as follows: On the east, some black hills; on the west, the main road running out of this city, (Santa Fé,) for the Rio Arriba; on the north, the main dividing ridge between the Rio de Santa Fé and Rio Tesuque; on the south, the road on the north of the Moralla, being the same identical land granted to said Roque Lovato in the decree of said governor and captain general, bearing date at Santa Fé, September 23, 1785, and which grant of land is about three miles in length from north to south, and about ten miles in width from east to west; that about the year 1854 this deponent deposited said original title papers in the hands of Messrs. Hugh N. Smith and Meril Ashurst, attorneys at law, at Santa Fé, New Mexico, for the purpose of deriving from said attorneys legal advice regarding trespassers then going upon said lands; that said attorneys kept in their possession said original title papers for several months, and when returned by them to this deponent that portion of the said article of pos-



session which is now missing from the papers was lost; that diligent search was made therefor by said attorneys, but they failed to find the same. This deponent further states that he has repeatedly made due and diligent search for said portion of the title papers referred to, now wanting, but that he has never been able to find them, and that he believes them to be destroyed or irretrievably lost; that both of said attorneys have departed this life, so that their evidence in relation to the loss as stated cannot now be had.

GASPAR ORTIZ y ALARID.

Sworn to and subscribed before me this the 8th day day of April, A. D. 1871.

[SEAL.]

TRINIDAD ALARID,  
*Clerk of the Probate Court, Santa Fé County, New Mexico.*

### ROQUE LOVATO.

This claim was filed in this office April 12, by Gaspar Ortiz y Alarid as present claimant, and was set for trial May 3, 1871.

The title papers filed are originals contained on a single sheet of paper, and from them it appears that one Roque Lovato, a soldier of the Spanish royal garrison at Santa Fé, petitioned the governor and captain general of New Mexico for a certain piece of public land, situated in the northern suburbs of Santa Fé, for the support therefrom of himself and family. The petition bears no date, and the land applied for is very indefinitely described therein.

Upon this petition the civil and military governor of the province decreed on the 23d of September, 1785, granting the land applied for to the petitioner without injury to any third party, and under the condition that the grantee should cultivate the land as required by the royal laws, and in the same decree appointed an officer as special commissioner to execute the act of possession under the grant, first notifying the adjoining settlers and ascertaining that no injury would result to them from the grant.

On the 25th of the same month the commissioner notified by name the three adjoining proprietors to come forward on the next day, exhibit their title papers, and make good their objection to the execution of the grant in case they had any to urge.

On the same sheet containing the notice, and in the same handwriting, appears the commencement of a document dated September 26, 1785, probably the act of possession which at the end of the page is cut short and the remaining portion of which document is missing. Among the papers filed in the case is an affidavit by the present claimant, Ortiz y Alarid, declaring that this document therein alleged by him to be the act of possession, was complete and in his possession until about the year 1854, when, for the purpose of some legal action in court, he placed the title papers, then all complete, including the mutilated document in question, in the hands of his attorneys, now deceased, who afterward returned them to him in their present incomplete condition, and that he has since made due diligent search for the missing portion without success, and believes the same to be irrecoverably lost or destroyed. The affiant also declares that in the said missing portion the boundaries of the land therein formally placed in possession of the grantee, Lovato, were plainly set forth and described as follows: On the east, some black hills; on the west, the main road from Santa Fé towards Rio Arriba; on

the north, the dividing ridge between the Tesuque and the Santa Fé rivers; and, on the south, the road north of the Muralla; these boundaries embracing a tract of about six square miles in area.

The instructions to the surveyor general require that in all cases of private land claims brought before him for adjudication the original title papers be produced or their loss accounted for. In the investigation of this claim, therefore, disinterested witnesses were examined under oath particularly as to the alleged former integrity of the mutilated act of possession filed in the case and as to the extent and boundaries of the land granted.

The witness Antonio Sena testified that he knew the land in question, and gave it the locality and boundaries alleged by the present claimant. He also testified to having seen the title papers now on file in the case as recently as about the year 1830, when he states they were complete, including the act of possession, which he alleges set forth the boundaries of the land substantially as mentioned by the affidavit above referred to of the present claimant. This witness also testified to the genuineness of the signature of Governor de Anza, who made the grant, and to that of Commissioner Jose Maldonado, who preliminary proceedings signed by him of September 25th, in the matter of the execution of the act of possession appear in the muniment filed. The witness Ramon Sena y Riveva testified that he had frequently seen the title papers prior to the year 1840, identifying the one shown him in this case as the same he referred to; that up to that time they were complete; that the boundaries of the tract in question were stated therein substantially as those alleged by the present claimant, and that the distance from one to the other from north to south was about one league and a half, and those from east to west about one league. It is proven that the land was occupied and improved, and in part constantly cultivated, and that for the last twenty years it has been in the possession of the present claimant, Ortiz y Alarid, as purchaser, to whom, however, no conveyance has been filed in the case.

Evidence exists among the archives and records of this office that Juan Bautista de Anza was civil and military governor of the province of New Mexico in the year 1785. His authority as such to make grants of land is unquestioned, and from a comparison of the signature to the grant in this case with other old papers of that period bearing the same, it is believed to be his genuine signature.

In view and consideration of the premises, it is deemed and held by this office that the grant made by Governor de Anza, September 23, 1785, to Roque Lovato, is a good and valid grant under the treaty of Guadalupe Hidalgo, and the laws of the United States enacted to give it effect, and the said grant is hereby approved to the legal representatives of the said grantee, Roque Lovato, for the land embraced within the following boundaries, to wit: On the north, the dividing ridge between Santa Fé and Tesuque; on the east, the black hills; on the south, the road north of and running east from the Muralla; and, on the west, the road to Rio Arriba; and all the papers in the case are herewith transmitted to the Congress of the United States, with the recommendation that said grant be recognized and confirmed.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, July 8, 1871.*

SURVEYOR GENERAL'S OFFICE,  
Santa Fé, New Mexico, November 6, 1871.

The foregoing transcript contains true copies of the papers on file in this office constituting private land claim approved as No. 52 by the surveyor general, July 8, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land-claim No. 53, known as the Cañada de los Alamos grant, made to Lorenzo Marquez, September 23, 1785, and approved by the surveyor general of New Mexico, July 12, 1871.*

TERRITORY OF NEW MEXICO, *County of Santa Fé:*  
*To the surveyor general of the Territory of New Mexico :*

Your petitioners, Pablo Delgado, Fernando Delgado, Felipe Delgado, and the heirs of Simon Delgado, all residents of the county of Santa Fé, in said Territory, respectfully represent that on the 23d day of September, in the year 1785, Juan Bautista de Anza, then governor and captain general of New Mexico, upon the petition of one Lorenzo Marques, granted to him a piece or lot of land situate, lying, and being in the county of Santa Fé, and bounded and described as follows, to wit: On the north, the main road from the Pecos to the Serillos; on the south the Cañada de la Tierra and the top of the Colorado Mountain; on the east the divide between the roads, that coming from the Pecos to the said town and that going to the Serillos through the land of José Maria Montoya, and on the west the top of the hills; that afterward, to wit, on the 7th day of October, in the year 1785, the said Lorenzo Marquez was duly put into possession of said piece of land so granted to him as aforesaid, as will more fully appear by reference to said petition, grant, and act of possession now on file in the office of the surveyor general, copies of which are herewith filed and marked Exhibit A.

Your petitioners further state that on the 20th day of June, A. D. 1856, the said Pablo Delgado, Fernando Delgado, Felipe Delgado, and one Simon Delgado, then in his life-time, for a good and valid consideration, purchased said piece or grant of land from the heirs of said Lorenzo Marquez, all of which will more fully appear by reference to the original deed on file in the office of the surveyor general, a copy of which is herewith filed and marked Exhibit B.

Your petitioners further state that the said Lorenzo Marques in his life-time, and his heirs since his death, occupied and possessed said grant or piece of land until the date of said deed, and since said time your petitioners have peaceably held possession of the same, and are now in actual possession thereof; that the occupancy and possession of said land by the said Lorenzo Marquez was continuous, quiet, peaceable, and undisturbed, and that no adverse claim to the same has ever been asserted by any one to the knowledge of your petitioners.

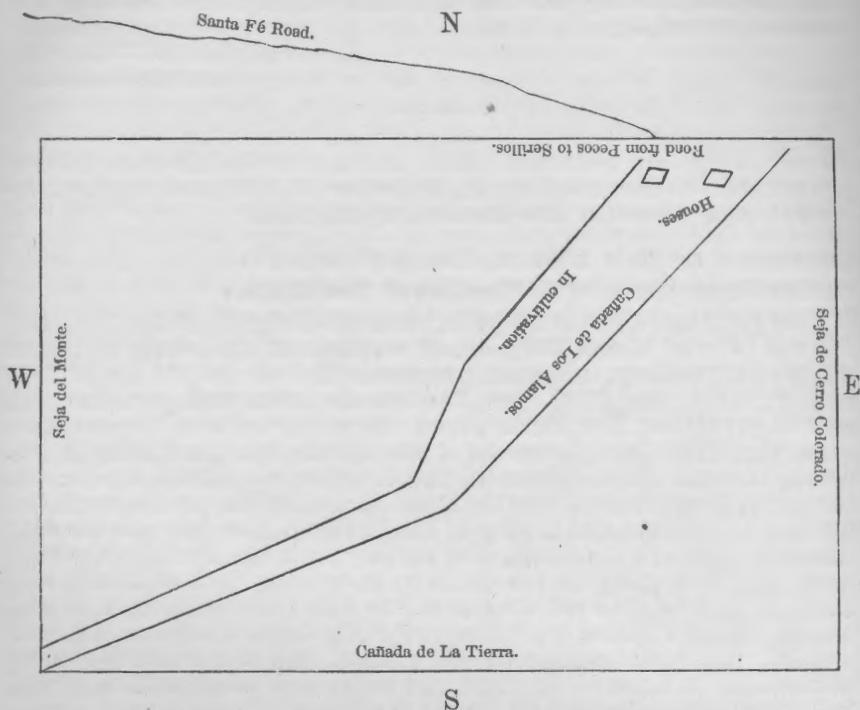
Your petitioners further state that the boundaries to said land and grant are well known, but they cannot state the quantity of land embraced therein, as the same has never been surveyed; that they make this application in order that such steps may be taken under the law as will secure to them a good and valid title to said grant.

S. B. ELKINS,  
*Attorney for Claimants.*

SANTA FÉ, NEW MEXICO, June 19, 1871.

## Grant.

Map of the Cañada de Los Alamos.



Estimated distance from east to west nine miles, about; from north to south seven or eight miles.

*Sr. Govr. y Cap. Genl. Coronel :*

Lorenzo Marquez, vesino desta billa, paresco ante vs. con la mejor forma que alla lugar y al mio cobenga, y digo sor. que tengo visto y registrado un pedaso de tierra y riasa y por eso realenga en la Cañada de los Alamos, birtentes de dha. villa, y dha. tierra son sobras de la tierra del Cap. Sebastian de Bargas; para el sur y para el poniente linda dha. tierra con la Cañada que llaman de la Tierra, para el norte linda con dhas. tierras de Bagas, y para el oriente linda dha. tierra realenga con el camino de Pecos que baja a los ranchos de la sienega, la que pido a Vs. de mersed en nombre de su mgd., que Dios guarde, para sembra y tener el vien de mi mantension, prometiendo, como prometo, poblarla y labrarla en el termino que mandan las leyes y porque estoy prompto aser como llevo dicho, pido y suplico.

A Vs. por quien es en nombre de mi soberano, que dios guad., se sirva de hacer, prover y mandar como llevo pedido; que resebire bien y mersed, y juro en toda forma no ser de malisia y en lo nesesario, &ca.

LORENZO MARQUEZ.

En la villa de Santa Fé, en veinte y tres dias del mes de Septiembre de mil setecientos ochenta y cinco años, ante me, el coronel de cavalleria de los rs. éxtos. de su magd. Don Juan Bapta. Anza, governador poli-

tico y militar de esta provincia del Nuevo Mexico, se presento la antecedente peticion por el contenido en ella, que huve por tal y admitida y en atencion a su solicitud concedia y concedi, en nombre de su magd., (que Dios gue.) al expresado Lorenzo Marquez la tierra que pide, sin perjuicio de tercero, y con la calidad de que las cultive conforme a lo prevenido por las rs. leyes; y a efecto de darle real y personal posesion comiciono y doy facultad quanta de dro. se requiere al alcalde mayor de esta villa Dn. Antonio José Ortiz, para que, en virtud de esta comicion, citando a los colinderantes y no resultando el enunciado perjuicio, lo verifique, midiendo las varas que tenga a todos rumbos, que se expresara en correspondiente auto, expresando en el mismo las mojoneras estables que ponga el empetrante, y concluido todo se me haga remicion del original que resulte, para asentar esta merced en el libro de gobierno. Asi lo providencie, mande y firme con los infraescritos testigos de mi assa., con quienes actuo a falta de escribano publico rl., por no haverlo en todo este govno. y en este papel que a falta del sellado lo habilito por tal, y del sello tercero; de que doy fe. Entre Renglonos Y Perdenal Ve.

JUAN BAPTA. DE ANSA.

Assa. : FRANCO. PEREZ SERRANO.

Assa. : VICTE. TRONKOSO.

En siete dias del mes de Octubre deste año de mil setecientos y ochenta y cinco, yo Dn. Antto. José Ortiz, alcalde mayor y capn. a gerra de la villa de Sta. Fee, en cumplimiento de lo mandado por el señor coronel de los reales hexercitos de su majestad Dn. Juan Bapta. de Anza, gobernador politico y militar deste [torn] del Nuevo Mexico, pase yo, dho. alcade. mayor, al paraje de la Cañada de los Alamós, en compania de tres testigos, qe. lo fueron Diego Montoya, Gabiel Ortiz y Antto. Lujan, y cuando presente José Maria Montoya qe. es el unico colindante, y le de a entender la peticion precentada por Lorenzo Marques, y dijo que no le perjudicaba en nada; y con esta despuesta coji de la mano a el dho. Lorenzo Marques y lo pasie por dhas. tieras, aranco sacates, tiro piedras, dio boses, disciendo, Viva el rey de España, mi señor Dn. Carlos tercero, qe. Dios guarde, tomando posesion de dhas. tierras, quieta y pacifica, sin contradicion alguna, señalandole sus linderos, qe. son por la parte del norte el camino real qe. baja de Pecos para los Serrillos, y por la parte del sur con la cañada de la siera y la seja de el Sero Colorado, y por el oriente la dibision de los caminos, el que viene a esta dha villa de Pecos y el qe. baja a los Serrillos, qe. divide las tierras de José Maria Montoya, y por el poniente la seja del monte; abitiendole que pastos y abrevaderos son comunes; y dista dicho sitio desta villa cinco leguas y media. Y para qe. en todo tiempo coste lo firme, autuando con dos testigos de asistencia, por la notoria falta describanos publico y real que no lo ay en esta probincia; y con el presente papel por no corer el sellado en estas partes; de qe. doy fee. Entre Ringlonos: Y por el poniente la seja del monte, Ve.

DIEGO MONTOYA.

FRANCO. XABIER ORTIZ.

Dros. de papel sellado 3.87, los que reentegro la parte, no obstante lo que expresa el auto de posesion y cuia cantidad entregue a Dn. José Rafael Sarracino.

ANSA.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Sepan todos por estas presentes que nosotros, José Maria Marques,

Andres Marques, Refugia Marques y Juanita Marques, todos residentes del condado y Territorio arriba dicho, en i por consideracion de la suma de doscientos pesos, pagada i entregada a cada uno de nosotros, como por su parte le corresponda, por Simon Delgado, el recibo de los cuales es por este acusado, hemus vendido, contratado, concedido, y traspasado al dicho Simon Delgado i a sus hermanos, Pablo Delgado, Fernando Delgado y Felipe Delgado, a sus herederos, i asignados (assigns), para siempre, la siguiente descripta propiedad raiz, i todo titulo i interes que en ella tenemos, hemus tenido i podiamus tener, junto con todos los privilegios i pertinencias que a ella son propias i de la cual tenemos ahora una possession irrevocable, "in fé simple," i que es libre de toda hipoteca, reclamo o impedimentos algunos, hechos ó sufridos sea por nosotros, ó uno de nosotros mismos, ó por alguna otra persona en nuestros nombres o por orden de nosotros. La dicha propiedad consista en todas aquellás tierras que fueron donadas a nuestro aguelo Lorenzo Marques por el gobernador y capitan general del reyno de Nuevo Mejico, Juan Bautista de Anza, el dia 23 de Setiembre de 1785; que son situadas en el paraje de la Cañada de Los Alamos, condado de Santa Fé y Territorio de Nuevo Mejico, y cuyos linderos son por el norte el camino real que baja de Pecos para los Cerrillos por el sur la Canada de la Tierra y la ceja del Cerro Colorado; por el oriente la division de los caminos, el que viene a esta villa de Pecos y el que baja a los Cerrillos, y por el poniente la ceja del monte. El documento original de la dicha donacion esta enregistrado en la oficina del agrimensor general en Santa Fé, N. M., a cuyo documento se refiere por mas amplia description de la dicha propiedad, que vino a possession de nuestro finado padre Bartolo Marques como hijuela, segun la ultima voluntad del dicho concesionario Lorenzo Marques, nuestro aguelo, y habiendo gozado nuestro finado padre la pacífica possession de dichas tierras por mas de treinta años vinieron a nosotros como *los unicos* herederos del finado Bartolo Marques.

Para que los dichos Simon Delgado, Pablo Delgado, Fernando Delgado i Felipe Delgado, sus herederos i asignados, gozan para siempre i pacíficamente la arriba descripta propiedad raiz, junto con todos los titulos, privelegios i pertenencias que a ella son propias, sea por ley o equidad, declaramus tener poder amplia para vender i traspasar dicha propiedad, i que nosotros, José Ma. Marques, Andres Marques, Refugia Marques i Juanita Marques, sostendremus, apoyaremos i defendremus, i nuestras herederas, ejecutores, administradores ó albeceos sostendran, apoyaran i defendran el buen titulo de la dicha propiedad en todo tiempo contra todo reclamo ó reclamos de cualquiera persona o personas.

En testimonio de lo cual hemus puesto nuestros nombres y sellos, hoy, en Santa Fé, el dia 20 de Junio de 1856.

ANDRES <sup>his</sup> + MARQUES. [SELLO.]  
mark.

REFUGIA <sup>her</sup> + MARQUES. [SELLO.]  
mark.

JUANITA <sup>her</sup> + MARQUES. [SELLO.]  
mark.

JOSÉ MARIA MARQUES. [SELLO.]

Firmado, sellado i entregado en presencia de—

A. DE MARLE.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Personalmente se presentaron este dia de Julio de 1856, ante mi, el abajo firmado escribano de la corte de distrito del condado de Santa Fé, Territorio de Nuevo Mejico, José Maria Marques, Andres Marques, Refugia Marques, i Juanita Marques, todos de mayor edad, i cuyos nombres parescen en el antecedente documento de traspaso y acusaron uno por uno de haver voluntariamente ejecutado i firmado el dicho documento por la consideracion y para los fines en el espresados.

Dado bajo mi mano y sello oficial en Santa Fé, N. M., año y dia arriba dicho.

[SEAL.]

AUGUSTIN DE MARLE, *Clerk.*TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Certifico que el antecedente documento de traspaso es sentado por mi en el libro de registro Lo. B. paginas 193, 194 y 195, que es tenuta en esta officina por tal objeto.

En testimonio de lo cual he puesto mi nombre y el sello de la corte de pruebas de este condado hoy Setiembre 8 de 1856.

[SEAL.]

FACUNDO PINO.

*Esbo. de la Corte de Pbas.**His excellency the governor and captain general :*

I, Lorenzo Marques, resident of this town, appear before your excellency in due form, and state that I have examined and registered a piece of land, uncultivated, and therefore royal domain, at the Cottonwood Valley, (Cañada de los Alamos,) in the descents from said town, and the said land is a surplus to the land of Captain Sebastian de Vargas. On the south and west said land adjoins the little valley called La Cañada de la Tierra; on the north it adjoins the said Vargas land; on the east the said royal domain adjoins the Pecos road going to the ranchos of the Cienega, and I ask a grant for the same, in the name of his Majesty, whom may God preserve, for the purposes of planting and for my support, promising, as I do, to settle and cultivate it within the time required by law; and, inasmuch as I am ready to carry out what I have above stated, I ask and pray your excellency, now acting in the name of my sovereign, God preserve him, that you be pleased to direct, provide, and command, as I have requested, whereby I will receive benefit and favor, and I declare in due form that I act not through dissimulation, and whatever is necessary, &c.

LORENZO MARQUES.

At the town of Santa Fé, on the 23d day of the month of September, in the year 1785, before me, Juan Bautista de Anza, cavalry colonel in the royal armies of His Majesty, and civil and military governor of this province of New Mexico, was presented the foregoing petition for consideration, and which I therefore received, and, in compliance with the prayer thereof, I did grant, and do grant, in the name of His Majesty, (whom may God preserve,) to the said Lorenzo Marques, the land that he petitions for, without injury to any third party, and with the condition that he cultivate the same in conformity to the royal laws; and to the end that he may be placed in royal and personal possession, I commission and confer all necessary authority upon Antonio José Ortiz, senior alcalde of this city, to execute by virtue of said commission this my decree, he citing the surrounding settlers and ascertaining that no injury to third parties will result, measuring off in all directions the varas that may be

required, which will be mentioned in the proper document, wherein will also be described the durable landmarks the petitioner may erect, and all this being done, the resulting original document will be remitted to me, so that this grant may be recorded in the government book.

Thus I provided, ordered, and signed with the undersigned witnesses in my attendance, with whom I act for want of a public or royal notary, there being none in all this province, and on this paper, which I use for want of stamped paper, but which I legalize as the third seal, to which I certify. The interlineation "and personal" is valid.

JUAN BAUTISTA DE ANZA.

Attending: FRANCISCO PEREZ DE SERRANO.

Attending: VICENTE TRONCOSO.

On the 7th day of the month of October, in the year 1785, I, Antonio José Ortiz, senior alcalde and war captain of the city of Santa Fé, in obedience to the command of Juan Bautista Anza, colonel in the royal armies of His Majesty, and civil and military governor of this province of New Mexico, proceeded to the place called Cañada de los Alamos accompanied by three witnesses, Diego Montoya, Gabriel Ortiz, and Antonio Lujan, and the only adjoining settler, José Maria Montoya, being present, I explained to him the petition made by Lorenzo Marques, and he stated that it did not interfere with him in any respect, and with this assurance I took the said Lorenzo Marques by the hand and led him over the land, and he plucked up grass, cast stones, and shouted aloud, Long live my sovereign, Carlos the III, King of Spain, and may God preserve him! taking possession of said land quietly and peaceably, and without any opposition whatever, the boundaries designated to him being on the north the main road from the Pecos to the Serillos; on the south, the Cañada de la Tierra and the top of the Colorado Mountain; on the east, the divide between the roads, that coming from Pecos to the said town, and that going to the Serillos through the land of José Maria Montoya; and on the west, the top of the hills, notifying him that the pastures and watering places remain for the public use, and the said locality is distant from this city five leagues and a half.

And that in all time it may so appear I signed this document, acting with two attending witnesses, for the well-known lack of a royal or public notary, there being none in this province, and on this paper, there being no stamped paper in these parts, to which I certify.

The interlineation, "an on the west the top of the hills," is valid.

ANTONIO JOSÉ ORTIZ.

DIEGO MONTOYA.

FRANCISCO XABIER ORTIZ.

Fees on the stamped paper, 3 rials, which I received from the party, notwithstanding those called for by the act of possession, and which sum I delivered to José Rafael Sarracino.

ANZA.

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, December 8, 1863.*

The foregoing four pages contain a correct translation from the original Spanish in this office.

DAV. J. MILLER,  
*Translator.*



TERRITORY OF NEW MEXICO, *County of Santa Fé:*

Know all men by these presents, that we, José Maria Marques, Andes Marques, Refugio Marques, and Juanita Marques, all residents of the county and Territory above mentioned, for and in consideration of the sum of \$200, paid and delivered to each one of us, according to our respective proportions, by Simon Delgado, the receipt whereof is hereby acknowledged, we have sold, bargained, granted, and conveyed to the said Simón Delgado, and to his brothers, Pablo Delgado, Fernando Delgado, and Felipe Delgado, their heirs and assigns (asignados) forever, the following-described real estate, together with all the title and interest we have, have had, or might have had therein, together with all the privileges and appurtenances thereunto belonging, and in which we now have irrevocable possession "in fee simple;" and that it is free from all mortgage, claim, or incumbrance whatever imposed by us, or either of us, or any other person in our name or by our direction. The said property consists of all those lands granted to our grandfather, Lorenzo Marques, by Juan Bautista de Anza, governor and captain general of the province of New Mexico, on the 23d day of September, 1785, and which are situated at the place Cañada de los Alamos, county of Santa Fé and Territory of New Mexico; and whose boundaries are: on the north, the main road from Pecos to the Cerillos; on the south, the Cañada de la Tierra and the top of the Colorado Mountain; on the east, the division of the roads, that coming to this town from the Pecos and that going to the Cerillos; and on the west, the top of the hill. The original document of the said grant is on file in the office of the surveyor general at Santa Fé, New Mexico, to which document reference is made for a more full description of said property, which came into the possession of our deceased father, Bartolo Marques, by bequest made in the last will of said grantee Lorenzo Marques. Our grandfather and our deceased father having enjoyed the peaceable possession of said lands for more than thirty years, they descended to us as the sole heirs of Bartolo Marques, deceased; and that the said Simon Delgado, Pablo Delgado, Fernando Delgado, and Felipe Delgado, their heirs and assigns, may peaceably and forever enjoy the above-described real estate, together with all the title, privileges, and appurtenances thereunto pertaining, whether in law or equity, we declare that we have ample power to sell and convey said property; and that we, José Maria Marques, Andres Marques, Refugio Marques, and Juanita Marquez, will maintain, support, and defend, and our heirs, executors, administrators, or executrices, shall maintain, support, and defend the good title to said property in all time and against all claim or claims of any person or persons whatever.

In testimony whereof we have signed our names and placed our seals this day at Santa Fé, on the 20th day of June 1856.

ANDRES <sup>su</sup> + MARQUES. [SEAL.]  
marca.

REFUGIO <sup>su</sup> + MARQUES. [SEAL.]  
marca.

JUANITA <sup>su</sup> + MARQUES. [SEAL.]  
marca.

JOSÉ MARIA MARQUES. [SEAL.]

Signed, sealed, and delivered in presence of—

A. DE MARLE.

H. Mis. 181—3

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

On this the — day of July, 1856, personally appeared before me, the undersigned, clerk of the district court of the county of Santa Fé, Territory of New Mexico, José Maria Marques, Andres Marques, Refugio Marques, and Juanita Marques, all of them of legal age, and whose names appear in the foregoing instrument of conveyance; and they, each of them, acknowledged to having voluntarily executed and signed the said instrument for the consideration and purposes in the same expressed.

Given under my hand and official seal at Santa Fé, New Mexico, the year and day above mentioned.

[SEAL.]

AUGUSTUS DE MARLE,  
*Escribano.*

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I certify that the foregoing document of conveyance is recorded by me in the book of records, letter B, pages 193, 194, and 195, which is kept in this office for such purposes.

In witness whereof I have signed my name and impressed the seal of the probate court of this county this September 8, 1856.

[SEAL.]

FACUNDO PINO,  
*Clerk of the Probate Court.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, December 8, 1863.*

The foregoing four pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,  
*Translator.*

*Cañada de Los Alamos.*

In this case, JUAN MIGUEL ORTEGA, being by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, and residence; have you any interest in this case, and have you any blood relation to the present claimants, Simon Delgado and his brothers?—Answer. My name is Juan Miguel Ortega; my age is between sixty-four and sixty-five years. I reside here at Santa Fé; have no interest in the claim, and no relationship to the Delgados.

Q. How long have you resided at Santa Fé?—A. I was born and have always resided at Santa Fé.

Q. Do you know the land grant of the Cañada de los Alamos, and, if so, state where it is situated and what are its boundaries?—A. I know the place named; it is situate in this county of Santa Fé, and its boundaries are: on the north, the road leading from Pecos to the Serrillos; on the east, the Pecos road; on the south, the Cañada de la Tierra and the Ceja del Cerro Colorado; and on the west, the Ceja del Monte.

Q. Did you know Lorenzo Marques in his life-time?—A. I did when he was quite aged.

Q. Did you know whether said Marques had the tract of land in question in his possession and under cultivation, and whether after his death his sons held and cultivated the land?—A. I know such to have been the fact, both as to said Lorenzo Marques and his sons.

Q. How long did you know said Marques, and when did he die?—A.

I knew him first when I was about eighteen years old, and he died some five or six years afterward.

Q. Did you know Andres Marques, Refugio Marques, Juanita Marques, and José Maria Marques, and if so, state who they were?—A. I know all the parties named, and they—except Refugio Marques—were children of Bartolo Marques and grandchildren of Lorenzo Marques; said Refugio was an only surviving child of José Marques, son of Bartolo Marques.

Q. Was Bartolo Marques the only child and heir of Lorenzo Marques, so far as you knew?—A. He was, so far as I knew and believe.

Q. Do you know who are now in possession of the land in question, and, if so, state who and how long they have been in possession, and whether they have placed improvements upon and cultivated the land?—A. I know that the Delgados, who now claim the tract, have been in possession of the land since about the year 1856, and have cultivated and raised crops upon the land, having fenced a portion of it and erected a house there, now occupied as a residence.

JUAN MIGUEL ORTEGA.

Sworn to and subscribed before me this June 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

BRUNO VALENCIA being in like manner sworn, on his oath declares:

Question. What is your name and age, where do you reside, and have you any interest in this claim of the Cañada de los Alamos?—Answer. My name is Bruno Valencia; my age is about sixty-one years; I reside, and have always resided, here at Santa Fé, and I have no interest whatever in the claim.

Q. Have you any relationship to the present claimants in this case, the Delgados?—A. I have none that I know of.

Q. Do you know the Cañada de los Alamos tract of land now under investigation, and if so, where is it situated and who have occupied it since you have known it?—A. I know the tract mentioned, and it is situated in this county of Santa Fé. It was occupied by the descendants of Lorenzo Marques till some fifteen years ago or more, since which time the Delgados, who now claim, have occupied and cultivated the land.

Q. Did you know Bartolo Marques, and did you know him to be the heir of Lorenzo Marques, and if so, did you ever know any other heir of said Lorenzo?—A. I knew Bartolo Marques, and knew him as the reputed heir of Lorenzo Marques, and I never knew any other heir of said Lorenzo.

his  
BRUNO + VALENCIA.  
mark.

Sworn to and subscribed before me June 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

LORENZO MARQUES.

This claim was filed in this office February 23, 1856, under the act of July 22, 1854, the muniment filed consisting of a single document, comprising the original papers in the case, in the Spanish language. Upon application of the attorney of the present claimants, the case was taken up for investigation June 23, 1871.

From these papers it appears that one Lorenzo Marques, his application bearing no date, petitioned the governor and captain general of the province of New Mexico for a certain tract of vacant royal domain, describing the same as situated in the vicinity of the city of Santa Fé, in the Cañada de los Alamos, or Cottonwood Valley, bounded on the north by the land of Sebastian de Vargas, on the south and west by the Cañada de la Tierra, and on the east by public land and the road from the Pecos to the Cienega ranches.

On this petition the civil and military governor of the province, on the 23d of September, 1785, decreed, granting the land to the petitioner, with the boundaries set forth and applied for by him, without injury to any third party, and with the condition that the land be cultivated in conformity with the royal laws, and authorized and directed the senior alcalde to place the grantee in possession of the land so granted, first notifying the adjoining proprietors, and ascertaining whether, by making the grant, any injury would result to third parties.

On the 2d of October the senior alcalde, as appears from the act of possession executed by him, proceeded to the spot of land granted, known as the Cañada de los Alamos, and the sole adjoining proprietor, one José Maria Montoya, being there present, and declaring he had no objection, then and there formally placed the grantee, Marques, in possession of the land, describing it as distant five and a half leagues from Santa Fé, and stating its boundaries as, on the north, the main road from the Pecos to the Serillos, on the south the Cañada de la Tierra and the top of the Colorado Mountain, on the east the divide between the Pecos and Santa Fé road and the Serillos road, and on the west the top of the hills.

Proof by disinterested witnesses was presented before the surveyor general, in the investigation by him of this claim, showing that the land in question has always been in the possession and use of the grantee and his descendants and the assigns of these. The present claimants, Simon, Pablo, Fernando, and Felipe Delgado, have filed with the claim an authenticated conveyance to themselves from Andres, Refugio, Juanita, and José Maria Marques, alleged sole surviving heirs of the grantee, Lorenzo Marques, deceased, of all their right, title, and interest in the land in question. The proof presented fails to establish beyond all question that the parties making the conveyance were the sole legal representatives of the grantee.

The grant in this case is believed and held to be a good and genuine grant, under the laws, customs, and usages of Spain and Mexico, and under the treaty of Guadalupe Hidalgo. It is an absolute grant. The governor who made the grant is known to have been competent in the premises, and the signature purporting to be his, appended to the granting decree, has been verified as genuine by comparing it with his signature borne by other documents among the old Spanish archives of this office. The said grant is, therefore, hereby approved, with the boundaries set forth in the act of possession, to the legal representatives of Lorenzo Marques, without prejudice to the title of the present claimants, and is transmitted to the Congress of the United States, with a transcript of all the papers in the case, with the recommendation that the same be recognized and confirmed.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, July 12, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 6, 1871.*

The foregoing transcript contains true copies of the papers on file in this office, constituting private land-claim approved as No. 53, by the surveyor general, July 12, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land-claim reported as No. 54, known as the Cuyamungue Grant, made to Bernardino de Sena and others January 2, 1731, and approved by the surveyor general of New Mexico November 15, 1871.*

BERNARDINO DE SENA ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

*To the Honorable T. Rush Spencer, United States surveyor general for the Territory of New Mexico :*

Your petitioners, John W. Conway and his wife Maria de la Paz Valdez, heirs and legal representatives of Vicente Valdez and Juan Cristoval Romero purchaser, all residents of the county of Santa Fé, Territory of New Mexico, present owners and claimants of the Cuyamungue tract of land, in said county, would respectfully state to you that, in the year 1731, Bernardo de Sena, Thomas de Sena, and Luis Lopez petitioned Juan Domingo de Bustamante, then governor and captain general of the kingdom of New Mexico, under the crown of Spain, for a grant of the surplus land in the abandoned Pueblo of Cuyamungue, said petition was duly presented, and being fully considered by said governor a grant was made to said petitioners on the 2d day of January, 1731, to the tract called Cuyamungue, situate in the present county of Santa Fé, Territory aforesaid, and described and bounded as follows, to wit: On the north by a house of Lazaro Trujillo, on this side of the river; on the south by an arroyo, two mounds of blue stone, and a cottonwood tree on the said river of Cuyamungue; on the east by some hills and the road that leads to the Pueblo of San Francisco de Nambé, and on the west by some hills and forests on the other side of the Cuyamungue River, as is designated in plat marked B, accompanying this petition. All of which points and boundaries are well-known landmarks in said county of Santa Fé. The said grant was made to the said grantees in fee, and was duly taken possession of by said grantees in accordance with the forms of law then in force on the 22d day of January, 1731, and ever since that time the said grantees, and their heirs and legal representatives, have held quiet and peaceable possession thereof without any adverse claim of any kind whatsoever.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about five thousand acres. Nor can they furnish an accurate plat of survey as no survey has been made of the same, but herewith append a plat of said grant as accurate as possibly can be made from the maps and known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map.

The original grant is herewith presented marked A, and is begged to be made a part of this petition, to be referred to whenever necessary.

Claimants present this, their said claim, before you, under the act of Congress, approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask approval and confirmation of their said claims to the legal representatives of the original grantees.

SAMUEL ELLISON,  
*Attorney for Claimants.*

*Sr. Gouvernr. y Capn. Genl.:*

Bernardino de Sena, Thomas de Sena, Luis Lopes, vecinos desste reyno, ante Vssa. parasemos en la mas bastante forma que en derecho aya lugar y al nusto conbenga, y dezemos: que rregistramos las demasias de tierras que ay en el pueblo despoblado de Cuyamungue, por realengas, yermas, y despobladas, desde donde acaban los linderos de el pueblo de Tesuque, hasta donde empiesan las mercedes de Lazaro Trujillo, y de los hijos de Juan de Mestas, y dhas. mercedes se a de servir Vssa. de hasernosla, en nombre de su magestad, para nosotros y nuestros subsesores, para cria de ganados mayores y menores y caballadas, de una y otra banda del rio, y desde el barranco de dho. pueblo de Cuyamungue hasta las lomas de el camino de Nambe, con zitazione de los partes, y con la calidad de poblarlas dentro de el termino de la ley, por todo lo qual y lo mas que alegar podemos y a nuestro favor haga que damos por espresado.

A Vssa. pedimos y suplicamos con el mas profundo rendimto. sea mui servido de mandar hazer como llebamos pedido, en que resiveremos bien y merzed con justicia. Juramos es de nuestro escripto en toda forma, por no ser malizioso protestamos costas y en lo necessario, &c.

BERNARDINO DE SENA.  
THOMAS DE SENA.  
LUYS LOPES.

En la villa de Sta. Fee, en dos dias del mes de Henero de mill setes. y treynta y un ans. Ante el Sr. Genl. Dn. Jn. Domingo de Bustamte. govor. y capn. general de este reyno de la Nueva Mexico, y castellano de sus fuerzas y presidios por su magd., la presentaron los contenidos en ella.

AUTTO.

Y por su señoria vista la hubo por presentada en quanto a lugar en derecho y en atenzion a lo que los suplicantes piden en su escripto les haria e hizo la merzed de tierras q. expressan en nombre de su magd., y para ello el alcalde mayor de la villa nueva de Santa Cruz haga zitazn. en forma a los yndios del pueblo de Tezuque y a los herederos de Jn. de Mestas y Lararo Trujillo, y de mas vezinos ynmediatos, para que si tienen q. contradiezir lo hagan, q. seran oydos y administrara justizia; y de no haber perjuizio ni contradizn. alguna, el dho. alcalde mayor les dara a los suplicantes la pocision real, la qual apprehenderan señalando linderos y poniendo majoneras; lo qual executera dho. alcalde mor., poniendolo por diligenzia al pie de este scripto con toda claridad. Asi lo proveyó, mando y firmo su sria. por ante me el presste. secretario de govñ. y guerra.

JUAN DOMO. DE BASTAMTE.

Ante mí.

ALPHONSSO RAE L DE AG'LAR,  
*Secr'o de g'n y g'va.*

En el pueblo de San Diego de Tesuque, en veinte y dos dias del mes de Henero de mill setecientos y treinta y un años, yo, Domingo Vixil, the-niente de alcalde maior de la villa nueba de Santa Cruz y su jurisdiccion, en execusion y cumplimiento del auto proveido del sr. gouerdor. y cappn. genl. Dn. Juan Domingo de Bustamte. vine á este dho. pueblo, y estando en el hice juntar á todos los Indios, gouernador y capitanes, a los quales hice la citacion que dho. señor me hordena y manda, leiendole el referido auto, dandoselo a entender si tenian que contradecir alguna cossa sobre la merzed de tierras que dho sr. gouernador le hacia a Bernardo de Sena que lo hiciesen ante mi libremte. que serian oydos en justicia. Y estando enterados del contexto del referido auto dijeron todos juntos y cada una de por si que no tenian que contradecir cosa alguna, por que no les perjudicaba en manera alguna. Y de la misma forma zite a Baltasar Truxillo, Lasaro Truxillo y los herederos de Juan de Mestas, leiendoles la rrêferida merzed, y estando enterados de su contenido dijeron que no tenian que pedir ni contradecir cossa; en contrario por no perjudicarles la referida merzed hecha á favor de Bernardo de Sena. En cuiu conformidad y en virtud de lo mandado por dho srr. gouernador y capitan genl. passe yo, dho teniente de alcalde maior, con los testigos de mi asistencia, al pueblo de Cuiamungué y reconociendo los linderos del pueblo y tierra de Tesuque, que llegan hasta un arroyo que baja de oriente a poniente hasta el rrio de Cuiamungue, adonde esta un alamo y en dho arroia, a un lado estando dos mojoneras de piedras azules, uno en un lado y otro de otro, poco mas arriba de dho arroyo, i haciendo la misma dilijencia con las tierras que lindan por la parte del norte, que son de Lazaro Trujillo, quien se haillo presente, y estandolo tambien el dho Bernardo de Zena, le coji de la mano y le pasee por dhas tierras, arranco yervas, tiro piedras, y haciendo las demas zeremonias que el derecho dispone se hagan en señal de posesion; la qual le di de dhas tierras que cojen por la parte del norte en frente de una casa de Lazaro Trujillo de esta banda del rrio; por la p'te del sur con dho arroio piedras azules y el alamo que esta en el rrio de dho. Cuiamunmungue; por el oriente con unas lomas y camino que va del pueblo de San Fraco. de Nambe, y por el poniente con unas lomas y monte que esta de la otra pte. del rrio de Cuiamungue. Todo lo qual se hizo y executó, y aprehendio la possession rl. quieta y pacificam'te, sin contradiccion alguna; y para q. conste lo firme con los testigos ynfraescritos de me asistencia; fha. ut supra.

DOMINGO MONTES VIGIL,

*Jues Receptor.*

Testigo de assistta.: FRANCO. VALDEZ.

Testigo de assistta.: BARTOLOME TRUXILLO.

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Yo el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mejico, certifico que hoy, el dia veinte de Julio, A. D. 1868, han sido enregistrados por mi los antecedentes documentos ó escritos en libro letra "D," paginas 501, 502, 503, y 504, de registros de documentos de tierras, etc., el cual es tenido en esta oficina con tal objeto.

En testimonio de lo cual pongo mi nombre y el sello de la corte de pruebas de dicho condado en Santa Fé, Nuevo Mejico, hoy el dia 20 de Julio, A. D. 1868.

[SELLO.]

TRINIDAD ALARID,

*Escribano de la Corte de Pruebas y ex-officio Registrador.*

*To his excellency the governor and captain general :*

We, Bernardino de Sena, Thomas de Sena, and Luis Lopez, residents of this kingdom, appear before your excellency in due form of law, and say that we register the surplus land in the abandoned pueblo of Cuyamungue as royal, public, and uninhabited from where the boundary line of Tesuque terminates to where the grants of Lazaro Trujillo and the children of Juan de Mestas commence, and that your excellency will be pleased to make said grant, in the name of His Majesty, to us and to our successors, for the raising of all kinds of live stock, on both sides of the river, and from the bluff of the pueblo of Cuyamungue to the hills of the Nambé road, by citation of the parties, with the condition to settle the same within the time prescribed by law. In consideration of all which and all else we might allege favorable to us, we give as if expressed. In view of all which we also pray your excellency with the most profound humility to be pleased to order as we have requested, whereby we will receive benefit, favor, and justice, and we declare this our petition to be in due form and without dissimulation, and as may be necessary, &c.

BERNARDINO DE SENA.  
THOMAS DE SENA.  
LUIS LOPEZ.

DECREE.

In the village of Santa Fé, on the 2d day of the month of January, 1731, before his excellency Juan Domingo de Bustamante, governor and captain general of this kingdom of New Mexico, its forces and garrisons, castellan of His Majesty, this petition was presented by the parties thereto, and the same being seen by his excellency, he treated the same as before him, so far as the law contemplates; and in attention to the prayer of the applicants in their petition, he made to them the grant of land mentioned by them, in the name of His Majesty. Therefore, the chief alcalde of the new village of Santa Cruz will notify the Indians of the pueblo of Tesuque and the heirs of Juan de Mestas, and Lazaro Trujillo, and all other adjoining citizens, in due form, in order that they may make objections, if any they have, and be heard in justice administered; and if there be no injury nor objection whatever, the said chief alcalde will give unto said petitioners the royal possession, which they shall take by designating boundaries and placing landmarks; which said chief alcalde shall state clearly in writing at the foot of this decree. Thus his excellency provided, commanded, and signed before me, the present secretary of state and war.

JUAN DOM. DE BUSTAMANTE.

Before me :

ALPHONSO RAEL DE AGUILAR,  
*Secretary of State and War.*

In the pueblo of San Diego de Tesuque on the 22d day of the month of January, 1731, I, Domingo Vigil, lieutenant chief alcalde of the new village of Santa Cruz and its jurisdiction, in execution of, and compliance with, the decree rendered by his excellency Juan Domingo de Bustamante, governor and captain general, arrived at said pueblo, and being therein, I caused all the Indians, governor, and captains to assemble, and notified them of what his excellency ordered and commanded, by reading to them the said decree, giving them to understand that if they



had any objection whatever to make to the grant of land made by his excellency, the said governor, to Bernardo de Sena, to make it to me freely, that they would be heard in justice; and being informed of said decree, they jointly and severally said that they made no objection whatever, and that it did not in any wise injure them. In the same form I cited Baltasar Trujillo, Lazaro Trujillo, and the heirs of Juan de Mestas, and reading to them the said grant, and they being informed of the contents thereof, they said that they had nothing to ask or objection to offer against said grant, as the said grant, as made in favor of Bernardo de Sena, did not injure them. In conformity therewith, and by virtue of the order of his excellency the governor and captain general, I, the said lieutenant chief alcalde, proceeded in company with my attending witnesses to the pueblo of Cuyamungue, and having examined the boundaries of the pueblo and the lands of Tesque, which reach to an arroyo that comes down from the east to west to the river of Cuyamungue, where there is a cottonwood tree, and on said arroyo there are two mounds of blue-stone, one on one side and the other on the opposite side thereof, a little above said arroyo; and observing the like proceedings as to the boundaries of the land on the north, which are those of Lazaro Trujillo, who was present, as also the said Bernardo de Sena, whom I took by the hand and conducted him over said lands; he pulled up herbs and threw stones, and performed all other ceremonies as provided by law in proof of possession, which I gave him of said lands, which reach on the north to in front of a house of Lazaro Trujillo; on this side of the river on the south by said arroyo blue-stones and cottonwood tree on the said river of Cuyamungue; on the east some hills and the road that leads to the pueblo of San Francisco de Nambé, and on the west some hills and forests on the other side of the Cuyamungue River; all of which was done and executed, and he took the royal possession thereof quietly and peaceably, without any molestation; and in testimony whereof I sign this with the undersigned attending witnesses, date as above.

DOMINGO MESTAS VIGIL,  
*Special Justice.*

Attending witness: BARTOLOME TRUJILLO.  
Attending witness: FRANCO. BALDEZ.

The above and foregoing is a correct translation made by me of the muniment of the Cuyamungue grant, to the best of my knowledge and belief.

SAML. ELLISON.

SANTA FÉ, NEW MEXICO, August 10, 1871.

Sworn to and subscribed before me this August 10, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
Santa Fé, New Mexico, August 31, 1871.

The foregoing translation having been by me compared with its original in Spanish, and found correct, the same is hereby adopted.

DAV. J. MILLER,  
*Translator.*

## BERNARDINO DE SENA ET AL.

## CUYAMUNGUE TRACT.

JOSÉ RAFAEL MESTAS, being by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, residence, and have you any interest in the private land-claim now here pending for the tract of land situated in Santa Fé County, New Mexico, purporting to have been granted in the year 1731 to Bernardino de Sena, Tomas de Sena, and Luis Lopez by the Spanish government?—Answer. My name is José Rafael Mestas; my age is sixty years; I reside at the town of Pojoague, in this county, and have no interest in the tract of land referred to.

Q. Do you know the track of land referred to of Cuyamungue? If so, state how long you have known it, what are its boundaries, whether it is settled upon and cultivated, and, if so, how long and by whom?—A. I know the land known as the Cuyamungue tract, and have known it all my life, having been born upon the place. Of the boundaries I do not know that on the north, but that on the east I have always understood to be where there stands a landmark of stone in the prairie, said to be the dividing line between this grant and that of the Tesuque Indian pueblo, on the south the Arroyo de Tio Luis, and on the west the hills and woods just beyond the Cuyamungue Creek. The land has always, since I have known it, been occupied and cultivated, and is now occupied and cultivated; there now residing upon and cultivating the land Juan Cristoval Romero, John W. Conway, and various other persons renting land.

JOSÉ RAFAEL <sup>his</sup> + MESTAS.  
mark.

Witness: DAV. J. MILLER.

Sworn to and subscribed by said Mestas before me this September 25, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

JOSÉ LIONICIO JEMENEZ, being sworn by the surveyor general, on his oath declares:

Question. What is your name, age, and place of residence, and have you any interest in the land-claim now here pending claimed under an alleged grant, here present, purporting to have been made in the year 1731 by the Spanish government to Bernardino de Sena, Tomas de Sena, and Luis Loper for a tract of land in the county of Santa Fé, known as the Cuyamungue tract?—Answer. My name is José Lionicio Jemenez; my age is forty-one years; I reside at the town of Tesuque, in Santa Fé County, and I have no interest in the tract of land referred to.

Q. Do you know the boundaries and extent of the tract in question, whether it has been and is occupied and cultivated, and by whom? If so, state what you know in the premises.—A. I know the tract in question and its boundaries and extent from having often heard them stated by my father and grandmother and others, and from having all my life known the land. The boundary on the north I thus understand to be a rocky hill; on the east a large stone mound erected on the side of the Nambé road; on the south the land of the Indians of the pueblo of Tesuque, and on the west the top of the dividing ridge between the Cuyamungue and Del Norte Rivers. The extent of the grant is, I calculate,

from east to west about ten, and from north to south about two and a half miles. The land has always been occupied and cultivated since I have known it, formerly by Vicente Valdez and his brothers, and Felipe Sena, and is now occupied and cultivated by Juan Cristoval Romero, John W. Conway, and others.

JOSÉ LIONICIO <sup>his</sup> + JEMENEZ.  
mark.

Witness: DAV. J. MILLER.

Sworn to and subscribed by said Jemenez before me this September 25, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

### BERNARDINO DE SENA ET AL.

#### CUYAMUNGUE TRACT.

This case was filed in this office August 11, and at the request of the present claimants of the land was set for trial for September 25, 1871. The title papers are comprised in one document, being the original muniments in the grant, consisting of—

1. The petition of Bernardino de Sena, Tomas de Sena, and Luis Lopez to the governor and captain general of the province of New Mexico, praying for a grant to a piece of the royal domain at the abandoned Indian pueblo of Cuyamungue for the raising of horses and other live stock.

2. The decree of the governor and captain general, Juan Domingo de Bustamante, dated at Santa Fé, January 2, 1731, granting to the petitioners the land prayed for by them, and directing the chief alcalde of Santa Cruz to summon the Indians of the pueblo of Tesuque and other adjoining occupants of the soil, and ascertain from them whether the making of this grant would injuriously affect any of them, and, if not, then to place the grantees in formal possession of the land.

3. The act of possession executed by the lieutenant chief alcalde of Santa Cruz, dated at the pueblo of Tesuque, January 22, 1731, certifying that he had duly summoned the people and authorities of that pueblo and other adjoining settlers, and ascertained from them that no injury would result to any of them from making the grant, and that thereupon he duly placed the grantee, Bernardino de Sena, in possession, stating the boundaries of the land—as, on the north, to in front of the house of Lazaro Trujillo; on the south, the thereinbefore-described arroyo, blue stones and cottonwood tree; on the east, the hills of the Nambe pueblo road; and on the west, some hills and a wood beyond the Cuyamungué River.

The signature to the granting decree, purporting to be Governor and Captain General Bustamante's signature, has been compared with others of his found among the old Spanish archives of this office, and is believed to be genuine.

The tract of land in question, known as the Cuyamungué grant, is situated within the present county of Santa Fé, and embraces, according to the petition and plat presented to the surveyor general by the claimants, of about five thousand acres of land.

The ancient Indian pueblo of Cuyamungué referred to in this grant is known to be extinct. The governor and captain general, in his granting decree, and the officer executing the same, alike ignored the existence of any such pueblo when notifying the adjoining settlers to make objec-

tion, if any they had, why the land at the "abandoned pueblo of Cuyamungué" should not be granted to the applicants therefor. There is no evidence on file in this office that that pueblo ever held a grant for land; indeed, there is none that it ever existed, except in the form of incidental reference occasionally met among the old archives.

At the time of the making of the grant the record shows there was no objection interposed thereto, though formal opportunity was afforded parties interested for making known any they might have had. At the investigation before the surveyor general no objection was made to his approval of the concession, and the testimony then presented shows the present claimants to have been and to be in quiet and peaceable possession of the land, and to have occupied and cultivated the same for at least the last half century.

The land in this case was applied for to the governor and captain general by Bernardino de Sena, Tomas de Sena, and Luis Lopez, and was by him granted to them in equal interest, and the chief alcalde was authorized and directed to place them in possession. There appears no subsequent change or modification in the application or in the granting decree, wherefore it is deemed reasonable to conclude, in order to account in a rational way for the alcalde's ignoring the grantees, Tomas de Sena and Luis Lopez, in his record of the execution of the grant, that in that act he held as sufficient the presence of the principal of the grantees, Bernardino de Sena, and accepted and dealt with him as the representative of his two associates, and thereby intended to legally place, and did so place, the three grantees equally in possession of the land, this manner of instating a community of grantees being as it was usage and custom.

The grant in this case is deemed and held by this office to be a good and valid one under the Spanish and Mexican laws, usages, and customs, and the treaty of Guadalupe Hidalgo, and is hereby approved and recommended for confirmation to the legal representatives of Bernardino de Sena, Tomas de Sena, and Luis Lopez, with the limits and boundaries stated in the act of possession therein, and a transcript of all the papers in the claim is herewith transmitted to the Congress of the United States for its consideration and action in the premises.

T. RUSH SPENCER.

*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,

*Santa Fé, New Mexico, November 15, 1871.*

SURVEYOR GENERAL'S OFFICE,

*Santa Fé, New Mexico, December 11, 1871.*

The foregoing transcript is a correct copy of all the papers in private land-claim No. 54, in the name of Bernardino de Sena *et al.*, on file in this office.

T. RUSH SPENCER,

*Surveyor General.*

*Transcript of private land-claim, reported as No. 55, known as the Encinas grant made to Juan Bautista Valdez on July 5, 1814. Approved by the Surveyor General, November 16, 1871.*

JUAN BAUTISTA VALDEZ, DECEASED.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

*To the Hon. T. R. Spencer, United States Surveyor General for the Territory of New Mexico:*

Your petitioners, José Luis Valdez, José Francisco Baldez, Maria Ygnacio Baldez, Manuel Antonio Baldez, Mariano Baldez, Pedro Baldez, and Ramon Garcia, residents of the county of Rio Arriba, Territory of New Mexico, respectfully represent that they are the claimants and owners in fee of a certain tract of land situate, lying, and being in the said county of Rio Arriba, Territory aforesaid, known as the Encinas grant, and bounded on the east by a mound in the puertecita that looks toward the Joya, and on the west, a serrito, in the cañada called the Corrales; on the north, some permanent stones, and on the south, the summit of the mountain, as is designated in plot marked A accompanying this petition, all of which points and boundaries are well-known land-marks in said county of Rio Arriba, and the said petitioners claim a perfect title to said lands as the heirs and legal representatives of Juan Baldez, to whom the original grant was made, and was placed in possession of said lands by the proper authority on the 5th day of July, 1814, according to the decrees, usages, and custom of the Spanish government at that time in force.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about 20,500 acres. Nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith appended a plat of said grant as accurate as can possibly be made from the well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map. The said grantee was legally placed in possession of said land, and said claimants and petitioners know of no other claimants to said grant, and the same has been, by the said grantee and his said heirs and legal representatives, occupied from the date of said grant down to the present time. The original grant is now on file in the office of the surveyor general of New Mexico, a certified copy of which accompanies this petition, and is begged to be made a part thereof, to be referred to whenever necessary. Claimants present this their said claim before you under the eighth section of the act of Congress approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask confirmation by you of their said claim.

SAM'L ELLISON,

*Attorney for Claimants.*

En este puesto de S'to Tomas, hapostol de Aiquiu, en sico dias del mes de Julio de mil ocho si sientos catorze, ante me el alcalde mayor del cuerpo de alluntamieto y del pueblo y sus distritos, D. Pedro Ygnco. Gallego, conparecio D. Juan Baldez, manifestandome la merce rial de su M., que Dios guarde, y asiendome cargo de dha mese me pidio en nonbre de S. M. pasara a dho paraje ha reconose las q'e pasaba; y abiendola

reconosido alle sufisiete para q'è se matubie con su familia y abie dome pedido dho poblador para un sitio en el paraje de Los Ensinos, que comunmente le llaman en el Rillo Puerco, le ysiera yjuela separda; y son sus linderos por el oriete una mojonera en el puertisito que mira para la Jolla; y por el poniente un serito qe. le llaman en la Cañada de los Corales; por el norte unas piedras estables, y por e sur las cumbres de la sixa, y se las de libes de senso tributo y ypoteca u otra qalesquier agenasion, para qe. las gose y pueda libremente cambiarlas, benderlos, enagenarlas, y tambie pueda gosarlas con libre y general adeministrasion ynter pongo mi autiridad judicial para \* \* \* \* \* [torn] \* \* \* \* \* por resetoria con los testigos de mi assistensia, a falta de escribano rial y publico, que no lo hai en esta reino ni en las distansias qe. el derecho prebiene; y ba en papel comun. Firmole el otorgante con migo y los de mi assistensia e dho. dia, mes y año; qe. de todo doy fe.

PEDRO YGNCO. GALLEGO,  
MARCOS DELGADO, *Secretario.*

JUAN BAUTISTA BALDEZ.

Assa: SILBESTRE TRUGILLO.+

At this place of the Apostle Saint Thomas of Abiquiu, on the 5th day of the month of July, 1814, appeared before me, Pedro Ygn. Gallego, chief alcalde of the ayuntamiento, the pueblo, and its districts, Juan Baldez, and exhibiting to me the royal grant of His Majesty, whom may God preserve, and delivering to me said grant, he requested me, in the name of His Majesty, to proceed to said place and examine the land he occupied, and, having examined said place, I found it to be sufficient to support him and his family; and the said settler having requested that I issue him a separate document for a tract of land at the place commonly called the Ensinas, on the Rio Puerco, the boundaries of which are: on the east a mound in the Puertecito that looks toward the Joya, and on the west a serrito, so called in the cañada of the corales; on the north some permanent stones, and on the south the summits of the mountain and —, I gave the same, free of tax, tribute, or hypothecation, or any other class or incumbrance, in order that he may enjoy the same; and that he may freely exchange, sell, or alienate it, and enjoy it with free and general administration, I interpose my judicial authority for \* \* \* \* \* [torn] \* \* \* \* \* by appointment, with my attending witnesses, in the absence of a royal and public notary, there being none in this kingdom, nor within the distance provided by law, and this is extended on common paper, signing with me the grantee, and those of my attendance, on the said day, month, and year; to all of which I certify.

PEDRO YGN'CO GALLEGOS.  
MARCUS DELGADO, *Secretary.*

JUAN BAUTISTA BALDEZ.

Asis: SILBESTRE TRUJILLO.

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, June 30, 1871.*

The foregoing translation filed in the case having been by me compared with its original in Spanish and found correct, the same is hereby adopted as the official translation in the case of Juan B. Valdez, deceased.

DAV. J. MILLER, *Translator.*

## JUAN BAUTISTA VALDEZ.

## ENCINAS.

MELQUIADES MONTAÑO, being by the surveyor general duly sworn to depose in this private land-claim, on his oath declares :

Question. What is your name, age, and residence?—Answer. My name is Melquiades Montaña, my age is forty years, and I reside at Tierra Amarilla, in Rio Arriba County, New Mexico.

Q. Do you know a tract of land in Rio Arriba County, known as the Encinas tract ; and if so, state its precise locality and its boundaries.—A. I know such a tract ; it is situated some six or eight leagues west of the Rio del Norte, and lies in what is known as the Faustin Valley. The tract I am acquainted with, but its specific boundaries I cannot state.

Q. Who have been recognized as the owners of the land since you have known it?—A. José Antonio Valdez.

Q. How long have you known the land as in possession of said José A. Valdez?—A. About twenty years.

Q. Have you any interest in this claim?—A. I have none whatever

MELQUIADES <sup>his</sup> + MONTAÑO.  
mark.

Sworn to and subscribed before me this July 3, 1871.

T. RUSH SPENCER,

*Surveyor General.*

JOSÉ ANTONIO MARTIN, being in like manner sworn, on his oath declares :

Question. What is your name, age, and residence?—Answer. My name is José Antonio Martin, am sixty-four years of age, and reside at Cañon del Riaño, in Rio Arriba County.

Q. Do you know the tract of land called the Encinas? if so, state how long you have known it, where it is situated, and what are its boundaries.—A. I know the land ; it is situated in Rio Arriba County, New Mexico ; I have known the place since the year 1826, and its boundaries are: on the east, the Purtecito looking toward the Joy a de Perdenal ; on the west, the Cerrito de la Cañada de los Corrales ; on the north, some rock bluffs, and on the south, the top of the mountain.

Q. Who have had or been in possession of the land in question since you have known it?—A. When I first knew the place it was in possession of the four children of the grantee, Juan Bautista Valdez, to wit: the eldest, José Miguel ; the next, Francisco ; the next, José Antonio, and the next a daughter, Antonia Rosa Valdez ; and it has always been in their possession, and in the possession of those holding under them.

Q. Have you any interest in this claim?—A. I have none at all.

JOSÉ ANTONIO <sup>his</sup> + MARTIN.  
mark.

Sworn to and subscribed before me this July 3, 1871.

T. RUSH SPENCER,

*Surveyor General.*

JOSÉ MANUEL GALLEGOS, being by the surveyor general sworn to depose in the case of this private land-claim, on his oath declares :

Question. What is your name, age, and residence?—Answer. My name is José Manuel Gallegos, my age is fifty-six years, and my place of residence here at Santa Fé.

Q. Do you know the signature of Pedro Ignacio Gallegos and Marcos Delgado? and if so, please state, after examining the document in Spanish now handed you purporting to be the act of possession in this case and to bear the signature of said Gallegos and Delgado, whether those signatures are, in your opinion, genuine.—A. I know their signatures; the former, Gallegos, was my father, and the latter, Delgado, was a neighbor of my father at the town of Abiquiu, and I am satisfied, on examination of the document referred to, that the signatures it bears are genuine.

Q. What official positions did your father hold and exercise, if any, about the year 1814?—A. In the year 1814 I was born, but some years afterwards, when I became large enough to discern and comprehend, I learned, by hearing stated, that my father was about that time, 1814, the alcalde at Abiquiu, and I know that he was afterwards colonel of militia and member of the department assembly of New Mexico, and at various other times held and exercised sundry official positions.

Q. Have you any interest in this claim?—A. I have none whatever.

J. MAN'L GALLEGOS.

Sworn to and subscribed before me this July 18, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

UNITED STATES OF AMERICA, *Territory of New Mexico* :

This day personally appeared before me, the undersigned, clerk of the United States district court for the first judicial district of the Territory of New Mexico, Luis Baldes, who, being duly sworn by me, on his oath states: That he is one of the present owners of the grant of land situated in the county of Rio Arriba, Territory of New Mexico, now pending in investigation in the office of the surveyor general of New Mexico, made to Juan Bautista Baldes by the Spanish government, as appears from the original act of possession on file in the surveyor general's office, dated July 5, 1814, and that the original muniment referred to in said act of possession, to wit, the granting decree of the Spanish government and captain general, is missing; and further declares that he has made due diligent search for said missing documents, and has been unable to find the same or obtained any information concerning it; wherefore, he believes the same has been mislaid, lost, or destroyed, so that it cannot now be procured.

his  
LUIS + BALDES.  
mark.

Subscribed and sworn to before me this 17th day of July, A. D. 1871.  
[SEAL.] WM. BREEDEN, *Clerk.*

JUAN BAUTISTA VALDEZ, DECEASED.

ENCINAS TRACT.\*

The muniment in this case was deposited in this office January 25, 1871, by Luis Valdez, as one of the heirs and claimants under the original grantee, Juan Bautista Valdez, but was subsequently withdrawn by him, and on the 12th of July ensuing was filed, accompanied with the required notice to the surveyor general, sworn translation of the claim, and plat of land covered thereby.

The land claimed in this case is situated in the present county of Rio



Arriba, and, according to the notice and plat presented to the surveyor general, the tract embraces about 20,500 acres.

The document in virtue of which this claim is presented, is a single paper, dated July 5, 1814, being a certificate of the chief alcalde of the jurisdiction of Abiquiu, whose signature thereto is proved by testimony, to be genuine, and who in like manner is shown to have been the acting alcalde of that jurisdiction on or about the time of the date of said document. The chief alcalde in this document states and certifies that Juan Baldez had exhibited and delivered to him a royal grant to a piece of land at the place called the Encinas, on the Puerco River, and that thereupon he requested him to proceed to the spot, examine the land, place him in possession thereof, and issue to him a sub-grant (hijuela) for the same, which he states he proceeded to do, and did do accordingly.

From this statement and certificate it appears that Valdez held for this land a grant from the Spanish government, and that it was turned over to the chief alcalde at the time he was placed in possession of the property. The grant so delivered is in no way described by the officer receiving it, nor is the motive for the delivery stated. It appears thereafter to have disappeared from the possession of its more proper holders—the grantee and his representatives. Search for it has been made among the archives of the former government on deposit in this office, and no grant is found among them in that name; and Luis Valdez, acting as the principal of the present claimants, makes and files affidavit that after diligent search by him for the missing original concession, he was unable to find or obtain any information concerning the same, and believes it permanently lost or destroyed. There is not in this office, or so far as known elsewhere accessible, any records of the Spanish government in this province wherefrom it might be ascertained whether such a grant was ever made, and, if so, when, and by what authority. In the absence of this concurrent testimony, and in view of the proven continued possession and occupancy of the land in question, for a long time back, and up to this day, by the legal representatives of Juan B. Valdez, it is held by this office that it must be concluded there was a grant, and that they claimed and held the land thereunder.

This claim being, as against the public domain of Mexico, a subsisting claim for land held and occupied at the date of the treaty of Guadalupe Hidalgo of 1848, and no opposition having been made known to the surveyor general to his approving said claim, the same is held by this office to be a good and valid one against the domain of the United States, and is recommended for the confirmation of the Government of the United States to the legal representatives of Juan Bautista Valdez, deceased, and a transcript of all the papers in the case is herewith transmitted for the action of Congress in the premises.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 16, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, December 11, 1871.*

The foregoing transcript is a correct copy of all the papers in private land claim No. 55, in the name of Juan Bautista Valdez, deceased, on file in this office.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land claim, reported as No. 56, known as the Gotera grant, made to Juan de Dios Peña, and others, May 18, 1830. Approved by the surveyor general of New Mexico, November 25, 1871.*

JUAN DE DIOS PEÑA ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico.*

*To the Hon. T. Rush Spencer, United States surveyor general for said Territory.*

Your petitioners, the present claimants of a certain tract of land hereinafter described, residents of the county of Santa Fé, Territory of New Mexico, respectfully represent that they are the claimants and owners in fee of a certain tract of land lying and situate in the county of Santa Fé, in said Territory, and bounded and described as follows, to wit: On the east the Creston of Maragua; on the west the public lands; on the south a Creston de Piedra, a small round hill in the valley of the Cañada de la Baca, and a mound of stone; and on the north two Peñas Sueltas at the foot of the hill—the Cueva, Creston Colorado, Cañada Colorado, and Arco—as is designated on plat marked A accompanying this petition, all of which points are well-known land-marks in said county of Santa Fé, and are the boundaries designated by Domingo Fernandez, justice of the peace of the city of Santa Fé, department of New Mexico; and the said petitioners claim a perfect title to said lands as descendants and purchasers of Juan de Dios Peña, Ygnacio Ortiz, sr., Teodosio Quintana, Jesus Ma. Alarid, Jesus Ma. Peña, Ramon Brito, and Juan Lovato, to whom the original grant was made in the year 1830, by the governor and territorial deputation and ayunta miento, by authority of the laws, usages, and customs of the republic of Mexico then in force.

The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about 490 acres. Nor can they furnish an accurate plat of survey, as no survey of said lands has been made, but herewith append a plat of said grant as accurate as can possibly be made from the maps and well-known metes and bounds above stated, and which is supposed to be accurate enough to be placed upon the general map. The petitioners and claimants know of no other claimants to said lands. The said grantees were placed in legal possession of said land, and held by them and their representatives from the date of said grant to the present time. The original grant is hereto annexed, and prayed to be made a part of this petition, to be referred to whenever it may be necessary, as also a certified translation of said grant. Claimants filed this their said claim before you under the act of the United States Congress (section eighth) approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," and respectfully ask confirmation by you of said claim.

SAM'L ELLISON,  
*Attorney for Claimants.*

EXMO. SOR: Los ciudadanos Juan de Dios Peña, Ygnacio Ortiz, sr., Teodosio Quintana, Jesus Ma. Alarid y Jesus Ma. Peña, Ramon Brito, y Juan Lovato, vecinos de esta capital, ante V. E. con el debido respeto se presentan y dicen: Que hayandose un paraje conosido con el nombre de La Gotera, dos mil vs., poco mas ó menos, abajo de Maragua, terreno valdío, y hasta la fha sin dueño que lo cultive y posee, y encon-

trandose los impetrantes en el caso de verificarlo, apropiandose el dro. que como ciudadanos mejicanos les corresponde, ocurren á V. E. para que a nombre de la augusta nacion, á que tienen el honor de dependen, se sirva donarles el espresado terreno, satisfecho V. E. de que los impetrantes al solicitar esta gracia i para haser por medio de sus afames la felicidad que es conseguiente, jamas se olvidarán de proteger en esta parte el recomendable y distinguido ramo de agricultura. Tales son, E. S., los sentimientos de los que respetuosos solicitan, y por los cuales y sus dros. no dudan que V. E. tendra la vondad de fayar tan favorable como se prometen de su conosida rectitud y patrioticos sentimientos, concediendoles igualmente a los impetrantes la gracia de que al tiempo de que se les documenta tal terreno se especifique que la agua con que unicamente se cuenta en el espresado sitio no pueda autoridad alguna haser la estensiva á otros que a los mencionados. Entre renglones Ygnacio Ortiz 1º=Vale. Entre renglones Ramon Brito, Juan Lovato=Vale.

SANTA FÉ, Abril 14, 1830.

JUAN DE DIOS PEÑA.  
JESUS MA. ALARID.  
TEODOSIO QUINTANA.  
JESUS MA. PEÑA.  
RAMON BRITO.  
JUAN LOVATO.

(Quadno. 1º, fo. 1º)

SORA. DE LA EXMA. DIPUTON. TERRITORIAL DE NVO. MO.,  
Sta. Fé, 1º de Mayo de 1830.

Por acuerdo de S. E. de 30 de Abril po. po. pase esta instancia al r. ayuntamiento. de este capital pa. que informe.

ABREU, *Srio.*

SRIA. DE LA R. AYUNTAMTO. DE ESTA CAPITAL.

En seccion de este dia acuerdo S. Sa. se nombre una comicion pa. q. entienda en el informe que S. E. pide sobre la solicitud precente, ruayendo la comicion en los Sres D. Domo. Fernz. Alc. 2º de esta ciudad, y los tres Regs. D. Grego. Garcia y D. Franco. Archiveque, cuyos sres. se hallan en el partido de Galisteo pa. donde tiene q. marchar el referido Sor. Fernandez.

ORTIZ.  
ABREU, *Srio.*

SAN CHRISTOVAL, 12 de Mayo de 1830.

YLUSTRE SOR. En virtud de la comision que en union de los dos regidores Dn. Gregorio Garcia y Dn. Franco. Archiveque, se sirvio nombrar V. S. me acocio gl. Dn. Gregorio luego lo cite y quedo a pasar al parage citado; mas luego lo echo a la espalda, y me ha tenido aguardando hasta el dia al otro. Lo hize buscar en su rancho y no se hayara, y aguardando a uno y otro ha cido la dilacion. Sin embargo de esto dire mi sentir aunqe. siénto el que sea solo.

ARTICULO 1º. El tereno de la Gotera que solicitan los impretrantes es valdio, yermo, y sin dueño alguno que represente mejor derecho; aunque havido otros impetrantes de dho. tereno, a los que se le ha negado po S. E. al diputacion téritorial, por el motivo de que se abrevan alli los animales.

ARTICULO 2º. El dho tereno is muy ameno, espacioso, y promete fertilidad; tiene agua suficiente a la labranza, siempre que trabajan con anelo

en ponerla la asequia que deven trabajar los ympetrantes, si ce les conceden lo que solicitan.

ARTÍCULO 3º. Siendo tan encargado en las leyes el fomento de la agricultura de que pende la grandeza y riqueza de los pueblos, no puedo menos que decir que si este beneficio se niega, nunca tendremos ausilios, y siempre estaremos espuestos a la indigencia de la miseria y de la hambre que se padece en estas partes, y las tierras se mantendra valdías, infrutíferas y sin dar provecho alguno.

ARTÍCULO 4º. No haya por motivo justo para que se les niegue lo que solicitan; el cuanto de los animales ni por esto se deven perjudicar, pues bastante tereno les queda para pastos y aguas libres, las que nunca se les negaran, solo si la que nesecitan para su riego y la otra siembre; la mantendran suelta, como los animales que anden sueltos; no cobraran daño alguno; fortificaran cerca para su resguardo, con lo demas necesario.

ARTÍCULO 5º. Dos mil quinientos varas castiyanas solicitan, estas se pueden emesar a contar del lindero de Maragua de abajo; se les mandara poner mojoneras que distingan; tendran ganado bacuno y y bejuno para su mantunencion, no en mucha cantidad para que no se perjudicar los egidros; seran los linderos oriente a poniente donde alcansen las mil varas, y de norte a sur de loma a loma; no coreran animales de manera de que por esto resulte perjuico.

V. S., con la prudencia que acostubra, se sirvera el ver este corto informe y conformarse con el en lo que crea de justicia, acreciendo ó disminullendo sus articulos, dando de mis cortas luces dicimulo por no ser tantas, y ser muy cortas. Fecha ut supra.

DOMINGO FERNANDEZ.

SANTA FÉ, *Mayo 17 de 1830.*

Pase el informe anterior q. consta en esta solicitud al sor. gefe politico, para q. este sor. gefe lo haga presente à S. E. la diputacion de este territorio como aprovado ya por este respete. ayuntamiento. de esta cuidad, para q. S. E. haga de él los usos que juzgue convenientes. Haciendo los veces de sindico, por estar ausente el regr. ultimo de este cuerpo, conformandose al mismo tiempo esta ayuntamiento. con la falta de las firmas de los otros dos individuos q. como compucieron la comicion, por haberse resistido estos en obedecer el acuerdo q. S. Sa. tubo cuando los nombró.

ORTIZ.

M. ABREU, *Srio.*

(Quad'eno 1º fo. 1º.)

SECRETARIA DE LA  
EXMA. DIPTON. TERRITORIAL DE N. MEJICO,  
*Sta. Fé, 18 de Mayo de 1830.*

En seccion extraordinaria de hoy se ha servido S. E. a la solicitud de los impetrantes vajo los terminos y condiciones que espresen los articulos aprovados por el r. ayuntamiento. de esta capital en el informe antesedente; y para las consiguientes determinaciones de orden de la insinuada E. corporacion pase esta al alcalde constitucional 1º, nombrado de esta capital.

ABREU, *Srio.*

STA. FÉ, *18 de Mayo de 1830.*

En virtud del anterior decreto de S. E., y por hallarse mi companiero sumamte. ocupado en negs. de la admon. de justicia, se sirvió cometer la

diligencia à que pasase yo a poner en posesion à los solicitantes el terreno conosido en lo antiguo La Gotera, y actualmte. por el de N. Sra. del Pilar, y para la devida constancia le pongo por diligencia q. firmo con testigos de asissa., pr. receptoria, á falta de escribano, que no hay en los terminos de dro. Q. doy fé.

DOMINGO FERNANDEZ.

Assa: JESUS RIVERA.

Assa: MIGUEL SENA.

*Balga por el sello cuarto pa. los años de 1830 y 31.—[Rubric.]*

En este puesto de N. Sra. del Pilar de Zaragoza, a los veinte y dos dias del mes de Mayo de mil ochocientos treinta: Yo el c. alcalde constitucional 2º, nombrado de la ciudad de S. Franco. de Sta. Fé, acompañado con los testigos de asistencia é yndividuos del puesto de Galisteo, que fueron el Teniente C. Luis Lovato, José Sandoval, Miguel Rodriguez, Ygnacio Chaves, Juan Lovato, Vicente Moya, siendo como a las dose del dia se hisieron presentes las personas de D. J. de Dios Peña, D. Ygnacio Ortiz, D. Teodosio Quintana, D. Juan Ma. Peña y D. J. Ma. Alarid, D. Ramon Brito, y D. Juan Lovato, los que pidiendo el cumplimto del decreto de S. E., aserca de que se les ponga en posesion del terreno indicado, y despues de haverles leydo de berbo a berbo todas las diligencias practicadas, y haviendose conformado con ellas y sus requisitos, prometieron guardar en toda forma lo prevenido en las L. L. de posesion, formar casa, abrir sementera y de consigte. formalizar su serca, en tal virtud inmediateamente., asistidos de mi dho alcalde, fueron constituidos personalmte. a tomar la nacional y personal posesion del citado terreno, a los cuales tomé de las manos y les puse en posesion, y ellos haciendo actos de verdadera posesion, dieron voses de alegria, juvilo y contento, diciendo, Vivas ntro. actual presidte, viva la soverana nacion mejicana, aparcieron tirando al aire puñados de tierra, piedras, arrancarron sacate y ramas de arboles, se pasearon por dho. sitio, hicieron otras seremonias y actos de posesion, en señal de la q. dijeron; tomaron de dhas tierras quieta y pasificamente. sin contradiccion de persona alguna; y haviendo comensado a medir dho. sitio se le entregaron a D. Juan de Dios Peña quinientas varas, siendo sus linderos de oriente el creston y la puerta de la cañadita; pr. el poniente con la cabeza de la Cañada de la Baca; por el sur un creston de piedra; por el norte dos peñas. sueltas al pie de la loma. Sigue la medida y se le entregaron quinientas varas a D. Ygnacio Ortiz, que linda por el oriente con tierras de Peña; por el poniente con tierras de Quintanas; pr. el sur con una loma pequeña redonda, en el mero plan de la Cañada de la Baca; por el norte la cueva. Se le entregaron quinientas varas a D. Teodosio Quintana, lindantes por el oriente con D. Ygnacio Ortiz; pr. poniente con tierras de D. Jesus Ma. Peña; por el sur una sta. cruz que esta en la loma; por el norte una tetilla colorada donde haze puertesito. A. D. Jesus Ma. Peña se le hentregaron quinientas varas, lindantes pr. el oriente con tierras de Quintana, por el poniente con tierras de \* \* \*

*Balga por el sello quanto pa. los años de 1830 y 31.—[Rubric.]*

Dn. Jesus Ma. Alarid, por el sur una loma pelada, y una mogonera de piedra; por el norte un creston colorado, con varias cuevitas medianas. A D. Jesus Ma. Alarid se le entregaron quinientas varas, lindantes pr. el oriente con tierras de J. Ma Pena; pr. el poniente con tierras de Ramon Brite; por el sur la punta de la loma de la Cañada Colorada; pr. el norte

el [torn] que divide del arco a la parte de arriba. Se le senalaron sien varas al dho. Brito, lindantes por el oriente con D. Jesus Ma. Alarid; por el ponte con tierras de Juan Lovato; pr. el sur con las lomas, y por el norte con el arco. A Juan Lovato sien varas, siendo sus linderos por el oriente con tierras de Ramon Brito, y por el poniente con la tierra valdia que queda abajo; por el sur las lomas, y por el norte el arco, y para que los citados poseedores hagan el uso que bien visto les fuere cumplidos que sean los requisitos puestos por la ley, la gozen por si, sus hijos, herederos y subseores, con franca y gral. admon. y puedan venderla al a persona o personas que les fuere bien visto, a las que les haran entender y saver los requicitos puestos a los merzenados, pa. que les guardan en la misma forma que ellos estan obligados, esento en darla en venta a militar, ni a clerigos, ni a comunidad religiosa, ni a cofradias, pr. ser manos muertas y gen el auto de haserse asi buelva a recaer el dho. sitio a poder de la nacion mejicana, y sea conosido por bienes de realengo aqui en ella pertenejen, dando aqui por expresados cuantos requisitos sean nesarios pa la validacion y firmesa y constancia perpetua de esta donacion como prevenidas por dro. Y para la mayor fuerza y vigor me suplicaron los impetrantes ya citados pusiera mi autoridad y decreto judicial, y yo dho. alcalde dije que la interponia e interpuse etc. por dro. me es conferida, y doy fé conoser a los merzenados por personas de buena opinion, de consig'te asendosos en el trabajo, y la firmaron conmigo y los de mi asissa, con quienes actuo, pr. notoria falta de escrivano, como llevo dho. arriba, firmandolo tambien los demas de los que se hallaron presentes.

**MOST EXCELLENT SIR:** The citizens, Juan de Dios Peña, Ygnacio Ortiz, Sr. Teodosio Quintana, Jesus M'a Alarid, and Jesus M'a Pena, Ramon Brito, and Juan Lovato, residents of this capital, before your excellency, with due respect, appear and say that there is a place known by the name of the Gotera; two thousand varas, a little more or less, below Maragua, which is public land, and up to this time without an owner to cultivate and hold the same, and the petitioners being able so to do by availing themselves of the rights which, as Mexican citizens, they enjoy, apply to your excellency, praying that you will, in the name of the august nation to which they have the honor to belong, be pleased to grant them the said land, should your excellency be satisfied that the petitioners will, by obtaining the concession, proceed to enjoy by their own labor and industry the benefits arising therefrom, and that they will ever protect the laudable and distinguished branch of agriculture, for such, your excellency, is the intention of those who present this application, and for which reason, and in view of these rights, they do not doubt but that your excellency, in accordance with your known integrity and patriotic sentiments, will grant their application on as favorable terms as practicable, and will, at the same time, specify that the water on said land shall not, by any authority whatever, be made common to any other person than these petitioners.

Interlined: Ygnacio Ortiz, sr., valid. Interlined: Ramon Brito and Juan Lovato, valid.

JUAN DE DIOS PEÑA.  
 JESUS M'A ALARID.  
 TEODOSIO QUENTANA.  
 JESUS M'A PEÑA.  
 RAMON BRITO.  
 JUAN LOVATO.

(Vol. 1st, p. 1st.)

SECRETARY'S OFFICE OF THE MOST EXCELLENT  
TERRITORIAL DEPUTATION OF NEW MEXICO,*Santa Fé, May 1, 1830.*

By the action of its excellency of the 30th of April last this petition will pass to the respectable ayuntamiento of this capital for its report.

ABREU, *Secretary.*

SECRETARY'S OFFICE OF THE RESPECTABLE  
AYUNTAMIENTO OF THIS CAPITAL.

In the session of to-day it was resolved by the body that a committee be appointed to investigate and report upon the petition as requested by his excellency, which is composed of Messrs. Domg'o Fern'z, second alcalde of this city, and the aldermen Greg'o Garcia and Fran'co Archibeque, who are now in the precinct of Galisteo, to which place the said Mr. Fernandez will proceed.

ORTIZ, *President.*

ABREU, *Secretary.*

SAN CRISTOBAL, *May 12, 1830.*

ILLUSTRIOUS SIR: By virtue of the appointment which the honorable corporation thought proper to make to me, in connection with the two aldermen, Gregorio Garcia and Francisco Archibeque, I at once notified Gregorio thereof, who said that he would proceed to said place, but failed to attend, and kept me waiting up to this date. I sent to the ranch of the other for him, but he could not be found, and in waiting for both have caused this delay. Nevertheless, I will state my opinion, although I regret that it is of one only.

ARTICLE 1st. The land of the Gotera, for which the petitioners apply, is unoccupied land, and without any owner who can present a better right. Although others have applied for said lands, their application was not granted by the illustrious territorial deputation, for the reason that their animals watered there.

ARTICLE 2d. The said land is very desirable, extensive, and promises fertility, has water sufficient for agriculture, provided they construct properly thereon the acequia, as they should, if their application be granted.

ARTICLE 3d. Agriculture being so highly recommended by the laws, and upon which depends the greatness and wealth of communities, I cannot refrain from saying that if this branch of industry be neglected, we will never acquire sufficient supplies, and will ever be exposed to the indigence, misery, and want which are so much felt in these parts, and the lands would remain wild and unproductive, yielding no profits.

ARTICLE 4th. I do not deem the question relative to animals as being one of sufficient ground for refusing the application of the petitioners, nor will they be troubled by said stock. There are sufficient lands to pasture them on and water free, which will never be denied, except that required for irrigation. The fields should be inclosed by fences or otherwise, so that loose animals cannot damage them, and in no case should the applicants demand damages for injuries done by loose animals.

ARTICLE 5th. The application is for two thousand five hundred Castilian varas, which should be measured from the lower boundary of Maragua. The applicants should be ordered to place landmarks by which said lands may be known. They will have cattle and sheep for

their maintenance, but not in large numbers, and in order that their herds may not injure their pasture lands, the boundary should run from east to west to where the thousand varas reach, and from north to south and from hill to hill; animals should be driven away in a manner so as not to injure them.

Sir, you will please, with your accustomed prudence, receive this short report, and approve such part thereof as you may deem just, and enlarge or diminish its articles, and also pardon my limited ability. Date as above.

DOMINGO FERNANDEZ.

SANTA FÉ, *May 17, 1830.*

The foregoing report will go to the political chief, so that said officers may lay the same before its excellency, the deputation of this territory, as approved by the respectable ayuntamiento of this city, so that the said respectable body may make such disposition thereof as they may deem proper, I acting as syndic, the junior alderman being absent, and that the ayuntamiento dispense with the want of the signatures of the other two members of the committee, who refused to serve in obedience to the appointment extended to them by this body when they were selected.

ORTIZ, *President.*

ABREU, *Secretary.*

(Vol. 1st, page 1st.)

SECRETARY'S OFFICE OF THE MOST EXCELLENT  
TERRITORIAL DEPUTATION OF NEW MEXICO,

*Santa Fé, May 18, 1830.*

At the extra session of to-day this respectable body has been pleased to grant the prayer of the petitioners under the terms and conditions expressed in the articles approved by the respectable ayuntamiento of this capital, as set forth in the former report, and in order that the same may be properly executed the said honorable ayuntamiento will direct that the application be referred to the first constitutional alcalde of this capital to be carried out.

ABREU, *Secretary.*

SANTA FÉ, *May 18, 1830.*

By virtue of the foregoing decree of its excellency, and my associate being much engaged in the administration of justice, he has been pleased to confide to me the duty of placing the applicants in possession of the land formerly known as the Gotera and now by the name of our Lady of Pilar. In testimony whereof I reduce my proceedings to writing, and sign the same in presence of attending witnesses, as actuary in the absence of a notary, there being none as provided by law, to which I do hereby certify.

DOMINGO FERNANDEZ.

Witness: JESUS RIVERA.

Witness: MIGUEL SENA.

*Valid for the fourth seal of 1830-'31.—Rubric.*

At this place of our Lady of Pilar, of Saragosa, on the twenty-second day of the month of May, one thousand eighteen hundred and thirty, I, citizen, second constitutionally appointed alcalde of the city of San Francisco de Santa Fé, accompanied by attending witnesses and individuals of Galisteo, who are the citizen Lieutenant Luis Lovato, José



Sandoval, Miguel Rodriguez, Ygnacio Chavez, Jesus Lovato, and Vicente Moya, it being about 12 o'clock of the day, D. J. de Dios Peña, D. Ygnacio Ortiz, D. Teodosio Quintana, D. Jesus Ma Peña, D. J. Ma Alarid, D. Ramon Brito, and D. Juan Lovato appeared in person, and asked for the execution of the decree of its excellency, relative to placing them in possession of said lands, and after having read to them, word for word, all the proceedings had, and they having agreed thereto, and to the conditions thereof, promising to observe fully the provisions of the laws of possession to build houses, open fields, and also to fence in the same: Therefore, I, said alcalde, being present, they were empowered personally to enter into the national and personal possession of said land, and I placed them in possession thereof, and they performed ceremonies of true possession, shouted in joy, pleasure, and contentment, saying long live our president, and long live the sovereign Mexican nation, throwing and scattering handfuls of earth and stone in the air, and breaking branches from trees. They walked over the said tract and performed other ceremonies and acts of possession, in sign of the possession of said lands, which they declared they took possession of peaceably and quietly, without the objection of any person, and commencing to measure said land, there were delivered to D. Juan de Dios Peña five hundred varas, bounded on the east by the Creston and the outlet of the cañada; on the west by the head of the Cañada de la Baca; on the south, a Creston de Piedra; on the north two Peñas sueltas, at the foot of the hill. The measurement being continued, five hundred varas were delivered to D. Ygnacio Ortiz, bounded on the east by the lands of Peña; on the west by the lands of Quintana; on the south a small round hill, in the valley of the Cañada de la Baca; on the north by the Cueva. There were delivered to D. Teodosio Quintana five hundred varas, bounded on the east by [lands of] D. Ygnacio Ortiz; on the west by lands of D. Jesus Ma Peña; on the south by a santa cruz on the hill; on the north a Tetilla Colerada, where it forms a Puestisito.

*Valid for the fourth seal of 1830 and 1831.—Rubric.*

To D. Jesus Ma. Peña there were delivered five hundred varas, bounded on the east by the lands of Quintana; on the west by lands of D'n Jesus Ma. Alarid; on the south by a Loma Pelada and a mound of stone; on the north by a creston colorado, with several small cuevitas. To D. Jesus Ma. Alarid there were delivered five hundred varas, bounded on the east by lands of J. Ma. Peña; on the west by lands of Ramon Brito; on the south by the point of the hill of the Cañada Colorado; on the north by the creston that divides the Arco on the upper part. There were assigned to the said Brito one hundred varas, bounded on the east by [lands of] D. Jesus Ma. Alarid; on the west by lands of Juan Lovato; on the south by the hills, and on the north by the Arco. To Juan Lovato one hundred varas, the boundaries thereof being, on the east, the lands of Ramon Brito; on the west, public lands below; on the south, the hills, and on the north, the Arco; and in order that the said possessors may make such use thereof as they deem proper, after the requirements of law shall have been complied with, they for themselves, their heirs, children, and successors may with free and general administration enjoy the same, and may sell it to the person or persons they may see fit, whom they shall inform and give to understand the conditions imposed upon the grantees, in order that they may observe them in the same form as the grantees are required

to do, except not to sell them to the military nor to the clergy nor to religious communities nor religious societies, they being mortmain, and in the act of so doing the said tract shall revert back to the Mexican nation, and be known as public land, to which they shall appertain; giving here, as if expressed, all the necessary requirements of law for the validity, security, and perpetual evidence of this donation, as provided by law, and for the greater force and effect thereof, the aforesaid applicants requesting me to attach hereto my authority and judicial decree, and I, the said alcalde, declared that I would do so, and did so so far as I am authorized by law, and I certify that I know the grantees to be persons of good repute and of industrious habits, and that they signed this with me and my attending witnesses, with whom I act as actuary, from the known want of a notary, as I have above stated, the other persons present signing also.

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

I, Samuel Ellison, do solemnly swear that the foregoing nine pages, and a part of the tenth, is a true and correct translation of the original grant, as presented to me, to the best of my knowledge and belief.

SAML. ELLISON, *Translator.*

Sworn to and subscribed before me this 23d day of March, 1871.

[SEAL.]

M. A. BREEDEN,  
*Deputy Clerk.*

OFFICE NEW MEXICO MINING COMPANY,  
*Santa Fé, August 16, 1871.*

DEAR SIR: M. Nasario Gonzales has planted a farm upon the north-eastern portion of the "Ortez Mine Grant," a private land-claim confirmed by Congress of the United States, and now owned by, and held in possession by the New Mexico Mining Company, a lawfully incorporated body of which I am resident agent. I am informed that in thus trespassing on the property of the New Mexico Mining Company, he puts forward a certain pretended claim he has on said land, and that he has filed with you papers pretending to be connected with some "grant" he claims to exist and be owned by him, and he asked your investigation and approval thereof. I hereby enter the protest of the New Mexico Mining Company against this action, and ask suspension of any and all proceedings in his favor or in the premises, and that time be given to show the utter invalidity of said claim of said Nasario Gonzales.

Very truly,

W. C. RENCHER,  
*Agent New Mexico Mining Company.*

T. RUSH SPENCER, Esq.,  
*Surveyor General of New Mexico.*

In the matter of the confirmation of the grant of land represented as the "Gotera," and as made to one Juan de Dios Peña *et als.*

*To the Hon. T. Rush Spencer, surveyor general of New Mexico:*

The New Mexico Mining Company, a corporation duly created and organized under the laws of the Territory of New Mexico, respectfully represents that the above-named grant is void and invalid, and protest against the same being confirmed, for the following reasons:

First. Said pretended grant was not made nor signed by the governor

of New Mexico, at that time a territory or province of the republic of Mexico, as required by law.

Second. The proceedings touching the placing of the grantees in possession by the constitutional alcalde are not signed nor certified to by said officer.

Third. From the testimony adduced on the hearing it does not satisfactorily appear that the conditions prescribed in this pretended grant, as to buildings, houses, fences, and possession, were formally, much less faithfully or strictly, complied with.

Fourth. The testimony is vague and indefinite in that part touching the locality of the grant, one witness testifying the same to be three miles below the town of Galisteo, and the other, two leagues.

Fifth. The so-called grant calls for 2,000 varas, and the grantees, it is claimed, were placed in possession of 2,700 varas.

Sixth. The land asked for in this application is not a part of the United States public domain, and has been set apart therefrom, and the General Land-Office has no power or authority to entertain the application. The pretended grant sought to be confirmed lies almost wholly and entirely within the limits of the "Ortiz Mine Grant," which was granted by due form of law by the Mexican Government to Francisco Ortiz and Ygnacio Cano on the 19th day of December, A. D. 1833, and duly confirmed by act of Congress approved March 1, A. D. 1861, and surveyed, under authority and instructions from the General Land-Office, during the month of August, 1861, and the survey approved, and is now owned and in the possession of the aforesaid "New Mexico Mining Company," having been occupied and in the quiet, peaceable, and undisputed possession of said company, or those under whom they hold, for more than thirty-seven years; also on and in and about which the said New Mexico Mining Company, resting upon the perfect title secured to them finally by the said confirmative act of Congress, has spent at various times about the sum of \$300,000.

Your petitioners further state, in support of their said protest, that the fact that the Mexican Government, through its rightful officers, only about three years after the date at which it is pretended this so-named "Gotera Grant" was made, did certainly grant to said Francisco Ortiz and Ygnacio Cano the "Ortiz Mine Grant," which includes and embraces the Gotera grant, raises the presumption—even induces the conclusion—that the government of Mexico had a right to make the "Ortiz Mine Grant," and therefore that the grantees of the pretended "Gotera Grant" had either failed to comply with the conditions prescribed therein and thereby lost their right thereto, or that such never existed.

As to this "Gotera Grant" being included within the surveyed boundaries of the "Ortiz Mine Grant," the affidavit of William C. Rencher, resident agent of the New Mexico Mining Company, is herewith filed, marked Ex. A, and prayed to be taken as a part of this protest.

For the above reasons your petitioner respectfully asks that said pretended "Gotera Grant" be rejected and the confirmation thereof refused.

S. B. ELKINS,

*Attorney for the New Mexico Mining Company.*

SANTA FÉ, NEW MEXICO, *September 20, 1871.*

TERRITORY OF NEW MEXICO, *County of Santa Fé:*

Personally appeared before the undersigned, clerk of the district court

of the United States for the first judicial district of the Territory of New Mexico, William C. Rencher, of the Territory and county aforesaid, who, being duly sworn, on his oath, says: That he is the resident agent of the "New Mexico Mining Company;" that during the month of August, A. D. 1871, he became desirous of knowing positively and certainly the exact eastern and northern boundaries of a tract of land known as the "Ortiz Mine Grant," now belonging to the "New Mexico Mining Company," which grant had once before been surveyed, under orders of the Land-Office of the United States, by the surveyor general of the Territory of New Mexico; that with this view he employed and took with him to said "Ortiz Mine Grant," and to assist him in surveying and ascertaining the boundaries of said grant, a skillful surveyor, who is as such in the employment of military service of New Mexico, and with him chainmen to constitute a full and competent surveying party; that he also obtained and carried with him a copy of the field-notes of Mr. Means, the former surveyor of said grant under authority of the surveyor general; that with these aids he did carefully ascertain and verify the correct location of the northeast corner of said grant according to said field-notes and the boundary lines therefrom toward the south and the west, and also familiarized himself with the country on these northern and eastern boundary lines.

This affiant further states that he has examined the application now before the surveyor general of New Mexico for the confirmation of a tract of land represented as the "Gotera Grant," and the description and accompanying map of the same, and that from the knowledge obtained by the above-mentioned survey he knows said described "Gotera Grant," upon which parties now appear as trespassers upon the New Mexico Mining Company, lies, in the greater part, or almost entirely, as far as the vague delineation said Gotera application will permit him to say, within the boundary lines, and in the northeast corner of said "Ortiz Mine Grant."

This affiant further states that by reason of his being resident agent of said New Mexico Mining Company he has had charge of said Ortiz Mine Grant and personal supervision thereof, and that only within the past two months has he learned that there was an adverse claim to that portion of the "Ortiz Mine Grant" covered by the said described "Gotera Grant," and that he has never before thus recently known of anything contrary to the universal recognition of and acquiescence in the title of the "New Mexico Mining Company" over this portion of the Ortiz Mine Grant.

W. C. RENCHER.

Sworn to and subscribed before me this 20th day of September, A. D. 1871, at Santa Fé, New Mexico.

[SEAL.]

WM. BREEDEN,  
Clerk United States District Court,  
First Judicial District, Territory of New Mexico,  
By EBEN EVERETT,  
Deputy Clerk.

TERRITORY OF NEW MEXICO,  
County of Santa Fé, ss :

This day personally appeared before me, the undersigned, clerk of the first judicial district court of said Territory, Nasario Gonzales, who being duly sworn deposes and says: That he is part owner by purchase of the Gotera Grant, in the county of Santa Fé, said Territory, made on the 22d day of May, A. D. 1830, to Juan de Dios Peña, Teodosio

Quintana, Jesus Ma. Alarid, Jesus Ma. Peña, Ignacio Ortiz, Sr. Ramon Brito, and Juan Lovato, by the government of the Republic of Mexico, and that he has made diligent search for the missing portion of the original documents pertaining to said grant, containing the names of the justice of the peace, Domingo Fernandez, and the attesting witnesses who were present when said grantees were placed in possession of said grant by the said justice of the peace, and has not been able to find the same.

NASARIO GONZALES.

Subscribed and sworn before me this 23d day of March, A. D. 1871.  
[SEAL.]

M. A. BREEDEN.

*Deputy Clerk.*

JUAN DE DIOS PEÑA ET AL.

PRIVATE LAND CLAIM.

FRANCISCO ORTIZ Y TAFOLLA, being by the surveyor general sworn, on his oath declares as follows :

Question. What is your name and age, and where do you reside, and how long have you resided where you now live ?—Answer. My name is Francisco Ortiz y Tafolla ; I was born in January, 1823, and I reside now and have resided since I was a year old at Santa Fé, New Mexico.

Q. Do you know the ranch called the Gotera ; and, if so, state where it is situated and what is its extent ; and have you any interest in that land ?—A. I know the ranch mentioned. It is situated in the county of Santa Fé, on the Galisteo Creek, about three miles below the town of Galisteo, on both sides of the creek. I am not acquainted with the limits or the size of the tract. I have known the ranch of the Gotera since about the year 1835. I have no interest whatever in the land.

Q. Who at that time occupied the ranch of the Gotera ?—A. It was then occupied by Francisco Baca y Pino and Ignacio Ortiz.

Q. At that time did those persons have houses built at the place, an acequia opened, and the land fenced ?—A. I am not aware whether they did or not.

FRANCISCO ORTIZ Y TAFOLLA.

Sworn to and subscribed before me this 17th day of April, 1871.

T. RUSH SPENCER,

*Surveyor General.*

JUAN ROMERO Y TENORIO SWORN :

Question. What is your name and age, where do you reside, and how long have you resided there ?—Answer. My name is Juan Romero y Tenorio ; I am fifty years of age, and have always resided at the Cienega, in this county of Santa Fé.

Q. Do you know the ranch of the Gotera ; and, if so, state where it is situated, how long you have known it, and who occupied it when you first knew it, and who since ; and have you any interest in that land ?—A. I know the place mentioned, and it is situated in Santa Fé County, about two leagues down the river west of the town of Galisteo. I have known the place some twenty years, and when I first knew it it was occupied by Ignacio Ortiz, and since then by various others. I have no interest whatever in the land.

Q. Was there an acequia opened on the tract; if so, how was it opened, and was any portion of the tract inclosed by a fence, and were there any houses built on the tract?—A. There was being constructed an acequia, fences and houses built under the personal superintendence of Ignacia Ortiz, in which work I was one of the employés, when all the men were driven off by the hostilities of the Indians.

Q. Was the land planted and any crops raised from it; and, if so, was it irrigated from the acequia in its cultivation?—A. The land was planted and crops raised and gathered from it for three or four years, as the hostile Indians would permit, and the land was irrigated from the acequia.

Q. Have the claimants in any way occupied continuously the ranch from the time they were, as you state, driven off by the Indians; and, if so how? and state, if you can definitely, how many years crops were raised on the land before they first ceased to cultivate it.—A. After they were driven off, as stated, crops were raised for at least four years from the land, and after it was no longer cultivated the proprietors continued to occupy the place as a stock ranch, for which purpose they had huts thereon for the use of the herders, which were occupied by these.

Q. State if you can the boundaries of the land known as the Gotera grant, and the size of the grant.—A. The boundaries are on the north the Cañada de San Marcos, on the south the Cañada Coloradó, on the east the Cuevitas Hill, and on the west the Peñasco del Arco, but the distances from one to the other of these land-marks I cannot state.

Q. How many and what kind of live stock did claimants usually have upon the ranch of the Gotera?—A. The stock was cattle and horses, and usually from one hundred and twenty-five to one hundred and fifty head.

his  
J. ROMEROY + TENORIO.  
mark.

Sworn to and subscribed before me this April 17, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

AGUSTIN DURAN sworn :

Q. What is your name and age, and where do you reside, and how long have you resided there?—A. My name is Agustin Duran, and am seventy-nine years of age; I reside in Santa Fé, and have lived here all my life.

Q. Have you held official positions under the Mexican Government, and if so, what?—A. I have held such official positions. I was for some eight years collector of customs for the department of New Mexico, and, up to the time the American Government took possession of the country in August, 1846, was supervisor of revenue for said department. I have several times been member of the legislative assemblies of New Mexico, and local alcalde.

Q. Were you or were you not a member of the legislative assembly of New Mexico in the year 1830, and, if so, was there or not made by that assembly a grant to land at the place in the present county of Santa Fé, known as the Gotera, and, if so, to whom was the grant made?—A. I was a member of the assembly in that year. There was such a grant made by it then at the place mentioned, the grantees, according to my recollection, being Ignacio Ortiz, Jesus Maria Alarid, and Teodosio Quintana. There were other grantees, but I do not now remember their names.

Q. Were the grantees placed formally in possession of the land granted them at the Gotera, and, if so, by whom and what authority?—  
A. They were placed in possession, and I think by Domingo Fernandez, an alcalde who acted under order and authority of the legislative assembly.

Q. Did the grantees open an acequia and fence the land or any portion of it at the Gotera, and did they build any house or houses there?—  
A. They opened there an acequia, and built huts and also fences.

Q. Did the grantees plant the land, and if so, how many years did they continue to cultivate it?—  
A. They did plant upon the land, but I cannot state how many years they continued to cultivate it, except that they did so for a number of years.

Q. Have the claimants been in possession of the land from the time it was granted them until the present time?—  
A. They were in possession of it for more than five years after the grant was made—immediately after it was made—and the tract has always been reputed to belong to them. I am aware that they occupied the land for five years as stated, from the circumstance that I owned and occupied an adjoining farm, and frequently saw evidences of such occupation by them.

Q. Have you any interest in the land of the Gotera here in question?—  
A. I have none whatever.

AGUSTIN DURAN.

Sworn to and subscribed before me this April 17, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

JUAN DE DIOS PEÑA *et al.* }  
*versus* } Gotera Tract.  
THE UNITED STATES. }

AGUSTIN DURAN, being by the surveyor general recalled at the instance of the claimants and again sworn, on his oath declares:

By SAM ELLISON, attorney for claimants:

Question. When petitions for land were under the Mexican Government presented, by whom was it customary to refer such petitions in the absence of the governor; to the departmental assembly?

(Question objected to by S. B. Elkins, attorney for New Mexico Mining Company, as being a question of law. Objection overruled by surveyor general.)

Answer. By the secretary.

Q. State, if you recollect, who was the secretary of the Territory of New Mexico about the year 1830.—  
A. Santiago Abreu was then secretary.

Q. Did you in the lifetime of Santiago Abreu know him personally, and have you seen him write?—  
A. I knew him long and quite intimately, and have seen him write often.

Q. Examine the document now shown you, bearing a certificate dated May 1, 1830, which purports to be signed by said Abreu, and state whether said signature is genuine, in your opinion.—  
A. I have examined the signature, and it is the genuine one of said Abreu.

Q. State, if you know, whether the governor kept a book of record of his acts and proceedings, and, if so, what has become of the book?—  
A. He kept such a book of his official acts, but what has been done with it, or whether in existence still, I am unable to say, as many of the old records and archives have been lost and destroyed and burned.

Q. Who was the recognized political head of the Territory in the absence of the governor?—A. The secretary of the government.

AGUSTIN DURAN.

Sworn to and subscribed before me, this November 25, 1871.

T. RUSH SPENCER,

*Surveyor General.*

JUAN DE DIOS PEÑA ET AL.

This claim was filed in the office March 23, 1871, and was set for final trial for the 25th of November following, on the documentary and other evidence filed and produced under the act of Congress of July 22, 1854.

On the 16th of August last a protest was filed with the surveyor general by the resident agent of the New Mexico Mining Company, as the present owners of the Ortiz Mine Grant No. 43, setting forth that there was a conflict on the ground between the grant to Peña *et al.* and said Ortiz Mine Grant, and requesting that all proceedings might be suspended and the company be allowed time to show the invalidity of the former.

The suspension asked was allowed till the said 25th of November when the question was taken up, the protesting agent and also the attorney for the New Mexico Mining Company, as well as the attorney for the claimants under Peña *et al.*, being present, and further testimony was presented by said claimants. No testimony of any kind was produced in support of the protest.

The validity of the grant to Peña *et al.* remaining unimpaired, the elder of the two in question, that of Peña *et al.*, necessarily remains good.

It appears from the title-papers that on the 14th of April, 1830, Juan de Dios Peña, Ignacio Ortiz, Theodosio Quintana, Jesus Maria Alarid, Jesus Ma. Peña, Ramon Brito, and Juan Lorato, petitioned the governor for a grant, with the exclusive privilege of the water available for irrigation, to a tract of land called the "Gotera," situated in the present County of Santa Fé.

The petition, on the 30th of April, was referred for report thereon to the ayuntamiento of Santa Fé, which body appointed a commission of three persons, consisting of two members of the ayuntamiento and the local alcalde, to investigate and report upon the petition, and on the 12th of May the alcalde, for the commission, made report stating the character and capacity of the land, reporting it as vacant, and in substance recommending the making of the grant prayed for. On the 17th this report was transmitted to the governor that the same might be by him laid before the territorial deputation for its action, and on the following day the deputation made the grant to the petitioners as recommended by the ayuntamiento, to which body the matter was referred back with authority and direction to execute the grant by ordering the constitutional alcalde to place the grantees in formal possession. On the 23d, all the parties being on the ground, the alcalde so placed them in possession, designating to each a specified quantity and portion of the general tract, which it appears extends across the creek north and south about one thousand varas, and of this general width assigning from east to west and describing by metes and bounds to Juan de Dios Peña, five hundred varas; Ignacio Ortiz, five hundred varas; Teodosio Quintana, five hundred varas; Jesus Maria Peña, five hundred varas; Jesus Maria Alarid, five hundred varas; Ramon Brito, one hundred varas; Juan Lorato, one hundred varas.

The title-papers, embraced in one document filed in this case and



acted on by the office, are originals. They appear to be complete with the exception of the latter part of the act of possession, which is wanting. The grant appears to have been made and executed in due manner and form, as shown by the muniment and by the testimony of witnesses examined at the investigation of the claim. The original journal of proceedings of the territorial deputation of New Mexico, on file among the archives of this office, (proceedings of May 18, 1830, page 47,) corroborates and establishes the fact of the grant.

The defect above referred to in the completeness of the act of possession is not deemed a fatal one, as the fact is proved by the testimony of witnesses that the grantees were actually placed in possession of the land by the constitutional alcalde. It appears from the affidavit filed in this case of Nasario Gonzales, who claims as the principal of the present owners of the land, that due diligent search had been by him made for the missing portion of the act of possession, but without success in finding it.

From the time the grant was made, in 1830, the grantees or their representatives have always, as shown in the evidence, been reputed the proprietors of the land in question, and it is likewise shown that they have, by cultivating the soil and occupying the tract with their live stock from year to year as the hostilities of the Indians permitted, been in the possession and enjoyment of the land to the present time.

In view and consideration of the premises the grant made on the 18th day of May, 1830, to Juan de Dios Peña, Ignacio Ortiz, Teodosio Quintana, Jesus Maria Peña, Jesus Maria Alarid, Ramon Brito, and Juan Lorato for a certain tract of land known as the "Gotera," as above described, is held to be a good and valid grant under the laws, usages, and customs of the Republic of Mexico and the treaty of Guadalupe Hidalgo of 1848, and the same is hereby approved and transmitted to the Congress of the United States, with the recommendation that it be confirmed to said original grantees and their legal representatives.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 25, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, December 11, 1871.*

The foregoing transcript is a correct copy of all the papers in private land-claim No. 56, in the name of Juan de Dios Peña *et al.*, on file in this office.

T. RUSH SPENCER,  
*Surveyor General.*

---

*Transcript of private land-claim reported as No. 57, made to José Francisco Baca y Terrus et al. June 12, 1840. Approved by the surveyor general of New Mexico November 25, 1871.*

JOSE FRANCISCO BACA Y TERRUS ET AL.

UNITED STATES OF AMERICA, *Territory of New Mexico:*  
*To the Hon. T. R. Spencer, United States surveyor general for the Territory of New Mexico:*

Your petitioners, residents of the county of Santa Fé, Territory of  
H. Mis. 181—5

New Mexico, respectfully represent, that they are the claimants and owners in fee of a certain tract of land lying and situate in the county of Santa Fé in said Territory, bounded as follows, to wit, on the east by the mouth of the Cañada del Infierno, on the west by the lands of Agustin Duran, on the south by the hills of the Arroyo de la Jara, and on the north by the hills of the Matadero, as is designated in plat (marked A) accompanying this petition, all of which points and boundaries are well-known landmarks in said county of Santa Fé, and the said petitioners claim a perfect title to said lands as purchasers and legal representatives of José Francisco Baca y Terrus, Juan Benavides, José Ma. Benavides, Cruz Chaves, José Lucero, José Ma. Padilla, Miguel Rodriguez, Estevan Sena, Manuel Baca, Nasario Gonzales, Ygnacio Baca, Pedro Baca, José Duran, José Baca, Vicente Anaya, Felipe Sena, and Leonidas Baca, to whom the original grant was made on the 28th day of June, 1840, by authority of the laws, usages, and customs of the Republic of Mexico at that time in force.

The said claimants cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about two thousand acres; nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith append a plat of said grant as accurate as can possibly be made from the maps and well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map. The said grantees were legally placed in possession of said lands, and said claimants know of no other claim to said land or grant, and the same has been by said claimants and their representatives occupied from the date of said grant down to the present time. The original grant as claim No. 1016, marked B, is now on file in your office, a certified copy of which accompanies this petition, and is begged to be considered a part thereof, to be referred to whenever necessary. Claimants present their said claim before you, under the eighth section of the act of Congress approved July 22, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers thereon, and for other purposes," and respectfully ask confirmation by you of this their said claim.

SAML ELLISON,  
*Attorney for Claimants.*

SANTA FÉ, NEW MEXICO, *May 16, 1871.*

Sello tercero. [SEAL.] Dos reales.

Para los años de mil ochocientos treinta y ocho y ochocientos treinta y nueve.

[Rubrica.] Aabilitado para los años de 840 y 841. [Rubrica.]

Sr. PRESIDENTE,

*Alc de 2º de esta Yltre. Corporacion:*

Los C. C. José Franco. Baca y Terrus y Juan Benabidez y otros Vs., que en la que sitan anterior, se suscriben; de estos el primero residente en las Golondrinas y el segundo en el Real del Oro; en la mas bastante forma que haya lugar en dro. y al nuestro combenga, ante V. S. con toda sumicion y respecto nos presentamos y dicimos que hallandose en el Arroyo Bajo de Galisteo una posecion de tierra inhabitada y sin perjuicio de tercero hemos presentado los mismos peditantes en el año po. po. en el mes de Junio una instancia haciendo esta pedido á S.

Sa. el yltre. ayuntamiento. de estas tierras inhabitadas: y no hemos sabido de su debolucion, pues siendonos demaciada benéfica su aprobacion y resolucion como sea de el superior agrado de V. S. para que todos estos postulantes tiren sus calentos y medidas segun conbenga con el superior gto. de V. S. á do quien corresponda segun se determino por esa yltre. corporacion; pues dhas tierras por el oriente sus linderos tiran al desembogue del de la cañada qe. nombran del Infero, por el poniente linda con tierras de Dn. Agustin Duran, por el sur las lomas del Arroyo de la Jara, por el norte a las Lomas del Matadero por lo que:

Á V. S. pedimos en merito de justicia se nos conceda este pedido de lo que resiberemos merced y gracia; juramos no ser de malicia y lo nesecario, &c.

SANTA FÉ, 15 de Mayo de 1840.

Por ausencia de los demas qe en la antor. se suscriben lo ase el primero.

JOSÉ FRANCO. BACA Y TERRUS.

En seccion del dia 4 de Junio del corriente año que presidi como alcade. 2º de este yltre. ayuntamiento. de esta ciudad de Sta Fé, se presento la solicitud de tierras para aumento. de la agricultura que decean formar Dn. José Franco. Baca y Terrus, y otros individuos que decean tener beneficio pr. razon de su trabajo; esta corporacion habiendo tomado en consideracion esto y dandoles el lleno a las leyes qe. tanto renearga el fomento de agricultura como qe. los C. C. onrados sean atendidos en sus fustas solicitudes, despues de haber calculado si ay algun otro tercero qe. mejor dro. represente, no lo ay, pues es terreno yelmo, valdío, inculto, que solo sea ocupado para pasteos; pues se les podra señalar á cada individuo doscientas vs. por la proporcion que tienen algunos de cultivar; y los de mediana proporcion cien vs.; esto ha tenido a bien S. Sa. el respetable ayto, dirijirlo á la superior consideracion de V. S. como nato prefecto de este 1º distrito, para qe si V. S. lo tubiere a bien aprobar y mandar se posecionen a los suplicantes, se haga lo que fuere de su superior agrado, pues esta corporacion no decea otra cosa que guardarle á V. S. los dignos respectos que merese: en la inteligencia que estos posecionantes si es que se les concede; sea con las circunstancias que la agua de regadillo siempre es preferente en ella Dn. Agtin. Duran, pr. antiquidad que posee el rancho de Maragua como tambien se quien sus sembrados para que inceran los animales con perjuicio del comun por ser el arroyo ejieios communes, y todo he quello que V. S. tenga ha bien mandar en el particular como superior de esta corporacion.

DOMINGO FERNANDEZ,  
JOSÉ SERAFIN RAMIREZ.

Rio Arriba, Junio 12 de 1840, ynpuesta esta prefectura de la solicitud qe. asen los lisanantes en la yntancia, que ante se de y del ynforme qe. al calse de ella se alla puesto por el ylustre alluntamiento. de la ciudad de Snta Fee brilha festa instancia al alcalde segundo de dha. ciudad pa. qe. pase a poner en posesion a los lisanantes en el tereno qe. solicitan con tal qe. no sea con perjuicio de tersero como lo previnen las lelles qe. nos gobiernan.

ARCHULETA.

Sello tercero. [SEAL.] Dos reales.

Para los años de mil ochocientos treinta y ocho y ochocientos treinta y nueve.

[Rubric.] Ahabilitado para los años de 840 y 841. [Rubric.]

En este puesto de Ntro. padre S. Franco. del Arrollo de Galisteo, inmediato á Maraguá, y del linder de D. Aogustin Duran arriva, y a distancia lejana y rretirada, como lo manifiesta el terreno del arrollo de donde desemboca la cañada que comunente llamaban del infierno y aora de San Franco. distante de la lavor de Galisteo cosa de media legua poco mas ó menos. A los veinte ocho dias del mes de Junio de mil ochocientos cuarenta, en cumplimiento del superior decreto de S. S. el sor, prefecto, a virtud del informe del yllustre ayuntamto. de la capital Santa Fé, de quien ha jurisdiccion esta, estando en el mencionado puesto yo el C. Domingo Fernandez, 2º alc. constitucional de la sitada ciudad; estando congregados los individuos que án solicitado del mencionado tereno desde las siete de la mañana hasta cerca de las tres de la tarde haguardando que hubiese algun reclamo de terreno que mejor derecho representace, pasado el sitado tiempo fué requerido por los mismo licitantes par a que en nombre de ntra. nacion mejicana, y de ntro. presidente les puiesese en posecion nacional y personal, la que aprendieron quietos y pasificios, sin contradiccion de persona alguna, pasandose por.

Seal third. [SEAL.] Two reals.

For the years eighteen hundred and thirty-eight and eighteen hundred and thirty-nine.

[Rubric.] Legalized for the years 1840 and 1841. [Rubric.]

Mr. PRESIDENT, *second alcalde of this illustrious ayuntamiento* :

The citizens José Franco. Baca y Terrus, and Juan Benavidez, and others, residents, who signed a former application, the first a resident of Golondrinas, and the second a resident of the Real del Oro, in due legal form, appear before your excellency, with all submission and respect, and say: that there is on the arroyo, below Galisteo, a tract of unoccupied land, and, without prejudice to any third party, the petitioners did, in the month of June of the past year, present an application to its excellency, the illustrious ayuntamiento, for those uninhabited lands, the return of which we have not been advised, and its approval being of great benefits to us, and such resolution as your excellency may be pleased to make, in order that all the applicants may take such steps and measures as they may deem best relative to the superior decree of your excellency, or to whom it may pertain, and as may be determined by that illustrious corporation; said lands are bounded, on the east, by the mouth of the cañada, called the Infernio; on the west, by the lands of Agustín Duran; on the south, by the hills of the Arroyo de la Jara; on the north, the hills of the Matadero; wherefore we ask your excellency, in merit of justice, to grant us this petition, whereby we will receive favor and grace. We declare that we do not act in dissimulation, and as may be necessary, &c.

SANTA FÉ, *May 15, 1840.*

In the absence of the others who signed the former petition, this is subscribed by the first.

JOSÉ FRANCO. BACA Y TERRUS.

In session of the 4th day of June, of the present year, at which I presided as second alcalde of this illustrious ayuntamiento, of this city of Santa Fé, the application for lands for the encouragement of agriculture was presented, which José Franco. Baca y Terrus and other individuals wish to carry on by their labor and for their benefits; and this corporation, in consideration thereof, and in full compliance with the laws that so earnestly recommend the advancement of agriculture; and in order that worthy citizens may be heard in their just petitions, and after having ascertained that there was no third party representing a better right thereto; and said lands being vacant, public, and uncultivated, and only used for pastoral purposes, therefore there may be granted to each individual that has sufficient means to cultivate the same two hundred varas, and to those of small means one hundred varas. This, its excellency, the respectable ayuntamiento, have thought proper to address to the superior consideration of your excellency, as prefect de facto of this the first district, to the end that, if your excellency should be pleased to approve the same, may order the applicants to be placed in possession, or to act in the premises as you may deem proper, as the only wish of this corporation is to manifest to your excellency the high respect you merit, with the understanding that, should the grant be made, it shall be with the condition that Agustín Duran, as the senior possessor of the Maragua ranch, shall have the preference in the use of the water for irrigation; and also that they shall fence in their fields, in order that they may not run off the animals to the injury of the community, for the reason that the arroyo is common pasture grounds; and all that which your excellency may deem proper to order in the premises as the head of this corporation.

DOMINGO FERNANDEZ.

JOSÉ SERAFÍN RAMIREZ,

*Secretary.*

RIO ARRIBA, June 12, 1840.

This prefecture, being advised of the application, as set forth in the foregoing petition, and the report of the illustrious ayuntamiento, of this city of Santa Fé, placed at the foot thereof, this petition will be returned to the second alcalde of said city, in order that he proceed to place the applicants in possession of the lands they solicit, conditioned that it be not in prejudice to any third party, as provided by the laws that govern us.

ARCHULETA.

Seal third. [SEAL.] Two reals.

For the years eighteen hundred and thirty-eight and eighteen hundred and thirty-nine.

[Rubric.] Legalized for the years 1840 and 1841. [Rubric.]

At this place of our Father San Francisco, of the arroyo of Galisteo, near Maragua and above the boundary line of Agustín Duran, a retired and long distance, as the land shows from the arroyo from which comes the cañada commonly called the Infierno, and now San Francisco, and a half a league, a little more or less, distant from the fields of Galisteo, on the 28th day of the month of June, 1840, in compliance with the superior decree of his honor the prefect, in virtue of the report of the illustrious ayuntamiento of the capital of Santa Fé, to whose jurisdiction it pertains, I, the citizen Domingo Fernandez, second constitutional

alcalde of said city, being at said point, and the individuals who applied for said lands having assembled at seven o'clock in the morning and remaining until near three o'clock in the afternoon, waiting for any claim that might be made to the land by any person having a better right thereto, to be presented, and said time having elapsed, I was required by the said applicants to place them, in the name of our Mexican nation, and that of our President, in the national and personal possession, in which possession they did enter quietly and peaceably, without being molested by any person, by walking over— [The balance is missing.]

The above and foregoing is a correct translation of the original in Spanish, made by me, and the same is a correct translation to the best of my knowledge and belief.

SAML. ELLISON.

Sworn to and subscribed before me this November 10, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, November 10, 1871.*

The foregoing translation having been by me compared with the original in Spanish and found correct, the same is hereby adopted.

DAV. J. MILLER,  
*Translator.*

FRANCISCO BACA Y TERRUS ET AL.

FRANCISCO BACA Y TERRUS ET AL.

*versus*

THE UNITED STATES.

} Before the surveyor general.

ANTONIO CHAVES, witness for claimants in the above case for the approval and confirmation of a certain grant to land in the county of Santa Fé, New Mexico, being by the surveyor general duly sworn, on his oath declares:

By SAMUEL ELLISON, attorney for claimants:

Question. What is your name, age, and residence?—Answer. My name is Antonio Chaves; I reside at Galisteo, and am about forty-nine years old.

Q. Do you know whether Francisco Baca y Terrus and others were placed in possession of land near Galisteo, and if so about what time, who were the parties placed in possession, and where is the land situated?—A. I am aware that parties were given possession of land there in about the year from 1840 to 1845, they being, according to my recollection, Francisco Baca y Terrus, Domingo Fernandez, José de la Cruz Chaves, José Lucero, Miguel Rodriguez Estevan Sena, Vicente Anaya, Juan Benavides, José Duran, and none others as I now remember, and the boundary of the land on the north was the ceja; on the south another ceja; on the east the Arroyo de los Angeles, otherwise called Arroyo del Infierno, and on the west the boundary of the Agustin Duran tract of land.

Q. Were you present when the parties you have mentioned were placed in possession of the land referred to, and if so, who placed them in possession?—A. I was present and witnessed that Domingo Fernandez placed them in possession.

Q. Did you assist in any way in the execution of the act of possession, and if so, in what capacity?—A. I assisted in measuring off the land by carrying the measuring-cord.

Q. Did Señor Fernandez, in placing these parties in possession, act in any official capacity, and if so, what?—A. I understood he acted as alcalde.

Q. Have you any interest in this land-claim?—A. I have none.

his  
ANTONIO + CHAVES.  
mark.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

ESTEVEAN SENA, being in like manner sworn and interrogated, on his oath declares :

Question. What is your name, residence, and age?—Answer. My name is Estevan Sena; I reside at Galisteo, and am sixty-two years of age.

Q. Do you know whether there was a land-grant made to Francisco Baca y Terrus, Juan Benavides, and others, in this vicinity; and if so, state when and at what place the land lies, and by what name the tract is known?—A. I am aware of such a grant, and that it was made to said parties in the year 1840, the land lying on Galisteo Creek, below the Arroyo de los Angeles, and known as the Maragua tract.

Q. What are the boundaries of the tract?—A. On the north and south cejas, or hills, on the east the Arroyo de los Angeles, and on the west the land of Agustin Duran.

Q. Were you present when the parties were placed in possession of the land, and if so, by whom were they placed in possession?—A. I was present on the ground, and witnessed the act of possession executed by Domingo Fernandez, who acted under authority and direction of the ayuntamiento.

Q. Can you mention the names of the parties given possession, and if so, please do so?—A. I can, and they are Francisco Baca y Terrus, Ignacio Baca y Terrus, Pedro Baca y Terrus, Juan Benavides, Luis Benavides, José Maria Padilla, José Lucero, Cruz Chaves, and I remember none other.

Q. Have these parties, or their legal representatives, held possession of this land to the present time?—A. They have, and have worked the land all the time.

his  
ESTEVEAN + SENA.  
mark.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

AGUSTIN DURAN, being in like manner sworn and interrogated, on his oath declares :

Q. What is your name, age, and residence?—A. My name is Agustin Duran; my age is seventy-nine years, and residence Santa Fé.

Q. Do you know whether a grant for land was made to Francisco Baca y Terrus, Juan Benavides, and others; and if so, state when, and by whom and where the land lies?—A. I know of such a grant, which

was made by the governor and departmental assembly of New Mexico, I think, but am not certain, in the year 1840, the assembly directing the alcalde to place the parties in possession. The tract is situated adjoining a tract of mine, known as the Maragua, being above mine on the east of it. The boundaries of the land so granted are, on the north and south hills, commonly called cejas; on the west the Maragua tract just mentioned, and on the east the Arroyo de los Angeles, formerly known as the Arroyo del Infierno, the latter name (del Infierno) having been in late years changed at the request of Bishop Lamy into that of de los Angeles.

Q. What position or office did you hold in the year 1840, in New Mexico?—A. I was a member of the departmental assembly, and was also custom-house officer.

Q. What official positions did Archulita, José Serafin Ramirer, and Domingo Fernandez, whose signatures appear on the muniment in this case, occupy in New Mexico, in 1840?—A. Juan Andres Archuleta was civil and military governor of New Mexico; José S. Ramirer was treasurer of the department, and Domingo Fernandez was local alcalde, in 1840, and the signatures of these individuals, on the paper mentioned, are all genuine.

Q. Have you any interest in this case?—A. None whatever.

AGUSTIN DURAN.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

DAVID J. MILLER, being in like manner sworn and interrogated, on his oath declares:

Question. What is your position in the office of the surveyor general of New Mexico, and how long have you been employed therein?—Answer. I am translator and chief clerk, and have been employed in the office with but little intermission since its organization in the year 1854, as translator and clerk.

Q. Please examine the muniment in the private land-claim of Francisco Baca y Terrus *et al.*, now in investigation before the surveyor general, and state whether it has always been in the surveyor general's office since it was established, and if so, state how you are aware of the fact.—A. I have examined the document referred to, and I find it to be one of those selected in the year 1855, by David V. Whiting, then chief clerk, and myself, then assistant clerk, in the surveyor general's office, from among the old archives found in the office of the secretary of the Territory of New Mexico, and transferred thence to the office of the surveyor general, under authority and instructions of the Secretary of the Interior, and it has since remained in the surveyor general's office.

DAV. J. MILLER.

Sworn to and subscribed before me this May 31, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

AGUSTIN DURAN, having been by the surveyor general duly sworn, on his oath declares:

Question. What is your name, age, and place of residence?—Answer. My name is Agustin Duran; my age is seventy-nine years; and my residence is here at Santa Fé, and I have always resided here.



Q. Who was the governor of New Mexico, according to your recollection, in the year 1840?—A. It was Juan Andres Archuleta, who was then the acting governor and commanding general, owing to the suspension from office of the governor of that time.

Q. Did you know personally Juan Andres Archuleta, José Serafin Ramirer, and Domingo Fernander, and have you seen them write?—A. I knew them all well, personally, and have often seen them write.

Q. Please examine the signatures of those individuals borne by the muniment in this case, and purporting to be their original signatures, and state whether they are genuine, in your opinion.—A. I have examined the document and the signatures borne by it, referred to, and the signatures are unquestionably their genuine signatures.

AGUSTIN DURAN.

Sworn to and subscribed before me this 24th November, 1871.

T. RUSH SPENCER,

*Surveyor General.*

UNITED STATES OF AMERICA, *Territory of New Mexico* :

This day personally appeared before the undersigned, clerk of the United States district court for the first judicial district of the Territory of New Mexico, Nasario Gonzales, who, being by me duly sworn, on his oath states :

That he is the principal present owner of the grant for land, situate in Santa Fé County, New Mexico, now pending in investigation in the office of the surveyor general of New Mexico, made to Francisco Baca y Terrus and others by the Mexican government, June 12, 1840, a portion of the muniment in which grant, to wit, a part of the act of possession, is missing, and further declares that he has made due diligent search for said missing portion, and has been unable to find the same or obtain any information concerning its loss; wherefore he believes the same has been mislaid, lost, or destroyed, so that it cannot be procured.

[SEAL.]

NASARIO GONZALES.

Subscribed and sworn to before me this 31st day of July, A. D. 1871.

M. A. BREEDEN,

*Deputy Clerk.*

JOSÉ FRANCISCO BACA Y TERRUS ET AL.

The muniment in this case, at the instance of the attorney for the present claimants, was taken from on file among the old archives on deposit in this office, to which, under authority and instructions of the Secretary of the Interior, they were transferred from the office of the secretary of the Territory of New Mexico at the time of the establishment of this office in 1855, and was filed as a claim May 16, 1871.

The title papers so filed are the originals, and consist of a single document, embracing—

1. The petition for the land by José Francisco Baca y Terrus and Juan Benavides, and their unnamed associates, dated May 15, 1840.

2. The report of the ayuntamiento of Santa Fé, recommending the making of the grant.

3. The grant by the prefect for the land applied for, dated June 12, 1840.

4. A portion of the act of possession, executed by the alcalde.

The case was set for a hearing for the 31st of May last, and rested

till the 24th of November instant. The claimants, by their attorney, appeared with witnesses in May, and by their testimony proved that in or about the year 1840 the said Baca y Terrus and Benavides, and sundry other individuals, their associates in the grant, were placed in formal legal possession of the land by the alcalde, and that the land had been continuously occupied and cultivated from that to the present time by them and their legal representatives; and in November further proved that Juan Andres Archuleta, in the year 1840, when he made this grant, was the acting civil and military governor of New Mexico, during the suspension from office of the regular governor. At the taking of testimony both in May and November all the signatures borne by the papers constituting the claim were proven to be genuine.

Each of the title documents in this case is complete, with the exception of the act of possession, the latter portion of which is missing. Affidavit was filed by Nasario Gonzales, as one of the principal present claimants, that due, diligent search had been made by him for the missing portion, and that not finding or obtaining any information concerning the same, he believed it to be permanently mislaid. It has also been searched for among the archives from which was taken the sheet containing the other documents and the preserved portion of this one, and was not found. There appears, however, sufficient of the document to show it to be the act of possession, executed by the alcalde Fernander, and as that individual and officer is shown by the evidence to have placed the grantees in possession, and as the boundaries of the tract were stated in the petition, and implied in the grant, the incomplete condition of the alcalde's record of that act is not deemed a circumstance fatal to the title.

There is no definite or conclusive evidence anywhere in the case as to who or how many, besides Baca y Terrus and Benavides, were the grantees, or who or how many were placed in possession by the alcalde. Baca y Terrus and Benavides applied for the land described in their petition for themselves and their unnamed associates, and the alcalde put them in possession, omitting to state the names or the number of the parties so placed in possession. This circumstance might involve a question for consideration, if the names of all the grantees, and their number, in a valid grant for a specified piece of land were thought to be a matter of importance in the trial of title as against the United States. It is clear it does not in this case concern the validity of the grant or affect the quantity of land granted. The sole question in the case is whether the alleged grant is sufficient to sever from the public domain the land claimed. The title to the proportion thereof claimed by the parties interested is a matter for arrangement among themselves or for the adjudication of the courts of law, and in no wise involves or concerns the Government.

The grant in this case is therefore held to be a good and valid grant for the land mentioned in the petition, and referred to in the grant, under the laws, usages, and customs of Mexico, and the same is hereby approved, and recommended for confirmation to José Francisco Baca y Terrus and Juan Benavidez, and their associates and their legal representatives, and a transcript of all the papers in the case is herewith transmitted for the action of the Congress of the United States.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, November 25, 1871.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, December 11, 1871.*

The foregoing transcript is a correct copy of all the papers in private land claim No. 57, in the name of José Francisco Baca y Terrus et, al. on file in this office.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land-claim reported as No. 58, being land-grant to José Mirabal and others, made in 1795, for the rancho del Rio Grande tract, and decided January 15, 1872, by the surveyor general of New Mexico.*

SANTA FÉ, NEW MEXICO,  
*January 10, 1872.*

Hon. T. RUSH SPENCER, *Surveyor General for New Mexico :*

Your petitioners, the inhabitants under title, the present claimants of the tract of land in the county of Taos, in this Territory, known as the Rio Grande grant, respectfully ask that you proceed at once to the investigation of said claim, so that the same may be laid before Congress at its present session for confirmation.

The original papers, constituting the title to said tract of land, are already on file in your office as private land-claim No. 78. From these it appears that in the year 1795 José Mirabal, Antonio Fernandez, Concepcio Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Frezqui, José Antonio Gonzales, and Maria Romero, and Catarina Romero petitioned the authorities for the land, that the governor made to them the grant on the 4th of February of that year, and that the grantees were regularly placed in possession of the land on the 9th of the following April by the chief alcalde, who designated the boundaries of the tract. The original signatures of these officers appear upon the papers on file, and may be verified from the records of your office.

Your petitioners and those through whom they derive their title have been in peaceable possession and enjoyment of the land thus granted and delivered them from that time to the present day, and they know of no claim adverse to their own for the land or any portion thereof so held by them.

Your petitioners would state that in the year 1837 certain parties applied to the governor of New Mexico for a grant to a portion of the land covered by this grant, which application was referred to the local authority whose consent and recommendation were necessary prerequisites to the making of the grant. The local authority declining to recommend the grant on the ground that the land belonged to your petitioners, the governor declared the application for the land inadmissible, all of which will more fully appear by reference to the original document herewith filed, marked A, and from which proceedings it appears and is shown that the title of your petitioners to the land in question was fully tested, recognized, and confirmed by the legal authorities of the government of Mexico.

Your petitioners would further state that, finding their claim had not been acted upon by your office, and desiring that it should be recognized by the government as soon as practicable, presented the same directly to Congress through the territorial Delegate during the first session of the Forty-first Congress, that a bill of confirmation was introduced into the House of Representatives early in the session, and referred to the Committee on Private Land Claims, which, after thorough investi-

gation of the case, favorably reported the bill, which then passed both Houses of Congress and went to the President for his signature, which, for some reason unknown to your petitioners, (unless the extraordinary pressure of more important bills during the closing days of a session,) it never received, whereby the bill failed to become a law. A similar bill was introduced into the Senate of the United States at the first session of the Forty-second Congress and passed that body, but for want of time did not pass the House of Representatives, as your petitioners are informed. Your petitioners file herewith, marked B, an extract from the Congressional Globe, the official journal of Congress, showing in part the action of Congress upon this their claim, being the only printed evidence your petitioners now have at hand.

Your petitioners, desiring and intending to apply at the present session of Congress for the confirmation of this grant, and deeming it well, before doing so, perfectly to fortify their claim by the approval of your office, now ask an investigation of the same under the act of Congress of July 22, 1854; that should such investigation satisfy your honor of the validity of our said grant under the laws, usages, and customs of the Spanish and Mexican governments in New Mexico, they respectfully ask an approval of the said grant to the legal representatives of the said original grantees, José Mirabal and others, (which legal representatives now exceed three thousand in number,) and a recommendation to Congress for the confirmation of the same.

Respectfully submitted.

PEDRO SANCHEZ,  
*Attorney for Petitioners.*

*Señor Alce. Mayor y Capn. a Guerra Dn. Anto. José Ortiz :*

Los vesinos del rancho de Nuestro Padre San Franco. del rio de las Trampas, y en particular los viejos nativos, con los ya mencionados arriba, paresemos y nos ponemos ante las plantas de vmd. con todo rendimiento y desimos, señor, que por cuanto tenemos razon que algunos de los vesinos quieren pedir o an pedido en real posesion el Rio Grande, por lo que nosotros todos en comun y cada uno en particular desimos, señor, que de poblarse dho. Rio Grande es asernos a nosotros gran daño, el que nosotros no les deseamos, por que bien sabe vmd. como dho. rio se seca y la nuestra labor es grand a vista de vmd. y de flaquearnos el agua, abra muchos menoscavos en el diezmo y primisia de ntra. sta. madre yglesia y mantension de nuestras familias y asi mismo, señor, á Vmd. que sabe los vesinos primeros que dho. rancho tenemos poblado y emos sufrido tantos ataques de enemigos, nos parese señor, no ser justo que ese daño nos quieran seguir, apocandonos el agua en ntras. labores, pues es constante a todos la falta de agua que por fines de Agosto y todo Septiembre padecemos; por lo que a. Vmd. pedimos y suplicamos por la cosa de nro. soberano se sirva atendernos, si es justo lo que pedimos y juramos a Dios, nro. señor, y a la señal de la santa cruz esta ntra. petition no ser de malisia; y en lo nesario &c.

A rruego y por todo los vezinos de esta

NICOLAS LEAL.

PUEBLO DE TAOS, *Febrero 2 de 1795.*

Pasen los ynpetrantes ante S. S. para qe. en vista de lo qe. piden determine lo qe. hayare por de justicia.

ANTO JOSÉ ORTIZ.

STA. FÉ, 4 de *Fbro. de 1795.*

Como lo piden los Ynteresados.

CHACON.

*Sor. Alce. Mayor y Capn. á Guerra Dn. Anto. José Ortiz :*

José Mirabal, Anto. Fernandes. Consepcion. Romero, Bentura Romero, Julian Romero, Mariano Romero, Anto. Fresqui, José Anto. Gonzales; Ana Maria Romero, Catarina Romero, todos juntos, unanimes y conformes y cada uno en particular, paresemos ante vmd. en la mas bastante forma que aya lugar y derecho y al ntro. conbenga, y desimos, señor, que por quanto tenemos pedido por primera ves el paraje del Rio Grande, y aver visto como otros vesinos lo pidieron de merse, pusimos los aqui mencionados el reparo por quanto la fuente del rio se apoca y ay años que tambien se seca, y por esta causa bolbemos a molestar á Vmd. nos atienda, y si es justo que se nos de á. los mencionados para pastos y abrebaderos de ntros. ganados y cavallada, y que vmd. se sirva de entrarnos en real posesion, por lo que. á Vmd. pedimos y suplicamos se sirva aser como llevamós pedido, si es justo, lo que pedimos y juramos en toda forma de derecho esta ntra. presentasion no ser de malisia y en lo nesasario, &c.

A rruego de los expresados.

NICOLAS LEAL.

*Possession.*

En nueve dias del mes de Abril de este año del mil setecientos noventa y sinco, yo el alce. mayor y capitan a guerra de este pueblo de San Geron. de Taos y su jurisdicion, Dn. Anto Josef Ortiz, en cumplimiento de lo mandado por el Sor. Thne. Coronl. Dn. Fernando Chacon cavaro, del orden de Santiago, y governador politico y militar de este reino, antes de pasar yo dho. alce. mor. a el puesto del Rio Grande, en compania de dos testigos qe. lo fueron Dn. Christoval Bijil y Dn. Juan Ygno. Sanches, estando presentes los diez presentantes les hice saver y entender la presentacion qe. hacian y les exprese qe. para la dha. posesion havian de guardar y cumplir en toda forma de derecho las condisiones siguientes: qe. el paraje prefixado avia de ser comun; a todos ellos qe. respecto a lo ariesgado del paraje han de mantener todas sus armas de fuego o flechas, de lo qe. les pasara muestra el alce., que los mande tanto en su entrada como en cualesquier tiempo qe. lo tuviere por conveniente; entendidos qe. pasados dos años de la posesion todas las armas qe. tengan deveran ser de fuego presisame., bajo la pena de los que no lo executen seran despedidos del sitio y aviendose echo se cargo todos y cada uno de por si de la sita ya referida; en su conformidad respondieron de mancomun quedar inpuestos y enterados de lo qe. se les advierte; en consecuencia de lo cual les tomé por la mano, y dixi en claras e yntiligibles voses qe. en nombre de S. M. (que Dios gue.) y sin perjuicio de— su real haver, ni el de tersero, los pasie por dhas. tierras, arancaron la sacate, tiraron piedras y dieron voses, disiendo viva el rei, tomando posesion de dhas. tierras quieta y pasificamente, sin contradision alguna, señalandoles los linderos, qe. son por la parte del sur la cuchilla de la Sierra del Oso; por el poniente la cañada de Miranda y camino qe. va á el pueblo de Picuries; y por el oriente la cuchilla de la sierra del rio de Dn. Fernando, y por el norte el lindero de Dn. Manl. Montes Bejil: advirtiendoles que los pastos y abrebaderos son comunes, y para qe. en todo tiempo conste lo firme, actuando por reseptoria; a falta de todo escrivano qe. no lo hai, con los dos testigos de mi asistencia con quienes actuo; de que doy fé.

ANTO. JOSEF ORTIZ.

Teso.: CHRISTOBAL VIGIL.

Teso.: JUAN YNASIO SANCHES.

[Doc. A.]

*Sor. Gefe Politico :*

El co. Nicolas Sandoval, besino y residente en San Geronimo de Taos, por si y a nombre de los qe. abajo firman, presenta ante la superioridad de Vssa. en la mas atenta y debida forma qe. a lugar alla y el derecho le permite, y digo, sr., que en el año de 27 fuy despojado de una suerte de tierra que gosaba en el parage de Los Desmontes qe. comumente. le llaman; dha. tierra se medio y documeto. Pr. mi trabajo y asistencia qe. tube a la saca de ascequia que es el pri sipal cultivo y no apresiando al documento ni a mi trabajo personal tubo a bien el sr. alcalde, qe. en aquel tiempo lo fue Dn. Juan Anto. Lobato, darla pr. posecion a los qe. paresio ser de su agrado, nombrandola pr. baldia y sin ber qe. era en perjuicio de tersero; en el mismo acto registre un terreno baldio y rialengo, sin dueño alguno, en la parte y parage del Rio Grande, se me consediera una corta posecion pr. ser dho. terreno sufisiente pa. aser labor pr. fertilidad del terreno y no tener otras tierras en donde poder sembrar, por poderme mantener, y qe. se aumentaran las agri-culturas, sierto me presente a lá diputacion a que dho. terre. se me considiera pr. merced; se le pidio informe al alluntamiento de esta juridic-ion sobre el particular en lo qe. enbarasaron en sus informes qe. era perjuicio de tercero, a las poblasones; qe. en los años de secas se esterelisaban las aguas, pr. lo cual pido a S. Sa. se sirva mandar se cumplan con los decretos soberanos, se me de esta corta posecion en nombre de la suprema corte y de S. Sa., qe. Dios guarde, qe. es quien debe cumplir y aser cumplir las leyes y decretos soberanos y sus superiores ordenes de S. Sa., y qe. sea para amparo de nuestras personas y de nuestras familias. Diho. paraje es conosido pr. la parte del Rio Grande, en la junta de los rios, y no pidiendo lomas lebe de las aguas para los riegos de nuestras labores, conformandonos con unos ojos de agua qe. se allan en la cumbre de la sierra, qe. corren para ninguna fuente, solo estan inbertidos en la sierra y otros al pie de la dicha sierra; nos obligamos a esmero de nuestro trabajo sacar estas aguas de insalubridad asta ponerlas en salubridad para los riegos de nuestras semiteras; y pr. ultimo nos obligamos a sercar una serca en contorno, sin perjuicio de las cañadas, trabesias, abrebaderos y sirbidumbres, quedando los cuatro rumbos para la ostencion de las asiendas y crias de animales, y nombramos pr. linderos pr. la parte del oriente el rito de la Olla, y pr. la parte del poniente un sedro urfano, y pr. la parte del sur el Rio Grande, y pr. la parte del norte la cuchia de la sierra en lo qe. a S. Sa. pidemos y plicamos se dine en atendernos en nuestra solesitud, qe. en aserlo asi resiberemos merced y gracia, qe. es lo que impetramos.

Y juramos no ser de malicia en lo nesesario, &c.

Marzo 13 de 1837.

NICOLAS SANDOVAL.  
 ANDRES SEDIO +.  
 JUAN ANTO. SANDOVAL +.  
 FRANCO. SANDOVAL +.  
 TOMAS COCA +.  
 FELIPE GALLEGOS.  
 FELIPE MESTAS +.  
 FRANCO. BEITA +.  
 RAFAEL PACHECO +.  
 RAMON DURAN +.  
 LUIS MARTIN +.

SANTA FÉ, Marzo 14, 1837.

Para conceder a los solicitantes el terreno q. piden salvando las formalidades prevenidas pr. la ley, el ayuntamiento de Taos informe lo q. le ocurra sobre el particular, atendiendo la recommendacion q. le merece esta solicitud.

PEREZ.

En la sala consistorial de Taos, a los beinte y siete dias del mes de Marzo de mil ochocientos treinta y siete:

Bisto y examinado por esta corporacion el contenido de la anterior presentacion decretada por el señor gobernador; librese dho. asunto a comicion entre tres yndividuos de la misma que son D. Dabid Waldo, D. Juan Manuel Lusero y D. José de Jesus Trujillo, para que segun sus conosimientos presenten lo que allasen por conveniente.

Asi lo decreto y mando la ylustre corporacion.

JUAN ANTO. ARAGON.

JUAN ANTO. LOBATO, Co.

La comision encargada como se cita de arriva, despues de havernos visto y oido el presantente y los de San Francisco del Rancho, quienes son interesados en las aguas del Rio Grande, hallamos que el sitio que piden los representantes estuvo dado en el año de 1795 á varios cuidadanos del rancho pa. pastos comunes, y tambien no nos podemos conceder á la peticion por que es enteramente en perjuicio del tercero.

Taos, 28 de Marzo de 1837.

WALDO.

LUCERO.

TRUGILLO.

En San Geronimo de Taos, en treinta y un dias del mes de Marzo de mil ochosientos treinta y siete:

Reunido el ayuntamto. en las consistoriales de San Fernando, y presido por el sor. presidente D. Rafael de Luna, en consocio del sor. alcalde 2º. D. Juan Anto. Aragon: abierrta la seccion se rrecibio la comicion despenñada que presentaron los señores que fueron nombrados dha. comicion fue aprobada por la ylustre corporacion, segun lo que esponen dhos. señores, sobre la solicitud de los que pretenden tierras para laboriar, en el terreno del Rio Grande y por lo mismo; esta corporacion ynforma el ayuntamiento al sor. gobernador que amas de lo esaminado, y palpado por los señores de la comicion esta corporacion yncontra credidos ynconvenientes pa. que se conseda posecion el el Rio Grande; por el notorio perjuicio de tersero que se sigue al publico del departamento del rio de las Trampas, donde se perjudican como trecientas familias que tienen tierras abajo del terreno que solisitan los presentantes; respeto que las fuentes que bañan el sitio de abajo, son mui cortos y siempre escasosas, que no alcansan a regar los labores; y que el terreno que solisitan esta posecionado en los del rancho; que se poblaron primero para pastear animales y no para laboriar por la cortedad de los fuentes; es cuanto se alla por conveniente y ynformar por la ylustre corporacion para conosimiento de S. Sa.

JUAN ANTO. ARAGON.

RAFAEL DE LUNA.

JUAN ANTO. LOBATO, Co.

SANTA FÉ, 20 de Abril de 1837.

En vista de esta solicitud y lo informado pr. el R. ayuntamiento de Taos no hay lugar para la consecion del terreno pedido para labranza.

PEREZ.

J. M. ALARID, *Srio.*

ANTONIO JOSÉ ORTIZ,  
*Senior Alcalde and War Captain:*

We, the citizens of the rancho of our patron, San Francisco, of the Rio de las Trampas, and particularly the old natives as well as those mentioned above, appear before you and place ourselves at your feet with all humility and state.

Sir; whereas we understand that some citizens intend to ask, or have asked, for a royal grant at the Rio Grande, we, therefore, all of us, collectively and individually, state:

Sir, the settling of said Rio Grande would be doing us a great injury that we do not want to suffer, for you are well aware that said river goes dry, and our cultivable land is considerable, as you may see, and if our water is reduced there will be a great decrease in the tithes and contributions of first fruits to our holy mother church and in our means for the support of our families, and you, sir, know that we, the first settlers at said rancho, have experienced many attacks from the enemy; and, sir, it does not seem just that this injury to us should be persisted in by those parties, decreasing the water for our fields, for the want of water which we experience about the end of August and throughout September is known to everybody.

We therefore ask and pray you, in the name of our sovereign, to hearken to our petition if it be just; and we declare, before God our Father and upon the image of the Holy Cross, that this our petition is not made in dissimulation, and whatever is necessary, &c.

At the request and for all the residents of this place.

NICOLAS LEAL.

TOWN OF TAOS, *February 2, 1795.*

The petitioners will go before his excellency so that, in regard to their prayer, he may determine as he shall find to be just.

ANTONIO JOSÉ ORTIZ.

SANTA FÉ, *February 4, 1795.*

As prayed for by the parties interested.

CHACON.

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, December 10, 1863.*

The foregoing two pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,  
*Translator.*

ANTONIO JOSÉ ORTIZ,  
*Senior Alcalde and War Captain:*

We, José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, Catarina Romero, all of us, collectively and each respectively, appear before you in due legal form, and state:



Sir, whereas we were the first to ask for the Rio Grande place, and having seen that other parties have also applied for it as a grant, we, those here enumerated, made the repairs, as the source of the river is becoming smaller, and there are years, too, that it goes dry; we, for these reasons, again trouble you that you may consider our case, and, if it be just to do so, may place us, the aforementioned petitioners, in possession of the place for pastures and watering-places for our live stock; and we ask that you be pleased to place us in royal possession: Wherefore,

We ask and pray you to do as we have requested, if that request be just, and we declare in due form of law that our petition is not made in dissimulation, and whatever is necessary, &c.

At the request of the parties.

NICOLAS LEAL.

*Possession.*

On this ninth day of April, one thousand seven hundred and ninety-five, I, Antonio José Ortiz, senior alcalde and war captain, of this town of San Geronimo de Taos and the jurisdiction thereof, in obedience to the command of Lieutenant Colonel Fernando Chacon, knight of the order of Santiago and civil and military governor of this royal province, before proceeding to the said Rio Grande place, in company with two witnesses, to wit, Cristoval Bijil and Juan Ignacio Sanchez, and the ten petitioners being present, I, said senior alcalde, explained to them the petition they had made, and informed them that to entitle themselves to said land they would have to observe and comply with, to the full requirement of the law, the following conditions:

That the tract aforesaid had to remain common to all of them; that, in consideration of the danger at that place, they had all of them to keep fire-arms, or bows and arrows, which the alcalde in office shall inspect, as well at the commencement as at any other time he may deem proper, provided that in two years after the possession is given them all the arms they may have shall be fire-arms exclusively, under the penalty that those who do not comply shall be expelled from the tract. And each and all of them having promised to comply with the conditions aforestated, they all accordingly declared that they knew and comprehended what was required of them.

I therefore took them by the hand and proclaimed, in clear and intelligible words, that in the name of His Majesty, (God preserve him!) and without prejudice to the royal possessions or injury to any third party. I led them over the land, and they plucked up grass, cast stones, and shouted aloud, Long live the King! taking possession of said land quietly and peaceably and without any opposition whatever, I designating to them their boundaries, as follows: On the south the ridge (*cuchilla*) of the Oso Mountain, on the west Miranda Valley (*Cañada de Miranda*) and the Picuries Pueblo road, on the east the spur of the Rio de Don Fernando Mountain, and on the north the boundary of Manuel Montes Bijil, notifying them that the pastures and watering-places are in common.

And that it may so appear in all time, I signed this, acting by appointment, for want of a notary, there being none, with my two attending witnesses, with whom I act, and to all of which I certify.

ANTONIO JOSÉ ORTIZ.

Witness: CRISTOVAL VIGIL.

Witness: JUAN IGNACIO SANCHEZ.

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, December 10, 1863.*

The foregoing three pages contain a correct translation from the original Spanish on file in this office.

DAV. J. MILLER,  
*Translator.*

*His Excellency the Political Chief:*

I, citizen Nicolas Sandoval, citizen and resident of San Geronimo de Taos, for myself and in the name of the undersigned, present myself before the superiority of your excellency in the most attentive and due form provided and allowed by law and state.

Sir, in the year '27 I was dispossessed of a piece of land which I enjoyed at the place Los des Montes, commonly so called. The said land was granted and deeded to me for my services and the assistance I rendered in the construction of the acequia, which is the chief work done; and, not duly appreciating either my deed or my personal service, the alcalde, at that time Juan Antonio Lovato, thought proper to give the same in possession to those who it appeared to him to be of his liking, calling it public land, without considering that he was thereby doing injury to a third party.

At the same time I registered a piece of vacant public land, having no owner, in the part and at the place the Rio Grande, [asking] that I be granted a small possession, that tract being sufficient for me to make a field, owing to the fertility of the land, I not having other lands where I could farm to enable me to support myself, and that agriculture might be encouraged.

I then applied to the deputation that the said lands be given me in grant. A report was required from the ayuntamiento of this jurisdiction in the matter, and they in their reports objected that it would prejudice third parties in the settlements, as in years of drought the waters were diminished; wherefore I ask your excellency that you be pleased to order that the sovereign decrees be observed, and that this small possession be granted to me in the name of the supreme court and of your excellency, (whom may God preserve,) who is he who should execute and cause to be executed the laws and sovereign decrees and the superior orders of your excellency, made for the protection of ourselves and our families.

Said place is known as the Rio Grande place, at the junction of the rivers, we not asking even the smallest portion of the waters for the irrigation of our fields, we satisfying ourselves with a few springs of water found at the top of the mountain, and which, not running to any collection of water, are only absorbed in the mountain, and with others at the foot of the said mountain.

We obligate ourselves, by force of our labor, to take these waters out of insalubrity and put them in use for the irrigation of our lands; and, finally, we bind ourselves to inclose with a fence all round, without any injury to the valleys, roads, watering-places, and rights of way, leaving the four sides free for the extension of farms and live-stock ranchos. And we state as boundaries, on the east side, the Rito de la Olla, and on the west side, a lone cedar, and on the south side, the Rio Grande, and on the north side, the ridge of the mountain.

Wherefore we ask and pray that your excellency be pleased to hearken

to this our petition, whereby we will receive favor and grace, which is what we seek; and we declare this is not in dissimulation, and as necessary, &c.

March 13, 1837.

NICOLAS SANDOVAL.  
 ANDRES SEDIO. +  
 JUAN ANTONIA SANDOVAL. +  
 FRANCISCO SANDOVAL. +  
 TOMAS COCA. +  
 FELIPE MESTAS. +  
 FELIPE GALLEGO.  
 FRANCISCO BEITE. +  
 RAFAEL PACHECO. +  
 RAMON DURAN. +  
 LUIS MARTIN. +

SANTA FÉ, March 14, 1837.

In order to grant to the petitioners the land they apply for, saving the formalities required by the law, the ayuntamiento of Taos will report what may occur to them in the matter, keeping in view the recommendation this petition merits.

PEREZ.

In the town-house of Taos, on the twenty-seventh day of the month of March, eighteen hundred and thirty-seven:

The contents of the foregoing petition, decreed upon by his excellency the governor, having been read and examined by this corporation, the said matter will be referred to a committee of three members of the same, who are David Waldo, Juan Manuel Lucero, and José de Jesus Trujillo; that they, according to their knowledge, may report as they shall find to be proper. It was so decreed and ordered by the illustrious corporation.

JUAN ANTONIO ARAGON.

JUAN ANTONIO LOVATO, *Secretary.*

We, the committee charged as above, stated, after having been seen and heard by the petitioners, and by those of San Francisco del Rancho, who are interested in the waters of the Rio Grande, find that the tract which the petitioners apply for was granted in the year 1795 to sundry citizens of the rancho for common pasturage; and, also, we cannot agree to the application, because it is entirely to the injury of third parties.

Taos, 28th March, 1837.

WALDO.  
 LUCERO.  
 TRUJILLO.

At San Geronimo de Taos, on the thirty-first day of the month of March, eighteen hundred and thirty-seven:

The ayuntamiento being assembled, and the session being opened in the town-house of San Fernando, and presided by the president, Rafael de Luna, in council with the second alcalde, Juan Antonio Aragon, the report prepared and presented by the gentlemen appointed was received.

The said report was approved by the illustrious corporation, according to what said gentlemen state concerning the petition of those who apply for lands to cultivate on the Rio Grande tract. Wherefore this

corporation, as the ayuntamiento reports to his excellency the governor, that, besides what is reported and ascertained by the gentlemen of the committee, this corporation finds greater objections to granting possession in the Rio Grande on account of the notorious injury which will result to the people of the department of the Rio de las Trampas, where about three hundred families, who have lands below the tract which the petitioners ask, will be injured, as the springs which irrigate the tract below are very small and always scant, and do not suffice to irrigate the fields, and the land they apply for is held by the settlers of the rancho, who were the first to settle, for pasturing animals and not for cultivation, owing to the scantiness of the water-sources.

This is all the illustrious corporation finds it convenient to report for the information of your excellency.

RAFAEL DE LUNA.  
JUAN ANTONIO ARAGON.

JUAN ANTONIO LOVATO, *Secretary.*

SANTA FÉ, April 20, 1837.

In view of this petition, and the report of the respectable ayuntamiento of Taos, the grant of land asked for agriculture cannot be made.

PEREZ.

J. E. ALARID, *Secretary.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
Santa Fé, New Mexico, January 11, 1872.

The foregoing is a correct translation of the original, in Spanish, on file in this office.

DAV. J. MILLER,  
*Translator.*

JOSÉ MIRABEL ET AL.

RANCHO DEL RIO GRANDE TRACT.

In this case the documents on file in this office constituting and supporting the claim are all originals, embracing the following papers:

1. Petition to the chief alcalde by certain citizens of the ranchos of Trampas, protesting against the granting of the Rio Grande tract of land to certain applicants therefor, and claiming the same as their own property.

2. Reference of the petition to the governor of the province by the chief alcalde for his action thereon.

3. Grant by the governor dated February 4, 1795.

4. Petition to the chief alcalde by José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariano Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, and Catarina Romero, asking him to place them in possession of the land.

5. Act of possession, dated April 9, 1795, executed by the said chief alcalde to the said ten grantees, and containing a designation of the boundaries of the tract.

6. Petition, dated March 13, 1837, to the governor of New Mexico by eleven persons, praying for a grant for a portion of the Rio Grande tract of land.

7. Reference by the governor of the petition to the ayuntamiento of

Taos for its report upon the admissibility of the prayer of the applicants.

8. Reference by the ayuntamiento of the matter to a special committee to investigate and report thereon.

9. Report of the committee that the land prayed for was not subject to disposal, being already held under a grant made in 1795 to citizens of the rancho.

10. Report of the ayuntamiento to the governor declining, for reasons stated, to recommend the making of the grant.

11. Decision of the governor, dated April 20, 1837, declaring the inadmissibility of the petition for the land applied for, and declining to make the grant.

This claim has been on file in this office for probably the last ten years. By whom or when filed does not appear from the docket, nor was there with the claim as filed any notice to the surveyor general or sketch of the land claimed. On the 10th of January instant the attorney of the present claimants presented a petition asking the surveyor general to take up and act upon the case at once, setting forth that the claim had been already presented to Congress, and had there been investigated and recognized; that a bill confirming their grant had passed both Houses of Congress and failed to become a law only for want of the signature of the President, and filing a printed extract from the Congressional Globe containing the debates in the House of Representatives. The case was then set for trial for the 12th instant.

The muniments in the case appear to be regular and complete. The signatures of Governors Chacon and Perez, and of the chief alcalde, Ortiz, to the documents filed, have been compared with others of theirs found in the archives of this office, and are believed to be genuine. The authority of the governor under the Spanish government to make the grant, and of the political chief under the Mexican to recognize and confirm its validity, is unquestioned and undoubted.

The title to the land claimed under the grant of 1795 was adjudicated by the political authorities of Mexico in the year 1837, upon an application for a grant for this land or a portion thereof, and decided in favor of the holders under said grant, all of which is shown by an original document filed with the case. The grant has therefore been formally recognized and respected as good and valid by the local and superior political authority of the government of Mexico in New Mexico, and its status, thus subsisting at the date of the treaty of Guadalupe Hidalgo, has not since been disturbed. It is a well-known fact that the tract has been settled and cultivated for many years, and now contains a large permanent population.

In view and consideration of the premises, this claim is approved by this office as a good and valid one under the laws, usages, and customs of the former governments of the country and under the treaty of 1848 with Mexico, and a transcript of all the papers in the case, except Document B, is hereby transmitted to the Congress of the United States, with the recommendation that the claim be confirmed to the legal representatives of José Mirabal, Antonio Fernandez, Concepcion Romero, Ventura Romero, Julian Romero, Mariana Romero, Antonio Fresqui, José Antonio Gonzales, Ana Maria Romero, and Catarina Romero.

T. RUSH SPENCER,

*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,

*Santa Fé, New Mexico, January 15, 1872.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, January 20, 1872.*

The foregoing is a correct transcript of the original papers on file in this office in private land-claim reported as No. 58.

T. RUSH SPENCER;  
*Surveyor General.*

*Transcript of private land-claim, reported as No. 60, in the name of the town of Galisteo, of February 6, 1814. Decided by the surveyor general of New Mexico February 24, 1872.*

### TOWN OF GALISTEO CLAIM.

UNITED STATES OF AMERICA, *Territory of New Mexico :*

*To the Hon. T. Rush Spencer, United States surveyor general for the Territory of New Mexico :*

Your petitioners, Ygnacio Chaves, Vincente Roybal, Nicholas Pino, and others, heirs and legal representatives of Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, deceased, the present owners and claimants of the Galisteo tract of land, residents of the county of Santa Fé, in the Territory of New Mexico, would respectfully represent to you that, in the year 1814, Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, and their associates, citizens of the village of Santa Fé, petitions his excellency the civil and military governor, Albert Maynes, for a grant to a tract of land situate in the abandoned pueblo of Galisteo; said petition was duly presented to said governor, and a grant was made to said petitioners on the 6th day of February, 1814, to the said Galisteo tract of land within the boundaries designated by said applicants. Said land is situate in the present county of Santa Fé, Territory aforesaid, and bounded on the east by the Loma Parda, on the west by an arroya, (commonly called the Infierno Arroyo,) on the south by the cañada of the Jara, and on the north by the ojito of Galisteo, as is designated in plat marked "A," accompanying this petition, all of which points and boundaries are well-known land-marks in the county of Santa Fé. The grant was made to said grantees, and to their children, heirs, and successors, in fee, in accordance with the forms of law then in force, and ever since the said grant was made as aforesaid the said grantees, their heirs and legal representatives, have held quiet and peaceable possession thereof. The said claimants and petitioners cannot state with accuracy the quantity of land contained in said grant, but it is supposed to contain about nine thousand acres, nor can they furnish an accurate plat of survey, as no survey has been made thereof, but herewith append a plat of said grant as accurate as possibly can be made from the maps and the well-known metes and bounds above given, and which is supposed to be accurate enough to be placed upon the general map.

The original grant is herewith presented, marked B, and is begged to be made a part of the petition, to be referred to whenever necessary.

The petitioners present this their said claim before you under the act of Congress approved July 20, 1854, entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to

grant donations to actual settlers therein, and for other purposes," and respectfully ask approval and confirmation of their said claim to the legal representatives of the original grantees.

S. B. ELKINS,  
*Attorney for Claimants.*

EXHIBIT B.

*Sor Gobor. politico y Militar :*

Felipé Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, y Pedro Sandoval, por si y a nombre de otros compañeros, vecinos de esta villa, paresemos en debida forma que hutil mas nos sea, y decimos que allandonos con bastantes familias, aqn. mantener [torn] tener unos pedasos de tierra suficientes para adquirir la susistencia pa. ñtras numerosas familias, y teniendo lla registrado y pisado el punto de Galisteo, lavor antigua de los indios llamados los Tanos, y que habiendose acabadose estos, sin haber quedado mas de uno u otro q. se allan separtidos en algo. pueblos de esta provincia sin intencion de abitar en sus antiguos agares; y por lo mismo a la piedad V. S. pedimos se nos adjudique de merced real, a nombre de su M. G. el rey ñtro amor qe. Dios guarde, la tierra pa. labor y patiaderos, que encierra por el oriente la L'oma Parda, por el poniente el arrollo comunmente llamado del infierno, por el sur la Cañada de la Jara, por el norte el ojito de Galisteo, que dentro de estos señalamientos de competentes terminos ag tierra y agua hasta pal. viente familias, y que en parte sera antemoral a esta villa, y ranchos, por el mucho riesgo de enemigos qe. por ese punto entran y salen con sus represas despues de haber hecho muchos muertes qe. para abitar algunos desgracias se tenia un grande destacamento de los pueblos de indios y vecinos, y que concediendocenos por merced el referido punto sera escusado lla el destacamento, cuga posecion pedimos para nos, ñtros hijos, herederos y subsesores y por tanto a la piedad de V. S. suplicamos acceda a ñtra peticion y solicitud, que de aserlo así recibiremos merced y gracia, jurando en debida forma no proceder de malicia esta ñtra solicitud.

Villa de Santa Fee fibrero [torn] mil ochosientos catorce.

Felipé Sandoval, Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, José Auto. Alired y Diego Pineda, &c.

Santa Fé, Febrero sies de mil ochosientos catorse.—Concedo á nombre de su M. G. el rey mi amo, el tereno que solicitan los suplicantes, dentro de los linderos que ellos señalan, albirtiendoles, que los pastos y aguas son comunes a los habitantes de esta villa y, sus ranchos, para pastiar, agostar y abrebar, los caballadas y ganados mayores; lo que firmo en el referido dia mes y año.

ALBERTO MAYNES.

Es copia fiel y legal sacuda de su original aque me refiero, &c., &c.

TRINIDAD BARCELO.

Protocolado en mi oficina para su registro este dia 29 de Nov., A. D. 1870, a las dos de la tardo.

TRINIDAD ALARIA,  
*Escb'o de la Corte de Pruebas.*

TERRITORIO DE NUEVO MEXICO, *Condado de Santa Fé :*

Yo el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mexico, certifico : que la antece-

dente escritura fue protocolada en mi oficina para su registro á las dos de la tarde del dia 29 de Noviembre, A. D. 1870; y que en el mismo dia fué enregistrado por mi en el libro letra E de registros de documentos de terrenos, paginas 446 y 447, el cual es tenido en esta oficina con tal objeto.

En testimonio de lo cual pongo mi nombre y el sello de dicha corte, en Santa Fé, N. M., este dia 29 de Noviembre, A. D. 1870.

[SELLO.]

TRINIDAD ALARID,

*Escribano de la Corte de Pruebas y Ex-officio Registrador.*

[Translation.]

*To his Excellency the Civil and Military Governor :*

We, Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, for themselves and in the name of other associates, citizens of this village, appear in due form, and say: That, having large families to support, we are desirous of some pieces of land sufficient for the maintenance of our large families, and having already registered and examined the place Galisteo, being the old field of the Indians called the Tanos, and the said Indians having become extinct, there remaining but few, who are scattered among some other pueblos of this province, they having no intention of living at their old homes, we therefore pray your excellency that there be conceded to us the said land, as a royal grant, in the name of His Majesty the King, our master, (whom may God preserve,) for cultivation and pastoral grounds. Said tract of land is bounded on the east by the Loma Parda, on the west by the Arroyo, (commonly called the Infierno Arroyo,) on the south by the Cañada de la Jara, and on the north by Ojito of Galisteo, within which ample limits there is sufficient land and water for as many as twenty families. And said place will, in part, be a protection for this village and ranches, owing to the great risk from the enemy, who passes to and fro with his spoils, after having committed many murders; and in order to prevent depredations, a strong detachment of Pueblo Indians and citizens was kept stationed there; and by granting to us the said place as a grant the said detachment would then be unnecessary—which grant we ask for ourselves, our children, our heirs, and successors. Therefore we pray your excellency to accede to this our petition and application, whereby we will receive benefit and favor, we declaring in due form that this our petition is not made through dissimulation.

Village of Santa Fé, February, [torn,] eighteen hundred and fourteen.

Felipe Sandoval, Luis Lovato, Julian Lucero, Matias Sandoval, José Anto. Alarid, and Diego Pineda, &c.

Santa Fé, February sixth, eighteen hundred and fourteen.—I grant, in the name of His Majesty, my lord, the King, the land petitioned for by the applicants, within the boundaries as designated by them, giving them to understand that the pastures and waters shall be free to the inhabitants of this village and its ranches for pasturing and herding their horses and cattle thereon, which I sign on the said day, month, and year.

ALBERT MAYNES.

A true and legal copy taken from the original, to which I refer, &c.  
TRINIDAD BARCELO.

The above and foregoing is a correct translation of the original in



Spanish made by me, and the same is a correct translation to the best of my knowledge and belief.

SAMUEL ELLISON.

Sworn to and subscribed before me this July 20, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, July 31, 1871.*

The foregoing translation having by me been compared with the original in Spanish and found correct, the same is hereby adopted.

DAV. J. MILLER,  
*Translator.*

*Testimony.*

TOWN OF GALISTEO.

AGUSTIN DURAN, being by the surveyor general sworn, on his oath answers as follows :

Question by Samuel Ellison, as attorney for the claimants under alleged grant to Galisteo. What is your name, age, and residence?—Answer. My name is Agustin Duran, my age is seventy-nine years, and I reside here at Santa Fé. I was born here, and have always lived here except about five years that I resided at the city of Chihuahua.

Q. Do you know the town of Galisteo; and if so, where is it situated?—A. I know the place well. It is in the county of Santa Fé, and to the south of the city of Santa Fé.

Q. How long have you known the place?—A. From the year 1814 till now.

Q. State, if you remember, who resided at Galisteo in 1814.—A. There resided there then Felipe Sandoval, Luis Lovato, Julian Lucero, José Antonio Sandoval, *alias* Bachicha, and I remember none others, but there were others whom I cannot now name.

Q. State, if you can, who was governor of the province of New Mexico in the year 1814?—A. I think it was Facundo Melgares, who, I think, it was who gave me in that year an escort of men to accompany me to the Arkansas River in search of my brother, though it may have been Governor Manrique instead of Melgares.

Q. Who relieved Governor Alencaster, if you remember, and when did he relieve him, as governor of this province?—A. It was Alberto Maynes who relieved Alencaster as governor. The time I do not distinctly remember, but it was about 1814 or 1815.

Q. Did you know Trinidad Barcelo; and if so, can you state whether he held any public office in or about the year 1814?—A. I did know him, and he was then either secretary of the prefecture or alcalde at Santa Fé.

Q. Have you seen him write?—A. I have seen him write often.

Q. What writings have you seen him write?—A. I can name no documents he wrote, but his manner of writing and his style I knew well. His handwriting was plain, round, and clear.

Q. Do you recollect his manner of signing his name, and whether he used a rubric?—A. He signed his name Trinidad Barcelo and used a rubric, as was required by the law, and without which no signature was valid.

Q. (By Kirby Benedict, attorney for E. W. Eaton, contestant of the claim.) State what kind of or describe the rubric used by Barcelo.

(Question objected to by Mr. Ellison. Objection overruled by surveyor general.)

A. His rubric was made by commencing at the end of his signature below, and running backward and forward under it.

Q. (By Mr. Ellison.) Do you recognize the signature of Barcelo at the end of the document B in this case, now shown you?—A. I have examined the document and the signature, and am satisfied the document is in the handwriting of Barcelo, and that the signature at the end thereof is his genuine signature.

Examination at this point adjourned to 11 o'clock to-morrow morning, December 2.

Eleven o'clock a. m., December 2, the respective parties appeared and agreed in substance as follows: The attorneys for the claimants of the Galisteo town grant agree to relinquish and quit-claim all right, title, and interest of said claimants in and to that portion of the said Galisteo town grant which conflicts with, or lies within, the limits of the grant confirmed to E. W. Eaton, No. 16, by act of Congress approved June 21, 1860; and it is now understood and agreed that this agreement shall be made in writing and then filed with the papers in this case in this office, and upon being executed and so filed, the said Eaton, in virtue thereof, covenants to withdraw all further opposition to the approval of said Galisteo grant.

Examination of the witness Agustin Duran continued, as follows:

Q. Do you know the town of Galisteo? And, if so, state how long you have known the place as a town and where is said town situated.—A. I know the town of Galisteo, and have known it since the year 1814, before which year I have no personal knowledge of the town, but always understood it had been in existence since long before that year. The town is situated south of the city and in the county of Santa Fé.

Q. What is the distance of the town of Galisteo from the city of Santa Fé?—A. About nine leagues somewhat, more or less.

Q. Has the place Galisteo been continuously occupied as a town since 1814?—A. It has.

AGUSTIN DURAN.

Sworn to and subscribed before me this December 2, 1871.

T. RUSH SPENCER,

*Surveyor General.*

DONACIANO VIGIL, being by the surveyor general sworn, on his oath declares:

Question. What is your name, age, and residence?—Answer. My name is Donaciano Vigil, my age is sixty-nine years, and my residence is the Pecos River, in the county of San Miguel, about eight leagues from the town of Galisteo.

Q. State, if you know, who was the governor of the Province of New Mexico in or about the year 1814.—A. Alberto Maynez.

Q. Did you know him personally?—A. I did.

Q. Did you know Trinidad Barcelo, and, if so, are you familiar with his handwriting?—A. I knew him personally and am familiar with his handwriting.

Q. What was the character of his writing?—A. He wrote a bold, free hand, of rather ancient style.

Q. Please examine document B, in this claim of Galisteo, and state whether the handwriting is Barcelo's and the signature.—A. I have examined the document referred to, and am of opinion that the body of said document is not in Barcelo's handwriting; but that the signature thereto, purporting to be his, is his genuine signature.

Q. State, if you know, what office, if any, Barcelo had under the Spanish or Mexican government.—A. I know of no office he ever so held, nor any whatever, until about the time of the occupation of New Mexico by the American Government, at the time of which event he was clerk of the circuit court under the Mexican government, and had been about a year.

Q. Please state whether you know the town of Galisteo, and, if so, how long you have known the place, and state where it is situated.—A. I know the place mentioned, and have known it all my life; it is situated eight leagues south of the city, and in the county of Santa Fé.

Q. Was the place Galisteo a town when the United States took possession of New Mexico, and, if so, how long had it existed as such town?—A. When the United States took possession of the country the town of Galisteo existed the same as it does to-day. From about the year 1790 to 1795, as the archives show during the administration of Governor Chacou or de la Concha, there was first built a house there for the use of a detachment of troops, which from that year to 1814 was stationed there. In the year 1814 Governor Alberto Maynez made a grant for the land at Galisteo to the following grantees, as well as I can now recollect the individuals, viz: Vicente Roibal, Rafael Luga, Miguel Ortiz, Luis Lovato, Bartolome Lovato, Antonio Anaya, Ignacio Chaves, Felipe Sandoval, Matias Sandoval, Pedro Sandoval, Alejandro Lovato, Petrona Pineda, José Antonio Sandoval, Manuel Trujillo, Miguel Lovato, José Chaves, Miguel Roibal, and a widow woman who went from the Rio Tesuque, and it may be that I have omitted to mention some of the grantees.

Q. How did you become acquainted with the facts you have stated as such, and how do you know the persons you have named were grantees in the Galisteo grant?—A. Because I resided there in the years 1819 and 1820; and my father occupied a portion of the land under one of the grantees while I was a member of my father's family; and I have seen the original grant and the list of the grantees, both of which I saw in the year 1831 or 1832 in the office of the *ayuntamiento* of Santa Fé, I being at that time secretary of the military commandancy of New Mexico, and having free access to the records and archives of the government, to which I frequently had occasion to refer.

Q. Please again examine document B and then state whether, according to your recollection, the same is a copy of the document you have just mentioned as having seen at the office of the *ayuntamiento* of Santa Fé.—A. I have examined as requested, and am of opinion that the document is a copy of the one I saw at the *ayuntamiento*, but it is not identically the same, for the one I there saw was an original document, and bore on the margin the granting decree of Governor Maynez.

Q. What offices have you held in New Mexico under the governments of Spain and Mexico, if any?—A. Under the Spanish government I never held any office, but under the Mexican government I was continually in office from the year 1824 till the American Government took possession of this country in the year 1846 with the military forces commanded by General Kearney, and at the time of that event I was in the military service of Mexico, being then a captain of the line and secretary of the military commandancy, which latter position I had held and exer-

cised since the year 1824. At the time of the organization of the provisional government of New Mexico by General Kearney, September 22, 1846, I was appointed secretary of said provisional government, in which office I served until the 28th of February, 1851, when the existing territorial government went into operation, acting as governor in the meantime from January, 1847, when Governor Bent was assassinated, until Governor Calhoun was inaugurated under the present organic law on the 1st of March, 1851.

DONACIANO VIGIL.

Sworn and subscribed before me this December 2, 1871.

T. RUSH SPENCER.

*Surveyor General.*

*Agreement.*

TERRITORY OF NEW MEXICO,

*Office of Surveyor General, December, 1871.*

IGNACIO CHAVES, VICENTE ROYVAL, NICOLAS Pino, and others, alias town of Galisteo,

*vs.*

THE UNITED STATES.

} Petition for confirmation of grant of land.

Be it remembered that in this case E. W. Eaton has been admitted to defend against the petition of the claimants, and those claiming by, through, or under them; and whereas the interest which the said Eaton has to make such defense is based upon the claim and pretension of said petitioners that the grant set up and insisted upon by them extends within and includes a portion of the land confirmed to said Eaton by an act of Congress, and which act designates the grant of land so confirmed as number sixteen; and whereas the said claimants and petitioners and said Eaton have mutually agreed to compromise and settle the dispute between them: therefore, the said petitioners, and all those claiming by, under, or through them, do hereby covenant and agree to and with the said Eaton that they forever quit-claim and release to the said Eaton any and all right, interest, claim, and pretensions which they or either of them have had, or have, to any part or parcel of land which extends or is included within the grant of land as aforesaid confirmed to the said Eaton; and it is further covenanted and agreed between the parties hereto that, in case the surveyor general, upon the hearing of the proofs of the said petitioners and claimants, shall be of opinion that the claim set up and insisted upon by them ought in right, justice, and truth be confirmed to them, or any part of the same, then the said surveyor general, in such decision, opinion, or judgment as he may render, may expressly define and limit the grant to the petitioners and claimants so that it shall not extend within nor include any portion of the lands confirmed as aforesaid to the said Eaton in the grant numbered as aforesaid.

And inasmuch as the said claimants and petitioners, for themselves, and all those claiming by, through, or under them, do quit-claim, release, and covenant, and agree as herein stated, the said Eaton is not interested in further defending and resisting the petitioners in this case; he therefore withdraws from making further opposition in this case upon this agreement being signed by the parties or their representatives in the said office in this behalf, and placed among the papers in the case for the proper consideration and guidance of the surveyor general, in case he shall adjudge in favor of the said petitioners and recommend

the confirmation by Congress of any portion of the land claimed by them, and which shall not extend or be included in the grant heretofore confirmed to the said Eaton.

Signed at Santa Fé, in the said Territory of New Mexico, this 2d day of December, 1871.

S. B. ELKINS, [SEAL.]  
*Attorney for Claimants Galisteo Grant.*  
 E. W. EATON. [SEAL.]

Filed in the surveyor general's office this December 9, 1871.

MILLER, C. C.

*Decision.*

#### TOWN OF GALISTEO.

This case was filed in this office July 20, 1871, by the attorney for the present claimants of a certain tract of land in the county of Santa Fé, embracing the town of Galisteo, and said to contain about nine thousand acres, the parties claiming said land as heirs and legal representatives of the grantees Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, and Pedro Sandoval, deceased. The claim was filed, duly accompanied with a notice to the surveyor general, translation of the title papers presented, and sketch-map of the land claimed.

The muniment, a single paper, constituting the claim, and filed as above as document B, purports to be an authenticated transcript of an original grant of land made on the 6th day of February, 1814, by Alberto Maynez, civil and military governor of the province of New Mexico, under the Spanish government, and shows:

1. The petition, dated Santa Fé, February, 1814, of Felipe Sandoval, José Luis Lovato, Julian Lucero, Matias Sandoval, Pedro Sandoval, José Antonio Alarid, and Diego Pineda, addressed to the civil and military governor, praying for a piece of pastoral and agricultural land at the abandoned Indian pueblo of Galisteo, stating the boundaries of the land as being on the north, the little spring of Galisteo; on the east, the Loma Parda; on the south, the Jara Valley; and on the west, the Infierno Arroya.

2. The decree of Governor Maynez, dated February 6, 1814, granting to the petitioners, in the name of the King, the land by them applied for, unconditionally, but reserving for the people of Santa Fé and vicinity the privilege of pasturing and herding their live-stock on the land.

3. The original certificate of one Trinidad Barcelo, bearing no date or locality, and indicating no official character that the transcript was a true and legal one.

4. The certificate dated November 29, 1870, signed by Trinidad Alarid as clerk and recorder of Santa Fé County, New Mexico, attested by the seal of the county, that the foregoing document was recorded in his office.

Notice of intention to oppose the approval of this claim having been given at this office on the 25th of October last by E. W. Eaton, as owner of the adjoining confirmed private land-claim No. 16, the San Cristoval grant, with which this claim conflicted, the case was set for a hearing for December 1, and the parties, claimants and contestant, notified. They appeared by their attorneys, and witnesses were examined on that and the following day. In the mean time, and pending the hearing before the surveyor general, the parties compromised the question at issue between them, the Galisteo claimants covenanting to relinquish all that portion of the tract claimed by them which conflicts with said San

Cristoval grant, a formal written agreement to that effect to be subsequently executed and filed with the papers in this case, and which document was accordingly filed on the 9th of December.

At the investigation on the merits of this claim two witnesses were examined. The witness Duran declared that he had known the town of Galisteo from the year 1814, and that it had been continually occupied since that year; that Alberto Maynez succeeded Alencastor as governor of New Mexico about the year 1814 or 1815; that he knew Trinidad Barcelo, who was, in 1814, either secretary of the prefecture or *alcalde*, and that his signature to the certificate of authentication on document B before mentioned was genuine. The witness Vigil testified that the town of Galisteo was an old settled town still existing; that Alberto Maynez, whom he knew personally, was governor of New Mexico in the year 1814, and that in that year he made a grant of land at Galisteo to at least eighteen grantees, named by the witness, which grant, as well as a list of the grantees, he saw forty years ago in the office of the *ayuntamiento* at Santa Fé; that he personally knew Trinidad Barcelo, and was acquainted with his handwriting and signature, and that the latter borne by said document B was his genuine signature.

As the document filed as the basis of this claim is but a copy of an alleged original grant, purporting to have been made in the year 1814 by Governor Alberto Maynez, authenticated as a copy in a manner showing no official character or authority in the premises, and as no data of any such concession has been found among the archives or records of this office, and especially as said archives and records show that José Manrique, and not Alberto Maynez, was governor of New Mexico in the year 1814, all the evidence and circumstances produced and observed in the investigation of the merits of this claim have been carefully noted and considered.

The claimants have filed in this case the said copy, and in their notice to the surveyor general represent it as an original grant; they ignore the fact that it is *prima facie* a copy, and that, being such, the absence of the original must be accounted for, or due diligence be shown to have been exerted to find and produce it. This the claimants have entirely failed to do, either by declaration in their notice or by the testimony of witnesses.

The document is stated to be a true copy by one Trinidad Barcelo. His certificate sets forth no date or locality, nor does it state or in any manner indicate in virtue of what authority or in what official character or capacity he certified, nor does it show the motive of the certificate, or in what depository the original of the copy was found or remained. The witness Duran states that Trinidad Barcelo was, in 1814, when this grant is said to have been made by Maynez, either secretary of the prefecture or *alcalde*, and the witness Vigil states that he never knew Barcelo to have held any office until about the time of the transfer of national sovereignty over New Mexico in 1846. There is nowhere any evidence on the files of this office or elsewhere shown that he was secretary of state or had any official connection with the general government of the province. The time of the certificate could not have been in 1814, when Duran says he was secretary or *alcalde*, because the grant by Maynez could not have been made in that year, as appears to the satisfaction of the surveyor general, as hereinafter explained. His power to authenticate transcripts is not shown or indicated by statement of rank or faculties, and whether he possessed it or not it is not shown in his certificate or otherwise that he was in the exercise thereof at the time he certified to the copy in question.

As no register or book of records of the acts of the provincial governments of about the period of Governor Maynez's incumbency can be found to consult, the surveyor general, in searching for light in the investigation of land-grant claims, is obliged, in this as in other cases, to depend in a great degree for his information upon that afforded by the old archives preserved in his office. These he has consulted in this case, and from them it appears that Governor Maynez did make, in the year 1816, to a number of individuals at Galisteo a verbal grant for lands there, and that in the year 1822 the *alcalde*, in virtue of that verbal concession or authority, and by direction of the *ayuntamiento* of April 8 of that year, placed certain individual parties in formal possession of these lands, which he states they had been occupying and cultivating during the previous six years, some of them, it appears, being the identical individuals named as grantees in the claim of 1814, now in investigation. Five of these acts of possession, each bearing date April 29, 1822, made respectively to José Antonio Alarid, Maria Nieves Mirabal, Matias Sandoval, Rafael Sena, and Filipe Sandoval, at least three of whom appear as grantees in the claim of 1814, are found among said archives, files 58, 616, 892, 893, and 894 thereof; and they each recite substantially that, whereas the *ayuntamiento* of Santa Fé had, on the 8th day of April, 1822, as appeared from its recorded proceedings of that day, directed the constitutional *alcalde* to execute acts of possession for lands to the nineteen settlers at Galisteo, shown in a list on file among the archives of his office formed six years before, when Acting Governor of the Province Alberto Maynez made a verbal order in virtue of which the grantee had already held the land six years, he, the *alcalde*, therefore declared said party invested with title in fee to the land there described by extent and boundaries and given in possession, and further declared that any other title thereafter appearing for said land was invalid and of no force.

From these documents, the signature to each of which of the *Alcalde* Pedro Armendariz is known to the office, it appears, or is rationally deducible, that there was no general or community grant to the town of Galisteo, such as alleged by the claimants in this case, and that, so far as has been made known to this office, there was no written grant or original title for the lands at Galisteo, except that referred to and executed as above by the *alcalde* to individuals for distinct tracts, and other than which the *alcalde* announced and declared no legal one existed. And the apparent non-existence of any such general grant is corroborated by testimony taken before the surveyor general on the 23d ultimo and the 3d and 5th instants, in the matter of the application of E. W. Eaton for a resurvey of confirmed private land claim No. 16, the San Cristoval grant. In that case, the witness Amaya, who had resided at Galisteo for twenty-odd years prior to 1840, testified he never knew of any grant to the people of that town. The witness Joaquin Chaves testified he had resided there since 1822, and was not aware of any general grant to the town or people, but was aware that the land had been divided out to eighteen or nineteen individuals in tracts of 100 by 1,000 varas in size, on the Galisteo River, under verbal authority of Governor Maynez, in the year 1815 or 1816, and afterward, in 1822, given in possession to said individuals. And the witness Sandoval, formerly *alcalde* and member of the *ayuntamiento* of Santa Fé, now territorial adjutant general and auditor, testified that the land at Galisteo was applied for in 1815 or 1816 by his grandfather as the principal petitioner, and the *alcalde* placed the applicants in possession in the latter year, according to his recollection; that this title from the *alcalde*, under which

he understood the people still held their lands, was the only one ever received by them, as he recollected; that he knew of no general grant for the land, and that, from his familiarity with the affairs of Santa Fé and Galisteo, he did not believe any such grant or any title whatever, other than that described as from the *alcalde*, could have been extant without his knowing it.

If there was, indeed, a grant made by Governor Maynez in the year 1814, as positively stated by the witness Vigil, to the grantees named as such in the claim presented, what was the motive or necessity for the grant to the same parties in the year 1816, and how can the statements of the *alcalde* in 1822 be reconciled to the facts in the case? Vigil states that in the year 1831 or 1832 he saw in the office of the *ayuntamiento* at Santa Fé the grant to Galisteo made by Maynez in 1814, and names eighteen of the grantees, one of them a woman from Tesuque. The petitioners and grantees in that claim are but seven in number, and they were all residents of the city of Santa Fé and were all males, as set forth in their petition and indicated by their names.

If, notwithstanding the statement of the witness Vigil, there was not such a grant, his testimony may, nevertheless, be reconciled to the fact without prejudice to his honesty and good faith. As the record of the action of the *ayuntamiento*, itself more or less in the nature of a grant referred to by the *alcalde* in his acts of possession and not mentioned by the witness, was most likely to be seen at the office of that body, and as the unreliability of men's memory over an interval, as in this instance, of forty years, is undeniable, the conclusion is, in view of the ascertained facts in this case, that what the witness there saw was the action of the *ayuntamiento* of 1822, concerning the verbal authority of Governor Maynez of 1816, therein cited, concerning the lands at Galisteo, which were immediately thereafter given in possession to the grantees by the *alcalde* in pursuance of the action of the *ayuntamiento*. This theory is sustained by the circumstance that the witness stated that he saw, at the same time and place, a list of the grantees. Such a list, of nineteen individuals, being the grantees in the grant of 1816, was on file at the office of the *ayuntamiento*, as appears from the acts of possession of 1822, and one of these grantees was a woman; and further, the names of some of the grantees mentioned by the witness are identical with those mentioned in the said acts of possession. It is therefore believed that, as the witness Duran was clearly mistaken in the succession of governors in stating that Maynez succeeded Alencaster, whereas our archives show that Manrique intervened, so the witness Vigil was mistaken in stating that Governor Maynez, in the year 1814, made a grant of land to the town of Galisteo, whereas our archives show, beyond question, that Maynez was not governor in that year.

If Alberto Maynez was governor of New Mexico in the year 1814 the claim in this case is consistent in its alleged emanation; if not, it is from that circumstance *per se* fraudulent, null, and void. There being no standard history of the country, the yet more reliable data and authority of the old archives in this office pertaining to the provincial government of New Mexico of the period in question must be consulted, and they seem to determine the question conclusively. From them it appears that José Manrique, in 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, Alberto Maynez, in 1815, 1816, 1817, were the governors of the province during the period and particularly the year concerned in the investigation of this claim. From the evidence afforded by this statement it is manifest that this claim, the alleged grant of 1814, for land to the town or people of Galisteo, is destitute of legitimate origin and



foundation, and has no legal existence, and must be treated as null and void from the beginning.

In view and consideration of all the premises, this claim is believed to be one which, in law and equity, would have been declared fraudulent and void by the government of the Republic of Mexico, and one which, tried with the same test by the Government of the United States and by the stipulations and principles of the treaty of Guadalupe Hidalgo, must be disapproved and declared invalid, and the same is disapproved, and a transcript of all the papers in the case is transmitted for the action of the Congress of the United States, with the recommendation that the claim be rejected.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, February 24, 1872.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, February 28, 1872.*

The foregoing is a correct transcript of the original papers on file in this office in private land-claim reported as No. 60, in the name of the town of Galisteo.

T. RUSH SPENCER,  
*Surveyor General.*

*Transcript of private land-claim reported as No. 59, being grant to José Miguel de la Peña and others, made April 20, 1788, for the Serrillos tract, decided by the surveyor general, New Mexico, January 31, 1872.*

### JOSÉ MIGUEL DE LA PEÑA ET AL.

#### NOTICE OF PRESENT CLAIMANTS.

*To the surveyor general of New Mexico :*

Your petitioners, the heirs of Manuel Delgado, respectfully represent that some time previous to the year 1788, (the exact time your petitioners cannot now state,) the government of Spain, through its legal and authorized agents, granted to one Alonzo Real de Aguilar a certain tract or piece of land, situate in the county of Santa Fé and Territory of New Mexico, said Territory then being a part of the Spanish provinces in North America, said land then and now being commonly known as Los Serrillos, and which is bounded and described as follows, to wit: on the north, by the Cañada de Juicu and the land of the Bacas; on the south, by the Cerros Altos; on the east, by the road that leads to Galisteo, measuring from east to west 2,500 varas; that after said grant was made as aforesaid it was abandoned until the 20th day of April, 1788, on which day one José Miguel de la Peña, husband of Maria Real, one of the descendants of said Alonzo Real de Aguilar, made and presented to Fernando de la Concha, then captain general and governor of New Mexico, a petition setting forth that inasmuch as said grant had been made to said Alonzo Real de Aguilar, but had been abandoned, that he would be pleased to grant it to him, the said petitioner, which the said governor and captain general did, and on the 12th day of June, 1788, by order of said governor, said José Miguel de La Peña was duly and legally placed in possession of the one-third part of said land or

grant, said one-third part being bounded as follows, to wit: being on the western part of said grant, and bounded on the west, by the lands of Cleito Miera, and on the east, by lands belonging to Teresa Real de Aguilar, and on the other sides, north and south, the same boundaries mentioned in said grant, and measuring from east to west 833 varas, all of which will more fully appear by reference to the petition of said José Miguel de la Peña, the order of the governor and the certificate of the alcade, the originals of which are now on file in your office, but copies accompany this petition and are marked A.

Your petitioners further state that it appears by the various papers, filed with this petition, that there were two other heirs of Alonzo Rael de Aguilar, besides the wife of said José Miguel de La Peña, placed in possession of said grant, there being one-third apportioned to each heir.

Your petitioners further state that on the 1st day of July, 1793, one Antonio Analla, one of the heirs of the said Alonzo Rael de Aguilar, sold and conveyed to one Manuel Delgado, grandfather of your petitioners, for a good and valid consideration, 277 varas, from east to west on said grant, joining and contiguous to the part granted to José Miguel de La Peña, on the west, and afterward on the 8th day of September, 1810, one Salvador Martin sold and conveyed to said Manuel Delgado a certain other portion of said grant, measuring from east to west 150 varas; said piece or portion joining on the west the 277 varas sold by Antonio Analla to said Delgado; all of which will more fully appear by reference to deeds of said Martin and Analla, now on file in your office. Copies of which, marked B and C, also accompany this petition.

Your petitioners further state that on the 18th day of February, 1791, said Jose Miguel de la Peña sold and conveyed to one Cleito Mierra his said portion of said grant of Serrillos measuring 833 varas from east to west and afterwards the said Cleito Mierra, being also the owner of 225 varas of land lying on the west and forming the western boundary of said grant, on the 4th day of December, 1804, sold and conveyed both of said pieces of land to said Manuel Delgado for a good and valid consideration, as will more fully appear by reference to the original deeds of conveyance now on file in your office, copies of which also accompany this petition and are marked A and D.

Your petitioners further state that the 225 varas of land sold as aforesaid by Cleito Mierra to Manuel Delgado was granted to said Mierra by said Fernando de la Concha and was bounded on the west by lands of Pedro Pino, and on the north and south by the boundaries of the Serrillos grant, and on the east by lands of said Mierra.

Your petitioners further state that by virtue and force of the deeds aforesaid the said Manuel Delgado became and was the owner of 1,260 varas from east to west on the Serrillos grant and 225 varas additional on the west boundary thereof, making in all 1,485 varas of land from east to west and bounded on the north by the Cañada de Juicu and land of the Bacas, on the south by the Cerros Altos.

Your petitioners further state that said Manuel Delgado, during his lifetime and from the dates respectively of the deeds aforesaid, occupied and was in possession of the lands therein named until his death, and by his last will and testament, the original of which is also on file in your office, devised said 1,485 varas of land to one of his sons, Manuel Salustiano Delgado, the father of your petitioners, who also occupied, possessed, and cultivated said land until the date of his death, since which time until the present your petitioners have also peaceably and quietly had the possession of said land, cultivated the same, and are now in possession thereof; that your petitioners know of no adverse

claim ever having been urged to said lands by any one; that the same is now in a high state of cultivation.

In consideration of the premises your petitioners ask that said piece of land be confirmed to them.

S. B. ELKINS,

*Attorney for Petitioners and Claimants.*

JUNE 29, 1871.

[THE GRANT.]

[SELLO.] Seis reales; Sello segundo, seis reales; año de mil setecientos ochenta y ocho y ochenta y nueve.

*Señor Govr. y Capn. Genl.:*

Joseph Migl. de la Peña, vezino desta villa de Sta. Fé, ante V. S. paresco en la mas bastante forma quanto a derecho ay a lugar y digo: Señor, que tengo registrado un pedaso de tierra que esta en el parage que yaman de Los Seryos, el qual parage o sitio fue resien conquistado este reino de Dn. Alonso Rael de Aguilar, aque lo que fue de mi esposa Maria Rael, y por abe yo dejado tantos años despoblado y aber perdido el derecho que dho. Dn. Alonso tenia, aora, señor, lo pido a V. Sa., en nombre de su magd. con todas sus entradas y salidas, pastos y abrevaderos, usos y costumbres, para mi, mis hijos, herederos, persona ò personas que fueren de mi utilivolunta, para poder senbrar, y mantener los animales que fuere Dios serbido dar me y prometo poblar dho. sitio segun la mente de su magd. y lo dispuesto por sus reales ordenansas. Por todo lo qual y lo que a mi fabor combenga.

A V. S. pido y suplico con el mas profundo rendimiento se sirba de atenderme y haserme merced, en nombre de su magd, lo q. espero conseguir mediante su gran justificacion y la asertada y segura distribucion de su gusticia que mediante esta prober a Vsa. lo que mas por conveniente ayare ynploro el real ausilio de Vsa. y juro en toda forma no ser de malicia este mi escrito; y en lo necesario, &c.

JOSEPH MIGL. DE LA SENA.

STA. FÉ, 20 de Abl. de 1788.

Hallando por combeniente el cultivo de la tierra de que trata esta instancia, passe al sitio que cita y puse en posesion de ella al suplicante, y demas herederos del difunto Dn. Alonso Rael de Aguilar, y pa. que en todos tiempos conste, se formalizarán los documentos correspondientes á su favor por el alcalde mar. de esta villa Dn. Josef Antonio Ortis.

CONCHA.

En esta villa de Sta. Fee, en 12 dias del mes de Junio deste año de mil setecientos y ochenta y ocho, yo, el capn. de milisias y alcalde mayor desta villa, en virtud de la orden y decreto qe. antecede de el señor thte. coronel y gobernador politico y militar deste reyno, Dn. Fernando de la Concha, pase al puesto y paraje qe. comunmente yaman Los Serrillos, y sin enbargo de aver metido en posesion al suplicante el dho señor thte. coronel, coji de la mano a Dn. José Miguel de la Peña y lo pacie por el sitio, aranco sacates, tiro piedras, dio boses, diciendo, Viva el rey nuestro señor, qe. Dios guarde, tomando posesion de dhas tieras quieta y pacifica, sin contradision alguna, señalándole los linderos, qe. lo son: Por el norte con los linderos de la Cañada del Guycu y tieras de Los Bacas; por el sur con Los Serros Altos; por el oriente con el camino camino qe. ba para Galisteo; y costa dho. sitio por sus medidas de oriente a poniente dos mil y quinientas varas, y repartido dho. sitio en

tres partes se tocaron a dho. Dn. José Miguel de la Peña ochosientas y treynta y tres varas, en la parte del poniente qe. linda con tieras de Dn. Cleto Miera, y por el oriente con tierras de los herederos de Dn. Anto. Teresa Rael de Agilar, y por los otros rumbos los mismos linderos qe. resan la donacion qe. antesede, alvirtiendole qe. pastos y abrevaderos son comunes; y para que en todo tiempo coste lo firme, actuando por resetoria con los testigos de mi asistencia, por la notoria falta de escribano publico ni real qe. de ninguna clase los ay en este reyno; qe. de todo doy fee.

ANTO. JOSÉ ORTIZ.

ANTO. JOSÉ ORTIZ.  
JOSÉ MIGUEL ORTIZ.

En esta villa de Santa Fé, en 18 dias del mes de Febrero de mil setecientos y noventa y un años, ante mi, Dn. Anto. José Ortiz, capn. de milisias y alcalde mayor de esta referida villa, comparecio el ariba contenido Dn. José Miguel de la Peña, a cuyo favor se otorgaron los dos documentos qe. se demuestran, y dijo que con la benia y boluntad de sus hijos y muger traspasaba y traspaso en Dn. Cleto de Miera y Pacheco la auccion, derecho y domisilio que tenia alquerida del parage nombrado Los Serillos, como costa de los documentos de ariba, que a su favor se otorgaron; los que dijo que traspasaba con todo el derecho qe. se requiere en el susdho Dn. Cleto Miera, por ablerle dado este cuatrosientos y cincuenta pesos al coriente de la tiera, los qe. dijo dho. Dn. Jose Miguel de la Peña aver recibidos a su satisfacion y contento; de cuya cantidad se da por contento satisfecho y pagado, que si de aqui en adelante baliere mas de todo le ase grasia y donasion pura mira, perfetos, ynrelocable qe. el derecho yama ynter bibos, y que puheda y use de el segun su voluntad. y dijo el espresado Peña qe. renuncia todas y cualesquiera leyes, requisitos y sircustancias qe a su favor ablen; y me rogo qe como alce. mayor interpusiera mi autoridad y decreto judicial; y yo dho alce. mayor dijo qe. lo antoponia e ynterpuse cuanto por derecho me conferido y para qe. coste lo firmo conmigo el espresado qe de. todo doy fee.

ANTO JOSÉ ORTIZ.  
JOSEPH MIGL. DE LA PEÑA.

Este titulo es registrado en el libro letra D, folio 6, y para que conste lo certifico, firmo y sello con el sello de esta oficina en tanta Fé, hoy veinte y cinco de Septiembre de mil ochosientos cinquenta y dos.

[SEAL.]

JOHN GREINER,  
*Secretary Territory New Mexico.*

Filed in my office this 17th day of March, 1854.

L. D. SHUTZ,  
*Clerk.*

Protocolado en mi oficina para su registro este dia 28 de Junio, A. D. 1870.

TRINIDAD ALARID,  
*Escribano de la Corte de Pruebas.*

TERRITORIO DE NUEVO MEJICO, *Condado de Santa Fé:*

Yo, el infrascrito escribano de la corte de pruebas en y por el condado de Santa Fé, en el Territorio de Nuevo Mejico, certifico que el antece-

dente titulo ó instrumento escrito fué protocolado en mi oficina para su registro el dia veintiocho de Junio A. D. 1870, á las once del dia, y que el mismo fué enregistrado por mi el mismo dia en el libro letra E de registros de documentos de terrenos &c., paginas 382, 382, 384 y, 385 el cual es tenido en esta oficina con tal objecto.

En testimonio de lo cual pongo mi nombre y el sello de dicha corte en Santa Fé, N. M., hoy el dia 28 de Junio, A. D. 1870.

[SEAL.]

TRINIDAD ALARID,

*Escribano de la Corte de Pruebas and ex-officio Registrador.*

[Accompanying translation.]

[SEAL.] Six shillings; second seal, six shillings; year seventeen hundred and eighty-eight and eighty-nine.

*His Excellency Governor and Captain General:*

I, Joseph Miguel de la Peña, a resident of the city of Santa Fé, appear before your excellency in due legal form, and represent that I have registered a piece of land situated in the place called Los Serrillos, which said place or tract, when this province was conquered, belonged to Don Alonzo Rael de Aguilar, who was my wife Maria Rael's grandfather; and having left it so many years unoccupied, and Don Alonzo having lost the right he had to it. Now, sir, I ask your excellency in the name of His Majesty, with all its issues and appurtenances, pastures, and watering-places, uses and customs for me, my children, heirs, or person, or persons to me useful, or of my will, to sow and feed whatever animals God may grant me; and I promise to settle said tract at His Majesty's will, and what he may command in his royal decrees, in view of all which, and all in my favor, I ask and supplicate your excellency with the profoundest respect to attend me and grant to me in the name of His Majesty what I hope to receive through your great righteousness and your never-failing and certain distribution of justice that to this you may deem. To your excellency what may seem most convenient, I implore your excellency's royal aid, and I swear in due form this my writing not to be of malice, and whatever is necessary, &c., &c.

JOSEPH MIGUEL DE LA PEÑA. [Rubric.]

SANTA FÉ, 20th April of 1788.

Finding it convenient, the cultivation of this land that is referred to in this writing, I visited the tract, and placed the said applicant in possession thereof, and other heirs of Don Alonso Rael de Aguilar, and that it may be known forever the proper documents were duly made in his favor by the chief alcalde of this city, Don Josef Antonio Ortiz.

CONCHA. [Rubric.]

In this city of Santa Fé, on the 12th day of June of this year 1788, I, the captain of militia and chief alcalde of this city, in virtue of the order and decree that precedes of his excellency, the lieutenant colonel and political governor and military commander of this province, Don Fernando de la Concha visited the place or location that is commonly called Los Serrillos; and notwithstanding that the applicant had been placed in possession by the said his excellency, lieutenant colonel, I took him by the hand, the said José Miguel de la Peña, and led him over the grant; he tore up grass, cast stones, and shouted, saying, "Live the King

our lord, whom may God keep;" taking quiet and peaceful possession of the lands without hinderance, designating the boundaries as follows: On the north, by the boundaries of the Cañada del Guicu and lands of los Bacas; on the south, by the Serros Altos; on the east, by the road that goes to Galisteo, and said grant consists by its measurement from east to west of 2,500 varas, and said grant being divided in three parts, the said Don Miguel de la Peña was entitled to 833 varas on the western side; that is bounded with lands of Don Cleto Miera, and on the east by lands of the heirs of Doña Antonia Terese Rael de Aguilar, and on the other directions the same boundaries that are mentioned in the preceding grant. Having advised him that pastures and watering places are common, and that it may be known for all time, I signed it, acting by appointment with the two witnesses of my assistance, on account of the notorious want of a public secretary, nor a royal one, none being in this province, of all of which I certify.

ANTONIO JOSÉ ORTIZ. [Rubric.]

ANTO. JOSÉ ORTIZ. [Rubric.]

JOSÉ MIGUEL ORTIZ. [Rubric.]

In this city of Santa Fé, on the 18th day of the month of February, of the year 1791, before me, Antonio José Ortiz, captain of militia and chief alcalde of this said city, appeared the above-mentioned Don José Miguel de la Peña, in whose favor the two documents that appear were granted, and he said that he, with the consent of his wife and children, conveyed and did convey to Don Cleto de Miera y Pacheco, the right, title, and homestead that he had acquired of the tract known by the name of Los Serrillos, as appears by the above documents executed to him; which he said he conveyed, with all its rights, to the said Don Cleto Miera on account of having received from him \$450 of the country, as customary; which the said Don José Miguel de la Peña said he had received to his entire satisfaction and content, of which amount he is satisfied, content, and paid; and if in future it should become of greater value of all he hereby grants and donates pure, entire, perfect, and irrevocable, termed in the law *inter vivos*; and that he may have the power with and use the same at his pleasure; and he, the said Peña, declared that he renounced all and every of the laws, requirements, and circumstances favorable to him, and he requested me that, as chief alcalde, that I append my authority and judicial decree, and I, said chief alcalde, declared that I would, and I do append the same, as far as I am authorized by law; and that it may so appear the said Peña signed with me. To all of which I certify.

ANTONIO JOSÉ ORTIZ. [Rubric.]

JOSEPH MIGUEL DE LA PEÑA. [Rubric.]

This title is recorded in book Letter D, page 6. And that it may so appear, I certify, sign, and seal this with the seal of this office, at Santa Fé this 25th of September, 1852.

JOHN GREINER,  
*Secretary Territory of New Mexico.*

TERRITORY OF NEW MEXICO,  
*County of Sante Fé:*

I, the undersigned, clerk of the probate court in and for the county of Santa Fé, in the Territory of New Mexico, do certify that the foregoing title or written instrument was filed in my office for record the

28th day of June, A. D. 1870, at 11 a. m., and that the same was recorded by me on the same day in book Letter E of record of land documents, &c., pages 382, 383, 384, and 385, which is kept in this office for that purpose.

In testimony whereof I place my name and the seal of said court, at Santa Fé, New Mexico, this the 28th day of June, A. D. 1870.

[SEAL.]

TRINIDAD ALARID,

*Clerk of the Probate Court and ex-officio Recorder.*

I, J. Bonifacio Chaves, do solemnly swear that the foregoing is a true translation of the original in Spanish to the best of my knowledge and belief.

J. BONIFACIO CHAVES,

*Translator.*

Subscribed and sworn to before me this 8th day of April, A. D. 1871.

[SEAL.]

M. A. BREEDEN,

*Deputy Clerk.*

[Official translation.]

[SEAL.] Six reals; second seal, six reals; years seventeen hundred and eighty-eight and eighty-nine.

*His Excellency the Governor and Captain General:*

I, José Miguel de la Peña, a resident of the city of Santa Fé, appear before your excellency in due legal form, and represent: Sir, I have registered a piece of land situated in the place called Los Serillos, which said place, or tract, belonged, when this province was recently conquered, to Alonzo Rael de Aguila, my wife Maria Rael's grandfather, and it having been abandoned for so many years, and said Don Alonzo having lost the right he had to it: Now, sir, I ask your excellency for the same, in the name of His Majesty, with all its entrances and exits, pastures and watering places, uses and customs, for me, my children, heirs, or the person or persons to me useful and of my will; to enable to plant, and also to keep what animals God may be pleased to give me, and I promise to settle said tract according to His Majesty's will and to what he commands in his royal ordinances. Wherefore, and in consideration of all else in my favor, I ask and pray your excellency, with the utmost submission, that you be pleased to hear me and grant to me in the name of His Majesty what I hope to obtain through your great righteousness, and your exact and sure distribution of justice, so that through this you may provide as to your excellency may seem most proper. I implore your excellency's royal aid, and declare in due form that this, my petition, is not made in dissimulation, and as may be necessary, &c.

JOSÉ MIGUEL DE LA PEÑA.

SANTA FÉ, 20th of April, 1788.

Finding expedient the cultivation of the land referred to in this petition, I visited the tract cited, and placed the petitioner and other heirs of Alonzo Rael de Aguilar in possession thereof, and that it may be known in all time the proper documents will be duly made in his favor, by the chief alcalde of this city, José Antonio Ortiz.

CONCHA.

In this city of Santa Fé, on the 12th day of the month of June, of this year seventeen hundred and eighty-eight, I, the captain of militia and chief alcalde of this city, in virtue of the preceding order and decree of his excellency Fernando de la Concha, lieutenant colonel and civil and military governor of this province, proceeded to the place and location commonly called Los Serrillos; and notwithstanding that the petitioner had been placed in possession by the said lieutenant colonel, I took by the hand the said José Miguel de la Peña and led him over the tract. He plucked up grass, cast stones, and shouted, saying, "Live our lord the King, whom may God preserve," taking quiet and peaceable possession of the said lands without any objection, I designating the boundaries, which are on the north the boundaries of the Cañada del Guyeu and lands of the Bacas, on the south the high hills, on the east the road which leads to Galisteo, and said tract embraces by measurement from east to west 2,500 varas; and said tract being divided in three parts, to the said Miguel de la Peña were assigned 833 varas, on the western side adjoining lands of Cleto Miera, and on the east adjoining lands of the heirs of Antonia Teresa Rael de Aguilar, and on the other sides the same boundaries as are stated in the preceding grant, I notifying him that the pastures and watering-places are common. And that it may so appear in all time, I signed this as special justice, with my two attending witnesses, on account of the notorious lack of a public and royal notary, there being none of any kind in this province; to all of which I certify.

ANTONIO JOSÉ ORTIZ.

ANTO. JOSÉ ORTIZ.

JOSÉ MIGUEL ORTIZ.

In this city of Santa Fé, on the 18th day of the month of February of the year seventeen hundred and ninety-one, before me, Antonio José Ortiz, captain of militia and chief alcalde of this said city, appeared the above-mentioned José Miguel de la Peña, in whose favor the two documents that appear were executed, and declared that, with the consent of his children and of his wife, he would convey, and did convey, to Clito de Miera y Pacheco the title, right, and domicile which he had acquired to the tract called the Serrillos, as appears by the above documents executed in his favor, which he declared he conveyed with all the title necessary to the said Clito Miera, the latter having paid him \$450 in the currency of the country, which money the said José Miguel de la Peña declared he had received to his satisfaction and content, with which amount he acknowledged himself satisfied, content, and paid; and if in future it should become of greater value, he gives and donates the whole, pure, entire, perfect, and irrevocable, termed in the law *inter vivos*, and that he may control and use the same at his pleasure; and he, the said Peña, declared that he renounces all and every of the laws, requirements, and circumstances which provide in his favor, and he requested me that, as chief alcalde, I interpose my sanction and judicial decree, and I, said chief alcalde, declared that I would, and I do interpose the same as fully as I am authorized by law; and that it may so appear, the said Peña signed with me; to all of which I certify.

ANTONIO JOSÉ ORTIZ.

JOSÉ MIGUEL DE LA PEÑA.

This title is recorded in book Letter D, page 6; and that it may so



appear, I certify, sign, and seal this with the seal of this office at Santa Fé this 25th of September, 1852.

JOHN GREINER,  
*Secretary of the Territory of New Mexico.*

Filed in my office this 17th day of March, A. D. 1854.

L. D. SHEETZ,  
*Clerk.*

Filed in my office for its record this 28th day of June, A. D. 1870.

TRINIDAD ALARID,  
*Clerk of Probate Court.*

TERRITORY OF NEW MEXICO,  
*County of Santa Fé :*

I, the undersigned, clerk of the probate court in and for the county of Santa Fé, in the Territory of New Mexico, do certify that the foregoing title or written instrument was filed in my office for record the 28th day of June, A. D. 1870, at 11 a. m., and that the same was recorded by me on the same day in book Letter E, of record of land documents, &c., pages 382, 383, 384, and 385, which is kept in this office for that purpose.

In testimony whereof I place my name and the seal of said court at Santa Fé, New Mexico, this the 28th day of June, A. D. 1870.

[SEAL.]

TRINIDAD ALARID,

*Clerk of the Probate Court and ex-officio Recorder.*

SURVEYOR GENERAL'S OFFICE,  
TRANSLATOR'S DEPARTMENT,  
*Santa Fé, New Mexico, January 8, 1872.*

The foregoing is a correct translation of the original in Spanish on file in this office, except the indorsement of clerk L. D. Sheetz, which is a true copy.

DAV. J. MILLER,  
*Translator.*

*Testimony.*

JOSÉ MIGUEL DE LA PEÑA ET AL.

LOS SERRILLOS TRACT.

DONACIANO VIGIL, being by the surveyor general duly sworn to declare in the case now pending before him of the present claimants, under grant of the Serrillos tract of land, on his oath declares :

Question. (By S. B. ELKINS, attorney for claimants.) What is your name? residence, age, and have you any interest in this case?—Answer. My name is Donaciano Vigil; I reside on the Pecos River, in San Miguel County; my age is sixty-nine years, and I have no interest whatever in the claim.

Q. Did you know Manuel Delgado and Manuel Salustiano Delgado, father and grandfather of the present claimants, the Delgados, of this claim?—A. I knew them both.

Q. How long did you know them?—A. I knew them from my earliest childhood, continuously until their death.

Q. Where did they reside?—A. Manuel S. Delgado resided here at

Santa Fé, and when he died, his son, Manuel Delgado, occupied the ranch of Serrillos until he died, which he did, on his return from the United States, on the road.

Q. Do you know the grant of land, known as the Serrillos tract, here in question? And, if so, state how long you have known the place, whether, and by whom, it has been occupied and how long, if cultivated, who occupies it now, what improvements it has upon it, and what are the boundaries of the tract.—A. I know the tract referred to, and have known it all my life. It has always been occupied continuously, and also been, in like manner, cultivated, and is occupied and cultivated now by the Delgados, the present claimants. The tract has upon it a large residence building, which has been there since I have known the place. The field was, when I last saw it, fenced with palings. The boundaries, according to my recollection, are: on the north, the Cañada de Guicu; on the east, the road leading from the Cienega to Galisteo; on the south, the hills facing the Galisteo Creek; and on the west, the ranch of Juana Lopez, now known as the ranch of Piño. The tract has all the time, since I have known it, been occupied and cultivated by Manuel Salustiano Delgado and his sons and grandsons.

Q. What official positions have you held under the Mexican and American Governments in this Territory, if any?—A. For the twenty-two years preceding the acquisition of New Mexico by the American Government, I was permanently the secretary of the military department in New Mexico, and during that period I was on several occasions secretary of the civil government. From the 22d of September, 1846, until February 28, 1851, I was secretary of state for the Territory of New Mexico, under the United States Government, and since then have once been a member of the house of representatives and twice of the council of the Territory of New Mexico.

Cross-examination, by JOHN GWYN:

Q. By what means do you know the boundaries of this tract?—A. By having seen the grant.

Q. Where did you see the grant?—A. Here at Santa Fé.

Q. In whose hands was it?—A. In the hands of Manuel Delgado, deceased.

Redirect:

Q. Do you know whether this grant has been recorded? And, if so, please state where.—A. I do not know whether it has been recorded or not, but, if it has, I presume it must be recorded in book A or B of records.

DONACIANO VIGIL.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

ANTONIO SENA, being by the surveyor general duly sworn, on his oath declares:

Question. (By S. B. ELKINS.) What is your name, residence, and age, and have you any interest in the claim now here pending?—Answer. My name is Antonio Sena; my age is about sixty years; my residence is here at Santa Fé, and I have no interest whatever in this case.

Q. Do you know the tract of land known as the Serrillos? If so, state where it is situated and what are its boundaries; whether, and to what extent, it has been occupied and cultivated, for how long, and by whom.

—A. I know the Serrillos tract; it is situated in the county of Santa Fé, in New Mexico; its boundaries, according to my knowledge of them, are: on the north, the side of the Serrillos; on the east, a road leading from the Cienega to Galisteo; on the south, the Galisteo Creek side of the hills; and on the west, the Juana Lopez, now known as the Piño ranch. It has been occupied and cultivated since I have known the place, which is from my childhood, first, by Captain Manuel Delgado, deceased, and, when he died, the land passed to his heirs, who have occupied it to the present time.

Q. When you refer to the north boundary of this grant as being the side of the Serrillos, "la caída de los Serrillos," do you mean thereby the Cañada de Guicu?

(Question objected to by Mr. Gwyn, and objection overruled by the surveyor general.)

A. I meant the side of the Serrillos, la caída de los Serrillos, or the Cañada de Guicu, which are the same thing. What I intended to say was the boundary on the north is the descent or slope toward Guicu.

Cross-questioned, by JOHN GWYN:

Q. How do you know these boundaries; is it from the present claimants or otherwise?—A. I know them from having frequently seen the original papers.

Q. In whose hands did you see the papers?—A. I saw them in the hands of the Delgados.

ANTONIO SENA.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

JUAN MIGUEL ORTEGA, being by the surveyor general duly sworn, on his oath declares:

Question. (By S. B. ELKINS.) What is your name, age, residence, and have you any interest in the claim now here pending?—Answer. My name is Juan Miguel Ortega; my age is about sixty-five years; I was born and have always lived here at Santa Fé, and have no interest whatever in this claim.

Q. Do you know the tract of the Serrillos now in question? And, if so, state where it is situated and what are its boundaries; how long and by whom, if at all, has it been occupied and cultivated, and by whom at the present time; to what extent is the land cultivated; and whether the tract has any improvements upon it, and, if so, how long have they been there and what are they.—A. I know the tract referred to, and it is situated in the county of Santa Fé. Its boundaries are, on the north, the Cañada de Guicu; on the east, the road from the Cienega to Galisteo; on the south, the slope toward the Galisteo Creek; and on the west, the Piño ranch. The land has been occupied and cultivated while I have known the place, now about forty years, first by Manuel Delgado, deceased, then by his son, and then by the Delgados, the present claimants, who now occupy the place. A considerable portion of the tract has been cultivated by raising corn, beans, chile, and other products. There are improvements upon the tract, being a common-sized house, which has always been there since I knew the place.

Q. (By Mr. GWYN.) How do you know the boundaries of the tract in question?—A. They were pointed out to me by my father.

Q. Do you know whether there are any other occupants and claim-

ants besides the Delgados of the tract of land in question?—A. I know of none.

JUAN MIGUEL ORTEGA.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

CHARLES P. CLEVER, sworn by the surveyor general, having been called by Mr. Gwyn.

(Mr. Gwyn asked that the boundaries of the grant be read. Objected to by Mr. Elkins, and objection overruled by surveyor general, and boundaries read.)

Question. (By Mr. GWYN.) Do you know the grant claimed in this case by the Delgados?—Answer. I know the ranch known as the Serrillos in the county of Santa Fé.

Q. Have these claimants, the Delgados, ever represented to you the boundaries they claimed as the boundaries of this land?—A. I have never, as I remember, had any conversation with either of the Delgados here present, but have had with the deceased brother, Simon Delgado, but not about the boundaries.

C. P. CLEVER.

Sworn and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

SIGMUND SELIGMAN, called by Mr. Gwyn, sworn by the surveyor general.

Question. (By Mr. GWYN.) Have you not heard the boundaries of this grant read just now?—Answer. I have.

Q. Do you know, by conversation with the Delgados, how far south they claimed for this grant?—A. I do from a conversation I had with Simon Delgado in 1863, who then stated the grant extended south to the Galisteo Creek.

Q. Was this Simon Delgado one of the heirs claiming the land?—A. He was.

Q. What led to this conversation with Simon Delgado; were you not in negotiation with him for a portion of the tract of land claimed by him under this grant?—A. I was.

Q. What was the object of the negotiation?—A. We intended to work the mines which were claimed by Delgado to be upon the land, the mines known as the Mina del Toro. We worked the mines with his consent. This was in 1863.

Q. Are you acquainted with that section of country?—A. I am.

Q. Is the mine worked by you in 1863 included within the boundaries read in your hearing a while ago?—A. I do not believe it is.

Q. Has the misrepresentation of Delgado, to wit, that this grant extended as far south as the Galisteo Creek, had or not the effect of working great detriment to your interest?—A. It has greatly.

Q. Do you know the land south of the line alleged in the petition to the surveyor general of the claimants to the Galisteo Creek to be valuable?

(Objected to as irrelevant by Mr. Elkins. Objection overruled by surveyor general, and question put.)

A. I know it to be valuable land.

Q. Have the representations referred to of Simon Delgado prevented

you from acquiring title in any way to said valuable lands that you might have acquired had said representations not been made to you?

(Objected to by Mr. Elkins, as leading and irrelevant. Objection overruled, and question put.)

A. Yes, sir.

S. SELIGMAN.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

STEPHEN B. ELKINS, called by Mr. Gwyn, and sworn by the surveyor general.

Question. (By Mr. R. B. WILLISON.) Are you the attorney for the claimants in this case?—Answer. I am.

Q. Do you know the Serrillos ranch?—A. I know where I have been informed it is, and I have been to that place.

Q. Do you know whether there are occupants upon the land claimed by the Delgados other than those claiming under them?—A. I do not; I am informed Nasario Gonzales and others claim to the east some land, both on and off the Serrillos grant.

Q. Have you not, as attorney for the Delgados, filed a bill in chancery against Gonzales and others relating to this property?—A. I have not; but have prepared such a bill concerning the water and land.

S. B. ELKINS.

Sworn to and subscribed before me this September 23, 1871.

T. RUSH SPENCER,  
*Surveyor General.*

*Papers in the contest.*

(Objections filed August 4, 1871.)

*To the surveyor general of New Mexico:*

Your petitioners, John Gwyn and Robert B. Willson, in answer to the petition and claim filed in your office by the heirs of Manuel Delgado, deceased, respectfully represent that they are the owners, by purchase at public sale of land, held at Santa Fé, in August, 1870, by authority of the President of the United States, of the southwest quarter of the southwest quarter of section 9, containing 40 acres; the south half of the southeast quarter and the south half of the southwest quarter of section 8, containing 160 acres; the north half of the northeast quarter of section 17, containing 80 acres; and the south half of the southeast quarter of section 7, containing 80 acres, all embraced in township No. 15 north, range No. 8 east of the principal meridian of the district of the Territory of New Mexico; that said lands were purchased by your petitioners, as above stated, after having been duly advertised and posted throughout said Territory for the three months prior to the sale thereof; that the same was bid off at open outcry of the officers of said land district, and in good faith purchased and paid for by your petitioners; that the patents for the same have long since been issued, and upon their face give a full and perfect guarantee to your petitioners of the said lands, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as an evidence of which facts reference is made to the records of the United States register of the district of New Mexico, and that of the honorable Com-

missioner of the General Land Office at Washington, D. C.; that said lands were advertised and sold in the usual regular order, as will appear by the proclamation of the President of the United States, a copy of which accompanies this petition, marked Exhibit A; that said lands were surveyed and subdivided about the year 1860, in an open and public manner, and the plats and field-notes of the survey of the same were by the surveyor general returned to the register of this district in the usual manner; that no record of pre-emption, or homestead, or title, or claim was made or even indicated in any manner to the register and receiver of this land district up to the date of the sale thereof; but, on the contrary, there existed among the old archive files in your office positive evidence that the former government, upon a petition made to it, positively refused to grant the lands now claimed by the heirs of Manuel Delgado, a portion of which are the lands above described and purchased by and patented to your petitioners, as evidence of which facts see file No. 769 of the original Spanish and Mexican archives in your office, (a copy of which is herewith inclosed, marked Exhibit B;) that the grant of land now claimed by said heirs of Manuel Delgado, deceased, which includes and covers the said lands of your petitioners, was never shown to be in existence, nor was their pretended title-papers in existence, or in any manner exhibited, until, at a very recent period, and subsequent to the issue of said patents to your petitioners; that due notice has been given and publicly proclaimed through the press, hand-bills, pamphlets, &c., to all claimants to land grants in New Mexico held and claimed by them from titles issued by former governments to present the same before the surveyor general of New Mexico for adjudication under the provisions of the act of Congress of July 22, 1854; that said notice and publication has been made both in the English and Spanish languages since the date of said act; that said lands have been publicly surveyed, advertised, and sold, and patented to your petitioners in good faith, during all of which time and transactions no claim or protest is made by any one, until, by the prospective influences of the early completion of railroad facilities near to said lands, it is discovered that your petitioners have fortunately made good and valuable selections in their purchases; that the heirs of Manuel Delgado, deceased, the claimants in this case, have, by their obstinacy, and the defiant and persistent manner in which they have acted in refusing to place their title-papers upon the files in your office, where they properly belonged, and in proving up their title, if any existed, in conformity with said act, violated and disregarded all law, their own interest, and that of the public, and have defeated the justice that might have been meted out to them in presenting and proving up an equitable title to said land, which your petitioners deny them to be possessed of, but which their title-papers in themselves show that these claimants are or were possessed of property in common with others who might select to occupy and use it, and which never was their private property, and never was private property until the date of purchase by your petitioners from the United States Government. In the act of possession given by the justice upon the petition made by Joseph Miguel de la Peña in 1788 it is provided, "that the pastures and watering places are common, (son comunes;) and, that it may always appear, I sign," &c. This word comunes (comunes) is interpreted by Mariano Galvan, (page 7, Book 7, Ordenanzas de tierras y aguas,) as follows: "Las comunes son aquellas que no siendo privativamente de ninguno en cuanto á la propiedad pertenecen a todos en cuanto al uso." The comunes are those (or that) which do not pertain to any one as

private property, but pertain to every one in its use. Your petitioners deny the right of said heirs of Manuel Delgado, deceased, to an equitable title to the lands claimed by them, but aver that the papers filed by them only show a permission to occupy and use the lands claimed in common with all others who might select to occupy and use the same, and that the land claimed by them was public property up to the date of said public land sale in the month of August, 1870. The eighth section of the act of Congress approved July 22, 1854, provides that until the final action of Congress upon such claims as have been reported upon by the surveyor general of New Mexico all land claims shall be reserved from sale or other disposal by the Government, &c. Now the surveyor general in this case has never examined and reported in the matter, nor had he an opportunity to do so, for the reason that he knew not and could not know that any such claim existed. The papers now filed by said heirs are not of a record character. They do not come from the original old archive files, and hence they do not bear any evidence of genuine title-papers. They were not in existence at the date of the sale of said lands, and were not known or recognized by the Government of the United States, and cannot now be recognized and held to conflict with the perfect guarantee-titles now possessed by your petitioners, and their claim is not protected by said section 8 of said act; that it is a notorious fact that said heirs and claimants have heretofore claimed to own large bodies of lands, for which they have never shown upon record or otherwise exhibited title-papers for, and that by said false representations have worked great injury to the honest and industrious persons who were desirous of settling upon the public lands and improving for themselves and families permanent homesteads, and your petitioners aver that the papers in the case they now present were never filed, for the reason that these same heirs and claimants claimed and held by intimidation and misrepresentations, and used and occupied, a very large tract of land now proven to be public lands, but which were sought after years ago by honest and industrious persons desirous of occupying them; but Congress very wisely protects her just and liberal Government and the purchasers and settlers of her public lands against the defiant and arbitrary acts of persons ever ready to evade her laws, to the great detriment of those honest and innocent purchasers and settlers upon her public domain, as is the case in this instance. Neither Congress nor the Government, nor her officers, can compel parties holding titles under a former government to exhibit and prove them up, but she can so legislate, and does so legislate, so as to protect all good and valid titles to land in the hands of persons subservient and obedient to her laws and who promptly come forward and ask and seek protection under those laws, but she cannot and does not force protection upon defiant and arbitrary persons, who refuse to obey and who evade her protection and laws, and who heap abuses upon and maliciously criticise the action of a generous Government and her honest officials, who have by their long-standing invitation of twenty years or more publicly proclaimed to the heirs and claimants in this case to come forward and place their title papers upon her public records in such manner as to define the lines to their property and insure protection to themselves for all time to come. It is also evidenced in Exhibit B, accompanying this petition, that, as far back as the year 1750, when this same tract of land was petitioned for, Governor Tomas Veliz Cachupin decreed as follows: "And considering that so many governors, my predecessors, have refused to allow that section to be settled or occupied by any citizens, as it was

considered to be commons for the pasturage and keeping thereon of the large horse herd belonging to the royal garrison, and as it was the place nearest to the garrison in the getting up at short notice of any necessary expedition in the royal service for the defense of this country, I, the governor aforesaid, do decree that what these parties pray for cannot be entertained or permitted," &c. Now it was this same cause that produced the clause which was inserted into the act of possession, made by the justice in 1788, granting them the use of the property in common with all others who might wish to avail themselves of its benefits, and it is to this day a notorious fact that the locality now claimed by the heirs aforesaid was the grazing-grounds and camp of the public animals of the recent Mexican government, up to the date of the acquisition of this territory by the United States in the year 1848, and it is believed that it was a knowledge of this fact and the clause in the act of possession above stated that influenced these heirs not to attempt to prove up their claim since the acquisition of this territory, as aforesaid; but, failing to prove up a pre-emption or homestead claim prior to the date of sale thereof, in conformity with law, and the property under the proscriptive railroad influence having enhanced in value one hundred-fold since the purchase thereof by your petitioners, these heirs now produce these hidden documents, with a view to snatch from the grasp of honest and innocent purchasers of the public domain property acquired by your petitioners at a public land sale of the United States, and confirmed to them by a guarantee patent, and which has been so enhanced in value by the connections and operations and outlay of capital by them with railroad enterprises. Your petitioners deny the assertion of said heirs that there was no other claimants to the property petitioned for by them, and here aver and assert that said heirs and their several attorneys had examined thoroughly the records, plats, and field-notes of the public surveys and sales of the land in question, and that they well know the fact that your petitioners held good and perfect titles and patents at the date of filing their said petition. Your petitioners further aver that all the land claimed by said heirs has been surveyed and subdivided according to the regular mode of surveying the public lands, and your petitioners pray that said heirs and claimants be required to file with their claim and petition a correct map of the land claimed, by their showing the township and subdivisional lines of said surveys, and the exact points claimed by them as boundary lines, all of which are noted in the field-notes of said public surveys, now on file in your office. If such landmarks and points exist at all, your petitioners deny the allegation of said heirs and claimants, wherein they asserted that some time previous to the year 1788 a grant for the land in question was made to one Alfonso Real de Aguilar, and respectfully call your earnest attention to the facts and evidence contained in Exhibit B, above referred to, wherein it is shown that Governor Tomas Veliz Cachupin, in the year 1750, not only refused to concede this same land as a grant to the heirs of said Alfonso Real de Aguilar, but declared "that many governors, his predecessors, had refused to allow that section to be granted, settled, or occupied by any citizen;" and in his same decree declared "that the transcripts and documents presented to him (by them) a nullity (in view of the nullity of the document) as the act of possession, or the fact of settlement of the place; los Serrillos does not appear therein, nor does the power of Juan Paez Hurtado to furnish a transcript of the grant purporting to be the original grant." Now, the evidence contained in this Exhibit B is from the files of the old public archives,



now in the custody of your office, and among the files of which it has always remained during the reign of former governments, and is not, nor was not, a concealed document in private hands of interested persons, as is that of these heirs and claimants; and if the Spanish government one hundred and twenty years ago found good reasons to scrutinize carefully and reject documents coming from private hands, purporting to be genuine grants, how clearly, sir, does the question present itself before you as to the validity and genuineness of the documents now presented by these heirs and claimants, none of which bear evidence of original archive-files, or records, or recognition by the former governments. No evidence is presented from those original files to support their validity, but only the marks of recent record, since the change of sovereignty from the recent Mexican to the United States Government, are presented in their support, which virtually is no evidence at all in such a case.

Your petitioners claim and hold perfect titles to the lands purchased as aforesaid, guaranteed by patent, the Constitution, laws, usages, and customs of the United States Government; that said lands have now enhanced in value \$120 per acre; that their prospective value within two years hence, with railroad facilities at or near them, secured by great outlay, the influence, and connections of your petitioners since the purchase thereof, with railroad enterprises, is \$250 per acre; and that a pretended imperfect or inchoate Spanish title cannot be made to affect, in any manner, their just and equitable and legal perfect titles, purchased in good faith and now held and owned by your petitioners.

An equitable Spanish title, not confirmed by the United States, cannot prevail against a legal title acquired from the United States. (*United States vs. King*, 3 Howard, p. 773; 15 Cond. Beps., p. 640.)

If, before the survey of a Spanish grant, an entry is made and a patent taken out for lands which conflicts with a subsequent survey of the confirmed concession, (grant,) the patentee has the better title. (*Ledon vs. Black*, 18 Howard, p. 473.)

All of which is respectfully submitted.

JOHN GWYN.  
ROBT. B. WILLISON,  
By JNO. GWYN.

SANTA FÉ, NEW MEXICO, August 4, 1871.

#### EXHIBIT A.

*By the President of the United States :*

#### PROCLAMATION

For the sale of public lands in the Territories of New Mexico and Colorado.

In pursuance of law, I, Ulysses S. Grant, President of the United States of America, do hereby declare and make known that public sales will be held at the undermentioned land-offices in the Territories of New Mexico and Colorado at the periods hereinafter designated, to wit:

At the land-office at Santa Fé, New Mexico, commencing Monday the 8th day of August next, for the disposal of the public lands in the undermentioned townships and parts of townships, viz:

*North of the base-line and east of the principal meridian of New Mexico.*

Fractional township 20, of range 3; fractional township 19 and 20, of range 4; fractional township 17, 19, and 20, of range 5; fractional township 17 and 19, of range 6; townships 9, 10, 11, and 12; fractional township 14; and township 15, of range 8; townships 9, 10, 11, and 12; fractional township 13 and 14, and township 15, of range 9; townships 9, 10, 11, and 12, of range 10; townships 9 and 10, of range 11; township 18, of range 20; townships 7 and 8, of range 21; townships 7, 8, and 13, of range 22; townships 13 and 14, of range 23; township 15, of range 24; townships 14 and 15, of range 25; townships 13, 14, and 15, of range 26; townships 13 and 15, of range 27; township 13, of range 29; townships 13 and 14, of range 30; townships 13 and 14, of range 31; townships 13, 14, and 15, of range 32; township 13, of range 33.

\* \* \* \* \*

Lands appropriated by law for the use of schools, Indian, military, and other purposes, will be excluded from the sales.

The offering of the above lands will be commenced on the days appointed, and will proceed in the order in which they are advertised, until the whole shall have been offered, and the sales thus closed; but no sale shall be kept open longer than two weeks, and no private entry of any of the lands will be admitted until after the expiration of the two weeks.

Given under my hand at the city of Washington this 3d day of May, A. D. 1870.

U. S. GRANT.

By order of the President:

JOSEPH S. WILSON,  
*Commissioner of the General Land-Office.*

EXHIBIT B.

*Year 1750.*

*Petition of the heirs of Alfonso Rael de Aguilar, asking that possession be given them of an old land-grant.*

*His excellency the Governor and Captain General:*

We, the heirs of Sergeant Major Alfonso Rael de Aguilar, our names being Eusebio Rael de Aguilar, Juan Rael de Aguilar, Antonio Teresa Rael de Aguilar, Francisco Rael de Aguilar, and the children of the deceased Alfonso Rael de Aguilar, and the children of Feliciano Rael de Aguilar, now deceased, all of us together, the four living brothers and sisters in his name appearing before the feet of your excellency, state that by the death of our deceased father there remained to us a grant of land which he held by grant, which was made to him in the name of His Majesty by the Marquis Diego de Vargas, formerly governor of this province and conqueror thereof, and as our deceased father was one of the conquerors who found themselves in this province at the time of its conquest, as we do with due formality present to your excellency the grant, it being a grant for the place Los Serrillos, with its pastures, waters, timber, and watering-places, as our deceased father had them settled, and a portion of this province having revolted in the year ninety-six, our said father retired from the said Serrillos by order of the gov-

ernor, where he had lived four years, and built houses, which fact is evidenced even to this day by the remaining ruins, and it being true that he left us no other piece of land except the said Serrillos, and during the past years, the place having been used as a pasture-ground for the horse-herds of this royal garrison, to which we all say, the horses are welcome to the pasturage as long as it may be required, without any of us making objection, unless pasturing in the cultivated ground, as there is enough for all, and your excellency will bear well in mind that we are very loyal vassals of His Majesty, and are legitimate children of Alfonso Rael de Aguilar, one of the conquerors of the country, and that Juan Rael de Aguilar, one of the heirs, is now in this city, and he has his family at the city of Chihuahua, because he has not any land in this province, but as soon as your excellency shall deign to concede us the said grant, he is ready to bring his family into this province.

In consideration of all which we ask and pray that your excellency be pleased to grant as we have requested, for it is but justice to do so, and justice is what we seek from your excellency.

And we declare in due form that this our petition is not made in dissimulation, and as may be necessary, &c.,

JUAN RAEL DE AGIULAR.

PH'E. TAFOYA,

*Attorney.*

SANTA FÉ, *April 25, 1750.*

These parties will present the titles and the grants they refer to.

VELEZ.

*His excellency the Governor and Captain General :*

I, Ensign Alfonso Rael de Aguilar, a soldier and secretary of state and war of this province of New Mexico, by appointment of your excellency, before whom I appear and state: That considering that this said province of New Mexico is now reduced and conquered, it having cost your excellency much watching, much care, and great expense, I enter a tract of land situated from this city of Santa Fé from four to five leagues, and called the Serrillos tract, for which your excellency will please make me in the name of His Majesty a grant, as one of the conquering soldiers that have come with your excellency, which tract of land I ask, with its entrance, and exits, uses and customs, as well as the water, pasturage, and watering-places, as the same were enjoyed by the former settlers of the tract. I ask and pray in due humility that your excellency be pleased to concede and make me, in the name of His Majesty, a grant for said tract of land, as I am a poor married man, with children, and I trust that your excellency will grant me, as I have requested; and I declare in due form of law that this my petition and entry is not made in dissimulation, and as may be necessary, &c.

AIFONSO RAEL DE AGIULAR.

At this fortified town and garrison aforementioned, of the city of Santa Fé, in the province of New Mexico, on the 18th day of the month of September, in the year 1692, before me, Diego de Vargas Lapato Lujan Ponce de Leon, His Majesty's governor and captain general of this said province, and its domain and districts and castellan of the forces and garrisons therein, the foregoing petition was presented by the petitioner, who is a soldier at this garrison, and my secretary of state and war, and in consideration of his services and of the loyalty with which he has served, and the love he has borne His Majesty, I, the

said governor and captain general do, in the name of His Majesty, make him a grant for the land, together with its pasturage, waters, timber, watering-places, uses and customs, and the appurtenances, so that at his will he may, "God, the father, willing," enjoy the same for himself and his heirs, as the will of our Lord, the King, in whose royal name, and in consideration of the merits and services of the party, I do make to him the said grant. In testimony whereof I signed this with two witnesses, the same being the captain and ensign of this garrison, and I returned to the party the said petition, and the granting decree thereon, in the presence of Sergeant Major Fernando de Chavez and Captain Antonio Jorge, residents of this said province, and participants in the said conquest.

DIEGO DE BARGAS LAPATO LUJAN PONCE DE LEON.

ROGUE MADRID,  
JUAN DE DIOS LUZERO DE GODOL.

This agrees with its original, to which I refer, and from which I, Juan Pais Urtado, lieutenant governor and captain general, caused the copy to me made word for word at the request of the party, as the original grant has been very badly used, and this is correct and true, compared and corrected, and there were present at the making of the copy and as instrumental witnesses, Sebastian de Apodaca Domingo Balder and Lucas Moia, all residents of this said city, I, acting as special justice, with my attending witnesses, for want of a public or royal notary, of which there is none in this province, and on this paper, as there is none of any stamp in this section, to which I certify.

JUAN PAEZ HURTADO.

Witness: DIEGO DE UGARTE.

Witness: MANUEL THENORIE DE ALBA.

SANTA FÉ, *April 27, year 1750.*

Having examined the petition of these parties and the testimony presented by them of the grant, I, Thomas Velez Cachupin, governor and captain general of this province of New Mexico, and castellan of the royal garrison therein, in view of the nullity of the document, as the possession, nor the settlement of the place, Los Serrillos, does not appear therein, nor does the power of Juan Paez Hurtado to furnish a testimonio of the grant purporting to be the original; and considering that so many governors, my predecessors, have refused to allow that section to be settled or occupied by any citizen, it being commons for the pasturage and subsistence of the large horse-herd of this royal garrison, and being the place nearest the garrison in the getting up, at shortest notice, of any necessary expedition in the royal service for the defence of this country, I, the governor aforesaid, should decree that what these parties pray for cannot be entertained or permitted, which decision will be communicated to them by the chief alcalde of this city, who will demand the old, original grant, which, together with this memorial and decree, he will return into my hands. Thus I provided, ordered, and signed, acting with my attending witnesses, to which I certify.

TOMAS VELEZ CACHUPIN.

Witness: JUAN ANTONIO GONZALEZ DEL PERAL.

Witness: THOMAS DE ALVEAR COLLADO.

At the city of Santa Fé, on the 12th of May, in the year 1750, I, José de Bustamante Tagle, chief alcalde and war captain of said city and

its jurisdiction, in execution of the commands contained in the foregoing decree, issued by his excellency the governor and captain general, Tomas Velez Cachupin, castellan for His Majesty, (God save him,) of the royal forces, presented myself before the person of Juan Rael, and communicated to him the foregoing decree, and he being informed of the contents of the same, stated that he had no other document than that presented, and that although his said father, Alfonso Rael de Aguilar, had the original grant and possession, he does not know what became of them; and that this notification may appear, I reduced the same to writing, the said party withdrawing his application.

And I, the said chief alcalde, signed this with two witnesses, with whom I act for want of a public or royal notary, there being none in this province, to which I certify.

JOSEPH DE BUSTAMENTE TAGLE.

Witness: ANTONIO DOMINGUEZ.

Witness: BARTOLOME FERNANDEZ.

*Answer.—Filed October 27, 1871.*

In the matter of the petition for the confirmation of the Serrillos grant.

HEIRS OF MANUEL DELGADO, CLAIMANTS.

In reply to the argument filed by Messrs. Gwyn and Willison, against the confirmation of the grant, the claimants beg leave to submit the following:

First. The papers filed by the claimants show conclusively that the grant was made in due form of law by the Spanish government, and subsequently respected and recognized by the Mexican government.

Second. The evidence shows that the present claimants, and those under whom they hold, have held and enjoyed the peaceable possession of said grant, and cultivated the same for near a century, and that the claimants are now in possession thereof.

In opposition to this the contestants show a patent to a small portion of the grant—about 160 acres—and claim by reason of the Government of the United States issuing said patent, they have an indefeasible and fee-simple title to the land it embraces, although the same is situate and included within the limits of said grant.

The claimants urge as a principle of law as old as the law itself that a party cannot, under any circumstances, convey any more title than he has—in other words, the Government of the United States cannot, through its officers and agents, sell and dispose of private lands belonging to individuals by grant from another government, and convey a valid title.

The United States did not own the land, and the patent is therefore absolutely void.

In connection herewith the attention of the surveyor general is asked to the eighth and ninth articles of the treaty of Guadalupe Hidalgo.

S. B. ELKINS,  
*Attorney for Claimants.*

*Rejoinder.—Filed December 27, 1871.*

*To General T. Rush Spencer, Surveyor General of New Mexico :*

Your petitioners, John Gwyn and Robert B. Willison, in answer to the title claimed by the heirs of Manuel Delgado, deceased, respectfully

represent that these alleged original title papers were filed in your office by their attorney April 8, 1871, and that they were produced from the custody of the claimants; that in their petition filed with the same, June 29, 1871, they state that Manuel Salustiano Delgado, the father of petitioners and the son of Manuel Delgado, occupied, cultivated, &c., while Donaciano Vigil, in giving his testimony, states that he knew both Manuel Delgado and Manuel Salustiano Delgado, father and grandfather of the present claimants, and that Manuel S. Delgado resided here at Santa Fé, and when he died his son, Manuel Delgado, occupied the ranch of Los Serrillos. Evidence in original files in your office show that this same Manuel Delgado died in the beginning of this century, while this witness swears that he inherited from Manuel S. Delgado at no very remote period. It is very evident that this witness was not testifying from memory or personal knowledge of the facts, but from presumption after recent reading over the documents filed in the case, and from conversation with the claimants. He also states that for twenty-two years preceding the acquisition of this Territory by the United States he was the permanent secretary of the Territory department in New Mexico, and that during that period was on several occasions secretary of the civil government, and from September 22, 1846, up to February, 28, 1851, he was secretary of state for the Territory of New Mexico, under control of the United States Government; during all these periods of time he was in charge of the original archives of the former Spanish and Mexican governments, yet he fails to state that these title papers were ever seen among these archives, and the attorney in the case is careful in not questioning him why this title was not filed among those archives, and upon the cross-examination by your petitioners, he declares that he saw these papers here in Santa Fé in the hands of Manuel Delgado, deceased, yet it is proven by documentary evidence in the original Spanish files in your office that this Manuel Delgado died in the early part of the present century. He also states that he does not know if these titles were ever recorded, but if they were, they must have been recorded in Book A or B, of public records, which books were originated and opened for the record of land-titles subsequent to the date of the acquisition of this Territory by the United States, and such a record, even if it existed, could not be taken as evidence of genuine title to land, as they are not the original Spanish or Mexican records. The next witness, Antonio Sena, also testifies that he only saw these alleged title papers in the hands of the claimants, and appears to derive his knowledge of the boundaries in the same manner as the witness Vigil; neither one nor the other testify from personal knowledge of the facts. Vigil testifies that the son was the father of his own father, or, in other words, that Manuel S. Delgado was the father of Manuel Delgado, while original Spanish archives in your office show to the contrary. Really this presumption of witness's personal acquaintance with men who died before he was born, or when the witness was in his earliest years of childhood, far beyond his earliest possible recollection, is a mixture of evidence that cannot tend to support a land-claim before your honor. The witness Sena had no conceivable idea of the boundaries, and, after he has sworn to boundaries entirely without the limits of the tract claimed, the claimants' attorney was permitted to dictate to him the boundaries he should state, and which he attempted to obey, but in so doing he left the matter yet worse confounded, for the slope of the Serillos, as witness terms it, towards the Cañada Guicú, as stated by the claimants and their map, &c., is distant some five or six miles from that cañada, and there are

sundry creeks and deep hollows and cañadas, mountains and hills intervening, which fact literally destroys his evidence, or renders it unintelligible; and this witness's testimony places the northern boundary where the claimants allege in their petition and papers as their southern boundary, and their south boundary at the Galisteo Creek, many miles distant south of claimants' alleged south boundary. The third witness, Juan Miguel Ortega, stated that he knew the boundaries, and that they were pointed out by his father; now, there is no evidence given in the whole course of testimony taken that is positive or of a knowledge of facts, but is presumptive entirely. How many hundreds of settlers are there in New Mexico that now live upon places settled by their ancestors, upon public lands, and which is known to be public land? The public lands in New Mexico were of still less value under the reign of former governments, with a limited number of inhabitants, than at the present day, and the citizens were permitted to occupy and use them at their option the same as is being done by hundreds of persons and now occupying the lands under our own Government. These permits were often given in writing, without passing the title to the land, and if the claimants in this case could, by any means whatever, establish the validity and genuineness of the documents filed, then we deny them to be possessed of a title to the lands claimed, but only a permission to occupy them in common with the nation. The decree of the governor, and the act of possession, as alleged in the papers filed in the case as original documents, appear to have been written by the same hand that affixed the signature of the governor and that of the alcalde, and also one of the attending witnesses, and indeed the papers show conclusively that the alcalde himself acted both in the capacity of alcalde and attending witness to his own act or transaction at the time the papers were extended and executed. The language of the governor that the corresponding deeds were drawn by the alcalde-mayor of this town, Don José Antonio Ortíz, at the time of extending his act or decree, and the alleged act of possession or deed, appearing, as it does, to have been executed several months thereafter by a different person than the one above named, appropriating to himself the character of alcalde-mayor, shows the falsity of these title papers upon their face. It is not asserted that the present claimants have any knowledge of the manner in which these papers were fabricated, but it is believed that they and their ancestors have been duped in the purchase of them under the impression of genuine titles. The very able attorney representing their interest appears to have discovered the many defects in the titles, and, after many months of delay and investigation and search to produce evidence in their support, he pens his arguments with apparent care not to tax his veracity or permit that of his clients to be attacked, and a carefully prepared statement of assertions are set forth, though entirely destitute of any evidence in their support. The fact that these alleged title papers are written upon two separate half-sheets of paper, one being the half-leaf or sheet of stamped paper, while the other is of common paper unstamped, is also clear evidence of fraud. While the paper itself bears the proper appearance of age, the writing thereon has the appearance of freshness, not comparing in antiquity with the paper itself. Both the sealed and unsealed leaves are apparently the detached right-hand leaves from two separate and distinct whole sheets of paper, and the common paper is not declared valid by the proper officer, or by any officer, as was usual and requisite in such cases. The act of the evident self-constituted governor (for a decree of concession to a grant of land it cannot be termed) seems to have been drawn up with a view to self-protection rather than convey the idea of

a decree of concession. The papers are presented in a disconnected and irregular form, and convey to the mind the appearance of a re-arranged mass of documents to suit the ideas of the holders thereof from time to time; and there is not any indications or marks upon them to distinguish and indicate that they were ever seen by any legally appointed Spanish or Mexican officer before the date of the treaty of Guadalupe Hidalgo; no evidence is produced showing any recognition by the former governments of these titles; while in the adjudication of every private land-claim by the United States, in Florida, Louisiana, California, and New Mexico, and by the State of Texas—in Texas some original archive files, or record of the former government, were produced, or proof of their having existed was produced, to verify the validity of title; but in this case the title papers are produced from the custody of the claimants only, and entirely destitute of evidence that they were ever recognized by the government of Spain or Mexico, but have, apparently, been kept concealed from the knowledge of those governments for a long series of years, and their existence known only to a few confidential friends of the claimants since the acquisition of this Territory by the United States. "Where there is no archive evidencé of a grant, and its absence is unaccounted for, the claim must be rejected, even when there is very strong parol proof of a grant."—(*Romero vs. United States*; *White vs. United States*, 1st Wallace, pp. 721, 660.) And reference is made to the following cases, which were rejected for want of evidence of a record-nature to support them: *United States vs. Canibuston*, 20 Howard, p. 59; *United States vs. Teschmaker*, 22 Howard, p. 392; *Auentes vs. United States*, 22 Howard, p. 443; *United States vs. Osio*, 23 Howard, p. 280; *United States vs. Bolton*; *Luco et al. vs. United States*, 23 Howard, pp. 341 and 515; *Palmer et al. vs. United States*; *United States vs. Castro*, 24 Howard, pp. 126 and 346; *United States vs. Neleigh*; *United States vs. Knight*, and *United States vs. Vallejo*, 1 Black, 298, 229, and 541; *United States vs. Galbraith*, 2 Black, 394.

The original diseño, or map, required at the time the grant was made is also a necessary part of every land expediente, and was distinctly required by the former Spanish and Mexican governments; no such paper is filed in this case. No mention is made in the body of these papers that a duplicate copy should be filed in the public archives and recorded, as was the invariable rule and custom of the Spanish government. The old house proven to be upon the land was built by the Spanish government, during the seventeenth century, for the garrison of her troops, as was also the inclosures mentioned for the pasturing and security of the public animals. The language of Concha on the 20th of April, 1788, that the corresponding deeds were drawn by the alcalde mayor of this town, Don José Antonio Ortir, on that date, yet the deed itself shows that such person had nothing to do in the matter at that time, nor at any time subsequent thereto, but do show that another person, appropriating to himself the character of alcalde-mayor, did give his certificate in two signatures, transcribed by two different and distinct hand-writings, and dated June 12, 1788, several months thereafter. And if this certificate was made at the time that Concha states, it is falsely dated, and if falsely dated, it is a fraudulent paper. It is in vain to say that the date of a deed is not material; of such a paper as this it is the most material part, and if these papers were fabricated by Antonio José Ortir, who had no authority to act, we cannot but distrust, in the absence of evidence in their support, that all the papers relating to the title was fabricated in the same way; and if all presumptions were in favor of the fabricator, and tribunals could act on the principle that



suitors must be encouraged in falsifying documents, then the reasoning of claimants' counsel in this case might have a chance of success; but the rule is directly the reverse. Yet the attorney in this case has assumed to give judgment in this cause, to pronounce his clients possessed of a good and valid title; that judgment is manifestly erroneous, being unsupported by evidence, and contrary to the well-settled laws of the land, and the assertion of the attorney that the grant was made in due form of law, and that it is a grant, with the papers and evidence produced in support of the case, needs but to be stated to be condemned.

The deed of conveyance, purporting to be the act of José Miguel de la Peña, conveying to Don Cleto de Mierra y Pachuo, stands precisely in the same condition as these alleged title papers; no evidence of any nature is produced to prove their validity. There are also several other papers filed in the case purporting to be conveyances, and alleging further chain of title, but these papers are the writing of a recent date, not to exceed two years past, but bearing dates early in the present century, and are not in any manner authenticated or verified, and cannot be considered as evidence in the case, and are passed without further notice. A correct and perfect *deseño*, or map, is a necessary part of every land-claim, and is distinctly required by the regulations, in the adjudication of all cases; and although the entire tract claimed lies in one subdivided township, and the field-notes will show precisely the location of every boundary claimed, if such places are in existence as alleged, these claimants have failed to file such a map, from which it is inferred that the United States must and shall remain subservient to their stubborn wishes, regardless of all law and regulations of the land, but have filed a map designating points and places as boundaries that do not now nor never did exist. These chronological blunders are the besetting dangers of men who make false papers; they often occur in fabricated titles, as is the case in this instance, and where they do occur they always furnish the means of most triumphant exposure. In the case of Lady Ives, a long chain of title papers ingenuously fabricated was totally destroyed by showing that one of the deeds, dated in the reign of William and Mary, ascribed to the King and Queen a style or title which was not adopted until after the date the deed. In the case of José Castro, (1st or 2d Black,) the Supreme Court of the United States pronounced the claim to be fraudulent, mainly upon the ground that in the grant Pio Rico was made to call himself constitutional governor, whereas, at the date of the grant, he was first vocal, and governor *ad interim*, and did not become constitutional governor for several days afterwards. Many years ago a Spanish grant of land in Louisiana was discovered to be a forgery by an officer of the Land Department, who noticed that Bayou Mason was referred to in one of the papers which bore date before the time when that bayou was known by that name, but your honor is certainly bound to presume nothing in favor of a title which presents such anachronisms as is found in this case. But assuming that the acts of the governor and alcalde in this case could be proven and verified as genuine, there would then be no concession or grant recognized or established, for in the petition of José Miguel de Peña to the governor, in 1788, he asks to be placed in possession of a former grant conceded to his ancestors, and the governor, believing and crediting his statements, aims to renew and place him in possession of a title which he has been lead to believe did formerly exist, but which has been proven, by the old archive document filed in this case, never did exist—there was no decree of concession to

a grant by the governor, but simply a renewal of possession. These claimants produce no proof whatever that any grant ever existed previous to 1788, as is alleged by them, but positive evidence in said Exhibit B shows that such grant never did exist, and that the facts contained in said Exhibit B has caused these lands to be surveyed and sold by the United States, in good faith; and hence the act of the governor and the alcalde in this case cannot be taken as a legal transaction, for in extending and giving the possession upon land which they were led to believe was an old grant was an illegal and fraudulent transaction, obtained by fraud and deception, and in bad faith practiced upon them by the petitioner, Peña, and is not a *bona-fide* title, and this claim cannot hold any equities under the treaty of Guadalupe Hidalgo, and must be rejected under the stipulations of the act of July 22, 1854, and the instructions emanating therefrom by the honorable Secretary of the Interior to the surveyor general of New Mexico, under which law and instructions your honor is now adjudicating this claim. In his instructions the honorable Secretary of the Interior says: "The surveyor general of New Mexico has it in charge to prepare a faithful report of all the land titles in New Mexico which had their origin before the United States succeeded to the sovereignty of the country, and the law contemplates such a report as will enable Congress to make a just and proper discrimination between such as are *bona-fide*, (acquired with good faith, without fraud or deception,) and should be confirmed, and such as are *fraudulent*, or *otherwise destitute of merit*, and ought to be rejected." The claim now made by the heirs of Manuel Delgado, deceased, was not recognized under the laws, usages, and customs of the former governments as a *bona-fide* grant, and cannot be recognized under this of the United States. "Mere possession of public land will confer no title, as against a grantee under the United States." (*Burgess vs. Gray*, 16 Howard, p. 48; 21 Cond. Reps., p. 25.) "No standing can be given in courts of justice to inchoate claims under the former government of Louisiana and Florida until recognized by the political authority of the United States." (*Paschal's Texas Digest*, p. 40; note 150, and cases cited.)

"A paper to be entitled to admission into the General Land-Office must have constituted an archive or record of some former office." (*Paschal vs. Perez*, 7 Texas Rep., p. 356.) It is well known that in the case of most, if not all, the titles to lands executed prior to our own separation from Mexico the original remained an archive, and the testimony was given to the interested party as an evidence of title. (*Guilbeau vs. Mayo*, 15 Texas Rep., p. 414.)

In the very able opinion delivered by Chief Justice Taney in the case of *United States vs. King et al.*, (3 Howard, p. 786, 787,) he says: "That in every law establishing American tribunals to examine into the validity of titles to land in Louisiana and Florida derived from the Government of Spain, they are expressly enjoined to inquire whether the documents produced in support of the claim are antedated or fraudulent," and we have no doubt that it is a right of this court to hear and determine whether the certificate of Tradeau, although recognized and sanctioned by the colonial authorities of Spain, is antedated and made out either with or without their privity and consent, in order to defraud the United States and deprive them of lands which rightfully belonged to them under the treaty. The instruments themselves contain no lines or boundaries whereby any definite and specific parcel of land was severed from the public domain; and it has been settled by repeated decisions in this court, and in cases, too, where the instrument

contained clear words of a grant, that if the description was vague and indefinite, as in the case before us, and there was no official survey to give it a location, it could create no right of private property in any particular parcel of land which could be maintained in a court of justice. It was so held in the cases reported in 15 Peters, 184, 215, 275, 319, and in 16 Peters, 159, 160. The land claimed was not severed from the public domain by the Spanish authorities and set apart as private property, and consequently it passed to the United States by the treaty which ceded to them all the public and unappropriated lands, and the instruments in question, even if they could be construed as grants, conveyed no title to the Marquis de Maison Rouge for the land in question; "for if these instruments were regarded as grants, and it appeared that the Marquis de Maison Rouge had originally selected this very district as the place where the grant was to be located, and the immigrants introduced by him had been settled upon it in performance of the conditions of his contract, and if it should be held that he had thereby acquired an equitable right to have the land mentioned in the paper of 1799 laid off to him at this place, still it would be no defense against the United States," for in the case of *Choteau vs. Eckhart*, (2 Howard, 375,) this court decided that an imperfect title derived from Spain before the cession would not be supported against a party claiming under a grant from the United States. (*Lessee of Hickey et al. vs. Stewart*, 3 Howard, p. 750; *United States vs. Lawton et al.*, 5 Howard, p. 26, 27. See also 7 Howard, p. 833, *United States vs. Turner's Heirs*, 11 Howard, 663, and *United States vs. Cox* and others, 17 Howard, p. 41.) All these landed estates were finally adjudged to belong to the United States.

In regard to the boundary, as shown on the east, in the case of the heirs of Manuel Delgado, deceased, as per map filed by the claimants, the road designated thereon does not now, nor never did, run as marked, but runs in a due, or nearly due, easterly direction for four or five miles from the north line of the grant, as indicated in said map, at which distance it turns in a southeasterly direction to the town of Galisteo, and these claimants could locate their eastern boundary near or remote, as they might select. The map filed by them is very indefinite and unintelligible, and, although the tract claimed is situated upon the subdivided portions of the public domain, they obstinately refuse to file a map, correct in form or in such manner as to designate the points and places called for, and alleged as their boundaries, which could be defined by the field-notes of said public surveys, if such points and places exist or ever did exist.

Your petitioners further state that they are purchasers of the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the northwest quarter of section 5, containing 40 acres each, or a total of 160 acres, and the west half of the northwest quarter of section 5, containing 80 acres, more or less, and the east half of the northeast quarter of section 6, containing 80 acres, more or less, all in township No. 15 north, range No. 8 east, of the principal meridian of the public surveys in the district of New Mexico, purchased at open outcry at the public-land sales of the United States at Santa Fé, New Mexico, in the month of August, A. D. 1870, and patented, in due and legal form, to your petitioners, which your petitioners ask be considered, in connection with the purchases mentioned in a former petition, directed to you, regarding this same claim, and which is filed with the case. Your petitioners hold perfect and absolute titles to the lands above de-

scribed, guaranteed by patents issued to them, in due and legal form, and fully recognized and protected by the Government of the United States, which holds or held full dominion over said lands at the time of the sale thereof, and that the titles and claim made and presented by the heirs of Delgado never was recognized by the former Spanish and Mexican government and that of the United States; and if said heirs or their ancestors have been duped into the purchase of these fabricated titles, it is their misfortune and not that of the United States, which latter has acquired these lands, under the treaty of Guadalupe Hidalgo, as public domain, held and enjoyed as such by the former governments during their reign over this Territory. (*Serrano vs. United States*, 5 Wallace, p. 451; *De Haro vs. United States*, 5 Wallace, p. 599.)

Respectfully submitted.

JOHN GWYN,  
ROBT. B. WILLISON,  
By JNO. GWYN.

*Surveyor general's decision.*

JOSÉ MIGUEL DE LA PEÑA ET AL.

THE SERRILLOS TRACT.

This claim was filed in this office April 8, 1871, by J. Bonifacio Chaves, as attorney for the present claimants of a portion of the land known as the Serrillos tract, situated in the present county of Santa Fé, New Mexico, claimed under a certain grant, or renewal of grant, made by the Spanish government in New Mexico, in 1788, to José Miguel de la Peña and others, as heirs of Alonzo Rael de Aguilar, referred to as a former grantee for the same land, who had abandoned and forfeited the same.

The title papers, being the original muniments in Spanish filed as constituting this grant, consist of—

1. The petition of José Miguel de la Peña to the governor and captain-general of the province of New Mexico, praying for a grant for a certain abandoned tract of land known as the Serrillos, formerly belonging to his wife's grandfather, Alonzo Rael de Aguilar.

2. The decree of Governor Concha, dated April 20, 1788, placing the petitioner, de la Peña, and certain other unnamed heirs of de Aguilar, in possession of the land prayed for, and directing the chief alcalde duly to execute the documents of title.

3. The act of possession, dated June 12 following, executed by the chief alcalde, under authority and direction of the governor's decree of April 20, detailing the ceremonies of the act and stating the boundaries of the land as on the north of the Guicu Valley, and the lands of the Bacas; on the south, the high hills; on the east, the Galisteo road, mentioning no boundary on the west, but stating the width of the tract east and west as two thousand five hundred varas.

On the 29th of June, 1871, the claim was formally presented to the surveyor general for adjudication, by S. B. Elkins, as attorney for the heirs of Manuel Delgado, deceased, in a notice to the surveyor general, accompanied with a translation of the title papers and a sketch of the whole tract claimed under the grant, and also with translated copies of certain deeds of conveyance in evidence of the title of said heirs to the portions of said tract claimed by them.

The approval of the grant in this case has been opposed before the surveyor general by John Gwyn and Robert B. Willison, contestants

of the claim, who, in their objections filed in the case, allege that they are the only legitimate owners of certain portion of the tract in question, deriving their title by purchase from the United States, and holding under patent from this Government, and contend that the title so held by them is the superior and only subsisting legal title for the land in dispute, in virtue of sundry reasons by them stated as sufficient to render void the claim set up under the grant in this case.

This office, in taking action upon the claim now pending before it, deems that it may do so under the law only in investigation of the genuineness and validity of the grant filed for that purpose, and not in trial of title between parties; and that in this investigation the grant or claim must be acted upon in its entirety, and not concerning only those portions of land claimed thereunder, title to which may be presented or alleged. In this case the heirs of Delgado claim but a portion of the land embraced in the grant, and are the only such claimants made known to this office. In determining the validity and extent of their claim against the public domain of the United States, the action involves, unavoidably and inseparably, a determination of the title of all other claimants under the same muniment.

This case was set for a hearing for the 23d of September, 1871, on which day the claimants under the grant, by their attorney, and the contestants under the patent, appeared, and sundry witnesses were examined, and was kept open for the presentation of additional testimony and argument till the present month, when the parties submitted the case for decision.

The contestants, Gwyn and Willison, filed, in writing, on the 4th of August, their objections to the approval of the grant to de la Peña, setting forth and alleging therein that they were the owners, by purchase from the Government of the United States, of certain portions of the land covered by said claim, describing said portions as being certain surveyed legal subdivisions of the public lands of the United States sold and patented to them under the proclamation of the President of May 3, 1870, and contesting the validity of said grant substantially on the ground—

1. That no claim under any sort of title was made known by the claimants under the grant, either before or at the sale of said legal subdivisions, as said claimants were, by the law, required to do if any claim they had.

2. That the land in question was never granted, as alleged by them, by the Spanish government, as evidenced by archive file No. 769, in this office; this being a positive refusal, in the year 1750, by the Spanish governor and captain general, to make any grant for this identical tract of land, as the government required and used it for a government grazing-ground.

3. That the pastures and watering-places under the grant to de la Peña, it was therein stipulated, should remain forever in common, and should never become private property; and that, in fact, the title alleged by the claimants under the grant was not a grant at all, but a general permit to occupy and use the land without destroying the character of the latter as public domain.

4. That the act of Congress of July 22, 1854, providing that, until the final action of Congress upon private land-claims reported upon by the surveyor general, no disposition of the land covered thereby should be made, contemplates only such claims as are so reported, and that this private claim not having received such action, the Government had the power to dispose of the land under the eighth section of that act.

5. That the grant to De la Peña was not intended to be more than a concession of the privilege of grazing animals in common; and in proof thereof the contestants file and cite their Document B, and allege that it is notorious the Spanish and Mexican governments used the ground as government grazing land till the year 1848, or as long as they had possession of the country.

6. That the claimants under the grant were aware of an adverse claim to the land in dispute, to wit, that of the contestants, notwithstanding they declare they were not so aware.

7. That they, the contestants, hold a guarantee title by patent from the Government of the United States for the land or a portion of the land in question, which title must prevail against that alleged in this case emanating from the Spanish government.

And, in conclusion, the contestants cite certain decisions of the Supreme Court in support of the points made and urged by them.

The attorney for the grant claimants on the 27th of October filed an answer to the objections of the contestants, urging, in support of the grant to De la Peñas—

(1.) That the concession was made in due form of law by the Spanish government, and was subsequently recognized and respected by the Mexican government.

(2.) That, as shown by the evidence, the grantees and their successors have continuously occupied and cultivated the land, and are in possession actually.

(3.) That the portion of land patented to the contestants by the United States within the limits of the grant did not belong to the United States, and that the patent is therefore absolutely void; the attorney, in connection with his answer, calling attention to the eighth and ninth articles of the treaty of Guadalupe Hidalgo.

The contestants, on the 27th of December, filed a rejoinder, urging substantially, in addition to the seven points previously made—

8. That certain of the testimony taken before the surveyor general in September is inconsistent, incredible, and untenable before the facts.

9. That as there is no archive or record evidence of the grant, the claim must be rejected.

10. That the title-papers in the alleged grant to De la Peña are *prima facie* fraudulent, as evidenced in that the decree of the governor and the act of possession of the alcalde are in handwritings identically the same; that the alcalde giving the possession was not the person authorized and directed by the government to do so as such; that the person officiating acted both as alcalde and as witness to the instrument; that the governor in his said decree refers to the title-deeds as already executed, whereas they show in themselves they were not executed till some time afterwards; that the paper bearing the title documents was not legal-stamped paper, and that the apparent freshness of the writing is incompatible with the ancientness of the paper bearing it.

11. That there does not appear among the title-papers filed any map of the land claimed as granted, which it was necessary to have under the Spanish government, and that they do not show that any retained duplicate of the grant was to be retained and recorded by the government, as was the rule and custom under that government.

12. That the east boundary of the tract claimed under the grant, and shown by the sketch filed with the claim, is indefinite and erroneous, as is also the testimony of witnesses examined by the surveyor general concerning other boundaries of the tract.

In support of their allegation of fraudulency and invalidity in the grant in this case, for the reasons thus stated, the contestants refer to numerous decisions of the Supreme Court of the United States and other authorities cited in their arguments.

As counter claimants under title derived from the United States for land in New Mexico, claimed under title derived from a former government here, it is believed parties could not of right acquire *status* as contestants in the investigation of the foreign title under the act of Congress of July 22, 1854; for in the last clause of the eighth section of that law it is unequivocally declared that, "until the final action of Congress on such (Spanish and Mexican) claims, all lands covered thereby shall be reserved from sale or other disposal by the Government." Messrs. Gwyn and Willison have appeared and contested in this case as claimants under patent from the Government of the United States for the land or a portion of it reserved as above and upon the prior claim for which Congress has not acted finally or at all, except generally for its protection until its validity could be duly investigated and determined. They were allowed to appear and be heard in the absence of opposition acting under title not absolutely barred by the law, the surveyor general being desirous of having all the light available in the premises in the investigation of the claim; and he will here consider in their order the points deemed at all material of those urged as objections by said contestants.

1. It is believed the omission of claimants under the grant to make known their claim to the land about to be sold, could not affect their title if anything had since the law clearly prohibited any disposal of land claimed under grant; and the proclamation of the President reserved from sale all legally appropriated lands, and since there was in fact no law requiring the claimants to make known their claim.

2. The document referred to annulled or declared void a former grant, because of its inchoate condition and because the land it covered was needed for Government use, whereby the soil reverted to the condition of public domain, so to remain until afterwards disposed of by competent authority.

3. The condition that the pastures and watering-places should be in common, did not render the concession any less a grant sufficient to sever the land permanently from the national domain in favor of the grantees.

4. The law referred to is understood to be clear and peremptory in prohibiting any disposal by the United States of land claimed under a Spanish or Mexican grant until the latter is finally acted upon by Congress.

5. The concession of 1788 appears to be an absolute grant, since both the governor and the alcalde placed the parties in possession of the land, recording their action as for all time, making no mention of its grazing but only of its agricultural quality. They make no mention of a Government reservation, nor does it anywhere appear in the papers in the case that the place was ever erected into or declared such; and it is shown by the testimony of three aged witnesses examined in the investigation of this case that the land has been continuously occupied and cultivated by the present claimants and their ancestors since many years back.

6. The point is not deemed a material one.

7. The surveyor general under the law can act only upon those claims for land originating under the Spanish or Mexican government, and none others are actionable before him.

8. The testimony, unless that portion of it concerning the continued possession of the land claimed, is not deemed material in this investigation of the validity of the grant. The consanguinity relations of the claimants Delgado to Manuel Delgado, deceased, the last vendee in the deraignment of title exhibited with their petition, have no importance in this case, wherein in the absence of complete deraignment to the present claimants the claim must be decided with respect only to the original grantees and their legal representatives.

9. If there was in fact a grant to De la Peña, in 1788, as the papers filed appear to show, it is reasonable to conclude there was a record of the fact made in the government office at the time; but the non-production (or as in this case the admitted absence) of any such old record wherewith to prove the fact of this or any other grant purporting to have been made at or about that period, cannot, it is believed, in law or justice, be taken as conclusive that no such grant was made. If there was such a record preserved, it seems to have disappeared, or at any rate was not transferred to the custody and access of the surveyor general with the other old archives belonging to the former governments relating to land matters, and in the absence of such record proof, manifestly essential for documents issued in a former generation, this office has to rely mainly upon such intrinsic evidence of genuineness and validity as the muniments afford in themselves, assisted with the light, corroborative or otherwise, thrown on the case by contemporary papers in the old archives.

10. A cursory critical inspection of the handwriting would convince that they are not identical, whether or not José Antonio Ortíz, the person the governor directed to execute the act of possession, and Antonio José Ortíz, the person who did execute it, were one and the same individual. The latter is known from contemporary papers in this office to have been at or about the time an officiating alcalde; the signatures of the alcalde and of the witness are manifestly different signatures. The official translation shows that the execution of the papers was subsequent to the date of the decree. The paper is stamped paper, and there is discerned no incompatibility of the kind suggested between the paper and the writing thereon.

11. Under the Spanish land-granting system the object of the map was for the information of the granting authority, as to the locality and extent of the land applied for; in this case that authority, the governor, visited the land himself and personally placed the parties in possession on the ground, and if he had needed the map would no doubt have required it before acting, and this grant being but the validation of a former one previously delivered to and then in the possession of the government, the custom of filing the duplicate may reasonably have been waived in this case, and it was an operation for subsequent performance.

12. The matter of ascertainment of boundaries is one pertaining rather to the execution of the survey of the land than to the prior investigation of the validity of the grant, and is the province of the deputy surveyor in the field rather than of the surveyor general.

The present claimants, Delgado, have exhibited in the investigation of this case here certain translated copies of deeds of conveyance of title to Manuel Delgado, deceased, as evidence of their ownership of a portion of the land claimed under the grant, as heirs of said deceased, and in their petition pray that said land be confirmed to them as such heirs. But the conveyances are not authenticated, nor is the deraignment



complete, and there is no proof of heirship, and besides there is among the archives in this office (*vide* file No. 252) evidence that the title to the Serrillos tract of land descended, by due process, from Manuel Delgado, deceased, to his son, Manuel Salustiano Delgado, under and through whom the present claimants Delgado appear, from the evidence, really to hold; wherefore this office will proceed to act upon this claim only with respect to its validity as a grant, and not to the title of any particular parties claiming under the original grantees.

It is a matter of history that it was the will and policy of the Spanish sovereigns that the royal domain should be populated and utilized by grants of land, no less within the vice-royalty of Mexico than in the other ultramarine possessions of the Crown, as it was afterward the declared policy of the Mexican government to encourage agriculture by making to its citizens liberal donations of the same national domain, and as it is of the United States to extend the frontier, by the attractions of a liberal system of homestead donations. In New Mexico the active participants in the conquest of the country were granted by the government a species of bounty-land, but the original concession in this case, made to Alfonso Rael de Aguilar, seems to have been made mainly in consideration of his distinguished loyalty to the king as well as of his services in the conquest.

The concession made in 1692 was afterward, in 1750, declared by the governor and captain general void, and he declined to renew it to the heirs of the grantee, for the reason that the spot, the Serrillos, was required by the government for its use as a pasture-ground. The land was again applied for in 1788 by certain of the heirs of said grantee, when the governor visited the spot, and placed the applicants in permanent possession unconditionally, directing the chief alcalde to execute to them the proper title papers, which was accordingly done.

Neither the power of the captain general to refuse to make or renew the grant in 1750, nor the authority of the governor to do so in 1788, can be questioned or doubted. It does not appear from the action of 1750 in the case that there had been or was then established any government reserve; and the action of the governor in 1788 is believed and held to be sufficient of itself to constitute a good and valid claim to the land referred to, even without regard to the validity or subsistence of the concession of 1692, and notwithstanding the refusal of 1750.

The records in this office show that Fernando de la Concha, whose name appears signed to the concession of 1788, was governor of the province of New Mexico in that year. His signature is known to the office, and is believed to be genuine as it there appears. It is likewise shown that Antonio José Ortíz was chief alcalde of the jurisdiction of Santa Fé, and his signature is also so known and believed genuine.

The evidence shows that the present claimants Delgado and their ancestors have been in the peaceable possession and enjoyment of the land at the Serrillos, under the grant, at and since long before the date of the treaty of Guadalupe Hidalgo of 1848. It was, therefore, at that time a recognized and subsisting claim as against the national domain of Mexico acquired by the United States under the treaty.

It is, therefore, considered and held by this office that the concession made in 1788 to José Miguel de la Peña and the other heirs of Alonzo Rael de la Aguilar is a good and valid claim against the public domain of the United States, and the same is hereby approved to them and their legal representatives, and recommend to Congress for confirmation; and a transcript of all the papers in the case, except of the copies of

deeds of conveyance filed by the plaintiffs Delgado, is hereby transmitted, for the action of Congress in the premises.

T. RUSH SPENCER,  
*Surveyor General.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, January 31, 1872.*

SURVEYOR GENERAL'S OFFICE,  
*Santa Fé, New Mexico, February 5, 1872.*

The foregoing is a correct transcript of the papers on file in this office in private land-claim, reported as No. 59, in the name of José Miguel de la Peña *et al.*

T. RUSH SPENCER,  
*Surveyor General.*