

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

In compliance with the requirement of section 8 of the act of 22d July, 1854 (10 Stat., 308), the plats and papers in the following private land claims in the Territory of New Mexico, viz : No. 112, Mesilla and Arroyo Seco ; No. 114, Santa Barbara ; No. 118, Ojo de Borrega ; No. 119, San Miguel del Bado.

MARCH 2, 1881.—Referred to the Committee on Private Land Claims and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, March 1, 1881.

SIR: Pursuant to the requirement of section 8 of the act of 22d July, 1854 (10 Stat., 308), I have the honor to transmit herewith the plats and papers in the following private land claims in the Territory of New Mexico, viz :

No. 112, Mesilla and Arroyo Seco.

No. 114, Santa Barbara.

No. 118, Ojo de Borrega.

No. 119, San Miguel del Bado.

The surveyor-general of New Mexico is of opinion that said claims are valid and should be confirmed.

Very respectfully,

C. SCHURZ,
Secretary.

The PRESIDENT OF THE SENATE.

TRANSCRIPT OF PRIVATE LAND CLAIMS REPORTED NO. 112, IN THE NAME OF JOSÉ TRUJILLO, KNOWN AS THE MESILLA TRACT AND THE ARROYO SECO TRACT, IN NEW MEXICO.

Date of the Mesilla tract.....April 23, 1700.
 Date of the Arroyo Seco tractMay 23, 1707.
 Date of surveyor-general's approval.....December 13, 1878.

(Transmitted to the General Land Office by the surveyor-general of New Mexico, November 20, 1880.)

[Private land claim.—File No. 117.]

THE MESSILLA TRACT.

HON. HENRY M. ATKINSON,

United States Surveyor-General for New Mexico :

Your petitioners, the heirs and legal representatives of José Trujillo, deceased, respectfully represent :

That they are the owners of a certain tract of land, lying and being situated in the county of Rio Arriba, in the Territory of New Mexico, known as the Messilla grant, bounded and described as follows, according to the original grant for said land, to wit : On the south the small mesa or table-land known as the Mesilla de San Ildefonso, on the north a road leading from the pueblo of Pojuaque to the pueblo of Santa Clara, on the east the hills, and on the west the Rio del Norte, the said tract being about 5,750 varas from north to south and about 6,250 varas from east to west.

That the said land was granted by the governor and captain-general of New Mexico to said José Trujillo on the 23d day of April, 1700, and the same was given to him in possession by the chief alcalde of the jurisdiction on the 22d day of May of the same year by the authority and under the instructions of said governor and captain-general, and the title to said land was afterwards, to wit, on the 15th day of July, 1709, formally inspected and confirmed to said grantee, Trujillo, by the visitor-general of the province of New Mexico.

That your petitioners file with this their petition the original grant, marked A, to said José Trujillo for the said tract of land, in the Spanish language, together with a sworn translation of the same into English, marked C, and also a plat of the land claimed thereunder.

That your petitioners file herewith an original document, marked B, and translation, marked D; the same being a petition of Antonia Lopez de Trujillo, widow and executrix of said José Trujillo, praying the authorities to make partition of said land to the heirs of her said deceased husband, according to his last will and testament, therein mentioned, and the act of distribution executed by the chief alcalde and war captain of the jurisdiction, which document bears date and was made and executed in the year 1735, and which is herewith presented as further evidence of the title of your petitioners in and to the land aforesaid.

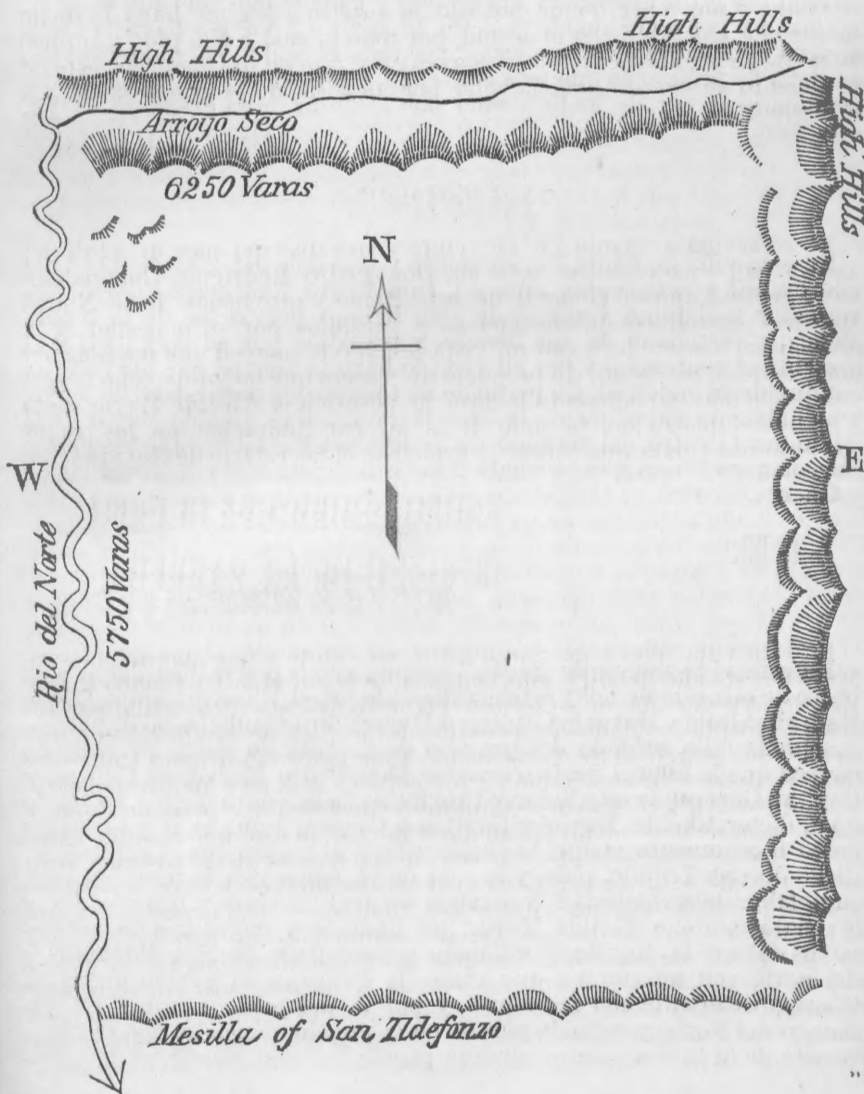
That the said grantee, José Trujillo, and his heirs and legal representatives have been, since the date of said grant to him, and now are, in the quiet and undisputed ownership and occupation of said land.

Your petitioners pray that your honor set a day for the investigation

of their title to said premises, and that you approve their title to the same, as heirs and legal representatives of said grantee, José Trujillo, under the treaty of Guadalupe Hidalgo with the Republic of Mexico, and the law of Congress of the United States establishing your office and providing for the investigation of land claims emanating from former governments in New Mexico.

SILVESTRE GOMEZ,
 For himself and the other claimants,
 By SAML. ELLISON,
 Their Attorney.

Sketch map of Mesilla grant.—File No. 117.



[Muniments of title.—File No. 117.]

A.

Señor GOVERNADOR Y CAPITAN GENERAL:

José Trujillo, hijo originario de este Reino y soldado de este presidio, paresco ante Va., en la mas bastante forma que lugar en derecho y al mio convenga, y digo, que á tento á que me hallo con dos hijos y mi muger por si en algun tiempo ajuntare mi plasa, poder tener un pedaso de tierra en que poder vivir, á Va. pido y suplico que en nombre de Majestad se sirva de consederme merced de un pedaso de tierra que está realenga des de la Mesilla de San Idefonso, hasta un arroyo seco, que ase el camino de la villa nueva pues me mueve á pidirla dicha merced por estar esperando unas vacas y ganado que me hade traer mi hermano y por tener donde ponerlo, le suplico á Va. me haga la dicha merced en nombre de su majestad, por todo lo cual á Va. pido y suplico se sirva de probrer lo que mas convenga, y juro en devida forma este mi pedimento no ser de malicia, sino por alcanzar de la grandesa de Va. este bien.

JOSÉ TRUJILLO.

PRESENTACION.

En esta villa de Santa Fé, en veinte y tres dias del mes de Abril del año de mil y setecientos, ante mi, Don Pedro Rodriguez Cubero, Gobernador y Capitan General de este Reino y provincias de la Nueva Mejico, y castellano de sus fuerzas y presidios por su majestad, & la presentó el contenido, y por mi vista le hago la merced que me pide, en nombre de su majestad, sin perjuicio de tercero que mejor derecho tenga, y no habiendo impedimento le dará la posesion el Alcalde Mayor de la Villanueva dentro del termino de la ley con limitacion que los pastos son comunes y para que conste lo firmé con el Secretario de Governacion y Guerra.

PEDRO RODRIGUEZ CUBERO.

Ante mi.

DOMINGO DE LA BARREDA,
Secretario de Governacion y Guerra.

En esta villa nueva de Santa Cruz, en veinte y dos dias del mes de Mayo de este año de mil y setecientos, ante mi, el Maestro Campo Roque Madrid, Alcalde Mayor y Capitan á Guerra de esta dicha villa, paresio Joseph Trujillo, soldado del presidio de la villa de Santa Fé, con una merced que le higo el Sr. Governador Don Pedro Rodriguez Cubero, y Capitan General de este Reino y Provincias de la Nueva Mejico, sometido á mi, dicho Alcalde Mayor y Capitan á Guerra, á que le dé posesion, y luego incontinente monte á caballo y fuí á el puerto que el suplicante, dicho Joseph Trujillo, pide, y le coxi de la mano y di la posesion real, en nombre de su majestad, y arranco sacate, dio voces y tiro piedras, y le señaló yo dicho Alcalde Mayor por linderos y mojoneras de sus terminos del sur la Mesilla que llaman comunmente de San Idefonso, y del norte con un camino que viene de Pojoaque al pueblo de Santa Clara, y de oriente con las lomas, y por la del poniente con el rio que llaman del Norte, y estando parado en el pueblo quemado, que es dicha vereda, le di la posesion, y por que conste lo firme, siendo testigos Do-

mingo Martin y Bartolome Sanchez y Dn. Joseph Manuel Gilthomey, quienes tambien firmaron por de mi asistencia que actuo como juez receptor, por no haber escribano público ni real. Ut supra.

ROQUE MADRID.

JOSEPH MANUEL GILTHOMEY.
BARTOLOME SANCHEZ.

En esta villa de Santa Cruz, en quince dias del mes de Julio de mil setecientos y nueve años, ante mi, el General Juan de Uribarri, Sargento Mayor de este Reino y Provincias de la Nueva Mejico, su Procurador General y Rejidor, Juez Comisario, Visitador, por el Señor Almirante Don Joseph Chacon Medina Salazar y Villseñor, Caballero de la Orden de Santiago, Marquez de la Peñuela, Governador y Capitan General de este dicho Reino, y Castellano de sus fuerzas y presidios por su majestad, fué presentada esta merced por el alfez, José Trujillo, Teniente de Alcalde Mayor y Capitan á Guerra de su jurisdiccion, á quien doy fé, conosco, haciendola visita general y leida con sus autos de concesion y posesion, preguntando al concurso de gente que se hallo presente si hacian ó habian contradiccion á dicha merced, dijeron todos á una voz que no, y siendo asi declaro al dicho alfez, Joseph Trujillo, por lejítimo dueño y poseedor de dicha merced, y queda visitada, y para que conste lo firme con el Secretario de Cavildo y Visita, en dicho dia. Ut supra.

JUAN DE URIBARRI,

Juez Visitador.

Ante mi.

CRISTOVAL DE GONGORA,

Secretario de Cavildo y Visita.

Sin derecho.

B.

Sr. ALCE. MR. Y CAPPN. Á GRRA.:

Antta. Lopez, vezina desta cañada, vinda del Cappn. Joseph Trujillo, ante Vm., paresco en la mejor forma qe. aya lugar y en derecho combenga y digo, qe. por quanto mi difunto esposo en su testamto., que hizo en el Paso del Rio del Norte sufhá, a cinco de Diciembre del año de treinta y dos me dejo por universal eredera y principal Albacea y en segundo lugar á Diego Truxillo, vezino de dho. paso, por cuya razon despues de aber ajustado de su parte algunas dependencias, entró á este Reyno y sustituyo para lo demas de los legados de dho. testamto. sus veses en me persona y asi ofresiendo el repartir las tierras segun ordena dho. testador, hago á Vm. demostrasion de los instrumentos. de voces y señorío y del testamto. para qe. Vm. en su vista, juridicamto. con su autoridad se digue de medir y señalar lo qe. por derecho tocase á cada uno de los herederos, y por tanto, á Vm. pido y suplico sea muy servido de hacer como llevo pedido, poniendo todos los medios qe. fueren necesarios para la quietud de todos, y qe. no haya en ningun tpo. discordias, juza. que pido y espero al cauzar de Vm. y juro en debida forma nor ser mi pedimto. de malicia y en lo necesario, &a.

ANTTA. LOPEZ.

En la villa nueva de Sta. Cruz, en vinte dias del mes de Maio de mil setecientos treinta y cinco, as. y vista por mi el Cappn. Juan Hestevan Garcia de Noriega, Alcalde Maior y Cappn. á Guerra desta dha. villa ube por presentada y atendiendo á lo justo de su pedimento pasé yo dho. Alcalde Maior á medir las tierras que esta suplicante pide abiendole avi-

sado á los hijos del pueblo de San Ildefonso que se allaran presentes á su repartimiento allí estaban ya en el linderero por parte del sur con una peticion, por cuya razon lo suspendi, asi lo probei y firme autuando como juez receptor con los testigos de mi asistencia á falta decribano publico y rl. que no lo ai en este Rno.

JUN. ESTEVAN GARCIA DE NORIEGA.

PEDRO SANCHEZ.

JOSEPH GARCIA DE NORIEGA.

En la villa na. de Sta. Cruz, en vistidos dias del mes de Sepe. de mil setesos. y crienta y cinco años, yo el Cappn. Jun. Estevan Garcia de Noriega, Alce. Mr. y Cappn. á Grra., desta y su jurisdiccion, aviendo suspendido las diligencias que por parte de Antta. Lopez, sitada en la peticion de la bueltá á causa de haberse contra puesta á ellas los hijos del puo. de Sn. Ildefonso como consta del auto de ariba, y haviendo estos comparecido ante el Sr. Coronel Dn. Gervacio Cruzat y Gongora, Govor. y Cappn. Gral. deste Reyno, con escrito, y no aviendo alegado en forma qe. tubiese lugar á su favor y constarme aver que dado la merzd., fha. al dipunto testador, Joseph Trujillo, en su lugar gozando sus linderos de pozezon. y señoria en quieta y pacifica pozezon. por determinozon. de leyes reales; en esta virtud aviendo parecido la dha. Antta. Lopez suplicandome en virtud de su pedimto. y peticion le diese cumplimto. á su suplica, pues como alvasea, teniendo juntos y convocados á todos los herederos se podrian repartir las tierras; y para este efecto, siendo de justicia con dos tesos. de mi asistencia qe. lo fueron Miguel de Quintana y Gregorio de Atienza, pasé á reconocer el sitio y tierras, areglado á sus linderos, coji la longitud del con un cordel de sinquenta varas de á quatro quartas y cojiendo la mediacion hallé tener ciento y quiene cordeles de largo por medio de dicho sitio y sacondo de dhos. cordeles quarenta y uno que se medieron desde el relez de la mesa de Sn. Ildefonso, hasta el relez de una joya que esta en la vega del Rio del Norte y quedando setenta y quatro cordeles desde el relez de dha. joya á el aroyo seco en qe. se compregenden las tierras de labor que con mas comodidan de riego pueden gozar, se avinieron Maria Trujillo, Joseph Trujillo, Bartolomé Trujillo é Isidro Trujillo á que en esta vega y joya se les señalasen sus partes; y siendo esto con bene placito de la dha. Annta. Lopez, alvasea de mas herederos fui midiendo en la forma siguiente:

1. Primeramente. se le midieron á Xptoal de Tafoya nueve cordeles de á sinquenta varas con mas otras quarenta y tres varas serviendole de linderero por la parte del sur el relez de dicha joya, por el oriente las lomas altas de ariba, por el poniente el Rio del Norte y por el norte las tierras qe. se le señalaron.

2. Á Isidro Trujillo, subseguente, á quien, á quien se le senalo los mismos cordeles y varas que al antecedente y linda por la parte del sur con dho. Xptovl. Tafoya, por el oriente con las lomas altas de ariba, por el poniente con el Rio del Norte y por la parte del norte con las tierras de Joseph Trujillo.

3. Á quien se le midieron otros nue. cordeles y mas quarenta y tres varas y linda por la parte del sur con las tierras del antecedente, por el oriente con las lomas altas de ariba, por el ponte. con el Rio de Norte y por el norte con las tierras que se le midieron á.

4. Bartolome Trujillo, á quien por caverlo en lo mas, en lo mas agosto desta vega y joya dies cordeles y mas otro qe. la dha. Alvasea le adjudico, con mas quarenta y tres varas con qe. gozandolas anteriores quatrocientos y noventa y tres varas de ancho este goza por las razones dichas, quienientas y noventa y tres varas qe. qe. se le midieron y seña-

laron, y linda por la parte del sur con Joseph Trujillo, por el oriente con las lomas altas de arriba, y por el poniente con el Rio del Norte, y por la parte del norte con las de dha. Alvasea quien goza desde este ultimo lindero hasta el Aroyo Seco, las que se comprenden en esta latitud para si y sus hijos de segundo matrimonio de dho. testador, y devo advertir que. qe. por lo qe. á el derecho qe. los anteriores teniam al coseo de la casa lo cedieron y traspasaron en la dha. Alvasea, y sus hermanos quedando satisfechos con lo que se les tiene señalado y que sobre dha. renuncian se le poudran pleilo, demanda ni contradicion, aora ni en ningun tiempo por si sus hijos ni subesore y qe. si acaso se lo pusieren ó subsetaren, no sean oidos en juicio ni fuera del, para lo cual renunciaron todos los leyes qe. les puedan ser favorables y someten su fuero á las Rles. Juzas. de su Magd. para su cumplimto. y validacion.

Y por lo qe. mira á Antonia Trujillo, sobre la clausula de averla separado y señalado lo qe. de erencia le venio, vista el pedazo de tierra qe.

Sitta. en defunto padre le señalo, reconocido por el Avasea y de mas erederos sermui corto, si avinieron todos á que se le señalare y midiere como á las de mas en cuya conformedad se le midieron en la parte de arriba, donde tiene su casa nueve cordeles y quarenta y tres varas, como á las anteriores, y tiene por linderos por la parte de oriente las lomas altas de arriba, por el norte el Aroyo Seco, por el sur hasta una mesita pegada á las dhas. lomas, y por el poniente las tierras de la dha. Al-

Sitta. vasea y sus hijos, con qe. estando completas estas cinco partes en lo que por legitima les toca y no tener mas qe. alegar ni pedir se lo devo especificar que por lo que mira á los quarenta y un cordeles que se cortaron y separaron arriba quedan como pastos para todos, y aunge. lo qe. abrazan de tierra pueden tener riego, parte de ellas con algun trabajo, si acaso metieron agua en ellas, gozen todos por iguales partes lo qe. le correspondiere á cada uno, dejandoles este derecho á salva *extra* de la renuncia qe. lo demas tienen echa, pues no comprenden este particular; con que aviendose repartido y señalado las tierras que se comprenden en esta merzd. y quedando satisfecha la dha. Alvasea con las restantes tierras para si y sus hijos, las apercibio en un cuerpo dentro de los linderos qe. las abrazan y quedan señalados y concedidos de su parte para qe. como, como Alvasea y tutora de ellos en su vida ó despues de ella, les adjudique la parte que les correspondiere por ser asi de su beneplacito; y por lo que mira á la otra merzd. qe. gozan siendo para pastear sus ganados y no tener tierras ningunas de labor, siendo pastos comunes, quedan como tales para que todos los gozen, y no aviendo otra circunstancia que especificar, sacando sus menbretes, á las partes mencionadas en las medidas referidas para su guarda y seguro sacadas del cuerpo destas diligencias que quedan en poder de dha. Alvasea con los instrumentos. de mrzds. registro de hierro y testamto. para qe. en todo tpo. conste lo firmaron con migo los qe. supieron de los herederos, y yo dho. Alce. Mr. doi fee y verdadera testimonio que ante mi estas deligas. que autorize como juez receptor con los sitados tesos. de mi asistencia, en dho. dia mes y año, en el presente papel comun por no correr el sellado en estas partes.

JUN. ESTEVAN GARCIA DE NORIEGA.
JOSEPH TRUJILLO.
BARTOLOMÉ TRUJILLO.

Teso.

GREGORIO DE ATIENZA.
MIGUEL DE QUINTANA.

EXHIBIT D.—File No. 117.

[Translation.]

To His Honor CHIEF ALCALDE and WAR CAPTAIN:

I, Antonia Lopez, resident of the Cañada, widow of Captain José Trujillo, appear before you in due legal form and state, that whereas my deceased husband in his testament, which he executed at El Paso del Rio del Norte, its date December fifth, in the year thirty-two, left me as universal heir and principal executrix; and in second place, Diego Trujillo, resident of said Paso, by reason of which, after he had adjusted on his part some debts, he came to this kingdom and substituted me to act for him in the remainder of the legacies of said testaments, and it being necessary to distribute the lands as ordered by said testator, I present to you the document of possession and seigniorage of the testator, that you may be pleased to judicially, in the exercise of your authority, measure and designate what by right may correspond to each one of the heirs. Therefore, I ask and pray you to be pleased to do as I have requested, taking all the measures that may be necessary for the quietude of all, and that there may not arise at any time discord. I ask justice, and hope to obtain it from you; and I declare in due form that my application is not through dissimulation, and what is necessary, &c.

.ANTONIA LOPEZ.

At the new village of Santa Cruz, on the twentieth day of the month of May, in the year one thousand seven hundred and thirty-five, and it being seen by me, Juan Estevan Garcia de Noriega, chief alcalde and war captain of this said village, I considered it presented, and, in view of the justice of her application, I, said chief alcalde, went to measure the lands that this applicant asks to be measured, having notified the natives of the pueblo of San Ildefonso to be present at the distribution thereof. I found that they were already at the boundary on the south side with a petition; for which reason I suspended action. Thus I provided and signed, acting as special justice with my attending witnesses for lack of a public and royal notary, there being none in this kingdom.

JUAN ESTEVAN GARCIA DE NORIEGA.

PEDRO SANCHEZ.

JOSÉ GARCIA DE NORIEGA.

At the new village of Santa Cruz, on the twenty-second day of the month of September, in the year one thousand seven hundred and thirty-five, I, Captain Juan Estevan Garcia de Noriega, chief alcalde and war captain thereof and its jurisdiction, having suspended proceedings upon the petition of said Antonia Lopez on the other side, in consequence of the natives of the pueblo of San Ildefonso having appeared before Colonel Gervacio Cruzat y Gongora, governor and captain-general of this kingdom, with a writing, and they not having plead in a form that could be admitted in their favor, and I, knowing that the grant had been made to the deceased testator, José Trujillo, and that he enjoyed the boundaries of possession and seigniorage quietly and pacifically under the provisions of the royal laws, in virtue whereof, and the said Antonia Lopez having appeared requesting me, that in virtue of her application and petition to comply therewith, that as executrix she had together and assembled all the heirs, the distribution of the lands could be made, and for this purpose, it being just, with two witnesses of my attendance, who were Miguel de Quintana and Gregorio de Atienza, I

proceeded to examine the tract and lands in conformity with their boundaries. I took the length thereof, with a cordel of fifty varas of four quarters, and taking the middle I found it to be one hundred and fifteen cordels in length in the middle of said tract; and I, deducting from said cordels forty-one, which were measured from the slope (relex) of the mesa of San Ildefonso to the slope (relex) of a bottom land (joya) that is in the meadow (vega) of the Rio del Norte; and there remained seventy-four cordels from the slope (relex) of said bottom land (joya) to the dry creek (Arroyo Seco) in which the cultivable lands are embraced, which with greater ease irrigation can be enjoyed. Maria Trujillo, José Trujillo, Bartolomé Trujillo, and Isidro Trujillo agreed to have their parts designated to them in this meadow (vega) and bottom land (joya), and this being consented to by the said executrix, Antonio Lopez, and the other heirs, I proceeded to measure in the manner and form following:

First there was measured off to Christoval de Tafoya nine cordels of fifty varas with a [torn] and forty-three varas, serving him as a boundary, on the south side the slope (relex) of said bottom land (joya), on the east the high hills above, on the west the Rio del Norte, and on the north the lands that were assigned to Ysidro Trujillo, following whom was assigned the same number of cordels and varas that were assigned to the foregoing, and bounded on the south side by said Christoval Tafoya, on the east the high hills above, on the west by the Rio del Norte, and on the north side by the lands of José Trujillo, to whom was measured other nine cordels and further forty-three varas, and is bounded on the south side by the lands of the foregoing, on the east by the high hills above, on the west by the Rio del Norte, and on the north by the lands that were measured off to Bartolomé Trujillo, to whom as it falls to him in the narrowest of the meadow (vega) and bottom land (joya) ten cordels and one more, which the said executrix allowed to him, with forty-three varas more, the others enjoying only four hundred and ninety-three varas in width; this one enjoys for the said reasons five hundred and ninety-three varas, which were measured off and designated to him, and are bounded on the south side by José Trujillo, on the east by the high hills above, on the west by the Rio del Norte, and on north side by those of said executrix, who enjoys from this last boundary to the dry creek (Arroyo Seco) which comprises all in this width, for herself and her children by the second marriage with said testator. And it should be observed that as regards the right the former ones had to the frame of the house, they ceded and transferred the same to the said executrix and her brothers. They remained satisfied with what had been assigned them, and that as regards said renouncement they will not bring any suit, or demand, or controversy, now or at any time, themselves, their children, or their successors, and in case they should bring or advise any they shall not be heard in or out of court; wherefore they renounce all laws that may favor them, and submit their rights to the royal justices of his Majesty.

And as it regards Antonia Trujillo, relative to the clause stating that there had been separated and assigned her what was considered her inheritance, the piece of land that her deceased father had assigned her being seen and examined by the executrix and the other heirs and found to be very small, all agreed that there be measured off and assigned her as was done to the others, and in conformity therewith there was measured off to her, on the upper side where she has her house, nine cordels and forty-three varas, as to the former ones, and its boundaries on the east side are the high hills above, on the north the dry creek (Arroyo Seco),

on the south to a small table-land adjoining the said hills, and on the west the lands of the said executrix and her children, with which these five parties are complete in that which legitimately corresponds to them. And having nothing further to allege nor ask, I should only state that as it regards the forty-one cordels that were deducted and separated above, they remained as pastures for all, and although what land there may be embraced therein that can be irrigated, though with some labor, and in case water should be brought to it each shall enjoy their corresponding part therein, leaving them this right free, *extra* of the renoucement which they have made to the other, for this does not pertain thereto, with which having distributed [* * * torn * * *] comprised in this grant, and the said executrix remaining satisfied with the balance of the lands for herself and children, she took possession of them in a body, with the boundaries wherein they are comprised, and designated, and known as her parts, that she as executrix and tutor of the children in her lifetime, and thereafter she adjudges to them the part that may correspond to them, that being her will. And as regards the grant they enjoy, being for the pasturage of stock, and having no cultivable lands, it being common pastures, they remain as such in order that all may enjoy them. And there being no other circumstances to specify, the parties mentioned in the said measurements having taken their certificates for their security and safety, taken from the body of the proceedings which remain in the lands of the said executrix, together with the documents of grant, registry of branding iron, and testament. And that in all time it may so appear, those of the heirs who knew how signed with me, and I, said chief alcalde, do certify and true testimony give, that these proceedings passed before me, which I authorized as special justice, with said witnesses of my attendance on said day, month, and year, on the present common paper, there being none of the sealed in these parts.

JUAN ESTEVAN GARCIA DE NORIEGA.
 JOSÉ TRUJILLO.
 BARTOLOMÉ TRUJILLO.

Witnesses:

GREGORIO DE ATIENZA.
 MIGUEL DE QUINTANA.

The foregoing translation, made by me from the original document, is true and correct to the best of my knowledge and belief.

SAM'L ELLISON.

Subscribed and sworn to before me this September 28, 1877.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
 SANTA FÉ, NEW MEXICO,
September 28, 1877.

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

DAV. J. MILLER,
Translator and Chief Clerk.

EXHIBIT C.—File No. 117.

[Translation.]

To His Excellency the GOVERNOR and CAPTAIN-GENERAL :

I, José Trujillo, a native son of this province and a soldier of this garrison, appear before your excellency in due legal form, and state: That, finding myself with two children and my wife, and should I at any time fill my term of enlistment I may have a piece of land on which to live, I ask and pray your excellency that, in the name of his Majesty, you be pleased to concede to me in grant a piece of royal domain from the mesilla of San Ildefonso to a dry arroyo which forms the road from the new village. I am moved to ask for said grant for the reason that I am expecting some cows and other live stock that my brother has to bring me; and in order to have a place to keep them I pray your excellency to make me said grant in the name of his Majesty. I therefore ask and pray your excellency to act as you may deem best; and I declare in due form that this my application is not through dissimulation, this favor being through the benevolence of your excellency.

JOSÉ TRUJILLO.

PRESENTATION.

At this village of Santa Fé, on the twenty-third day of the month of April, in the year one thousand seven hundred, before me, Pedro Rodrigues Cubero, governor and captain-general of this kingdom and provinces of New Mexico, and castellan of the forces and garrison of his Majesty, and this was presented by the petitioner, and by me seen, I make the grant asked for by the applicant in the name of his Majesty, without prejudice to any third party having a better right; and there being no impediment, the chief alcalde of the new village will place him in possession within the terms prescribed by law, with the limitation that the pastures are common; and that it may so appear, I signed with my secretary of government and war.

PEDRO RODRIGUES CUBERO.

Before me.

DOMINGO DE LA BARREDA,
Secretary of Government and War.

At this new village of Santa Cruz, on the twenty-second day of the month of May, in the year one thousand seven hundred, before me, field marshal, Roque Madrid, chief alcalde and war captain of this said village, personally appeared José Trujillo, a soldier of the garrison of the village of Santa Fé, with a grant made him by Governor Pedro Rodrigues Cubero, captain-general of this kingdom and province of New Mexico, submitted to me, said chief alcalde and war captain, asking that I give him possession; and I at once mounted a horse and proceeded to the place that the applicant, said José Trujillo, applies for, and I took him by the hand, and gave him the royal possession in the name of his Majesty, and he plucked up grass, shouted, and cast stones; and I, said chief alcalde, do designate to him as boundaries and landmarks on the south from the little table-land, commonly called the Mesilla de San Ildefonso, and on the north by a road coming from Pojuaque to the pueblo of Santa Clara, and on the east the hills, and on the west the river called the Rio del Norte, and standing in the pueblo Quemado, which is said path, I gave him possession; and that it may so appear, I signed with

witnesses Domingo Martin and Bartolomé Sanches, and José Manuel Gilthomey, who also signed as my attending witnesses, I acting as special justice for lack of a public or royal notary. *Ut supra.*

ROQUE MADRID.

D. JOSÉ ML. GILTHOMEY.
BARTOLMÉ SANCHES.

At this new village of Santa Cruz, on the fifteenth day of the month of July, in the year one thousand seven hundred and nine, before me, General Juan de Uribarri, sergeant-major of this kingdom and provinces of New Mexico, its solicitor-general and alderman, inspector of customs and visitor for Admiral José Chacon Medina Salagar y Vellaseñor, knight of the order of Santiago, Marquis de la Peñuela, governor and captain-general of this said kingdom, and castellan of the forces and garrisons of his majesty therein, this grant was presented by Ensign José Trujillo, lieutenant chief alcade and war captain of its jurisdiction, whom I certify I know on the general visits, and read the grant together with its acts of concession and possession, and asking the concurrence of people present if they made or knew of any objection to said grant, and they all answered in one voice, no. And it being thus, I do declare said Ensign José Trujillo the lawful owner and possessor of said grant which remained visited, and that it may so appear I signed this with the secretary of corporation and visitation on said day. *Ut supra.*

JUAN DE URIBARRI,
Visiting Justice.

Before me.

CRISTOVAL DE GONGORA,
Secretary of Corporation and Visitation.

Without fees.

The foregoing translation made by me from the original documents is true and correct, to the best of my knowledge and belief.

SAM'L ELLISON.

Subscribed and sworn to before me this September 28, 1877.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
September 28, 1877.

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

DAV. J. MILLER,
Translator and Chief Clerk.

TESTIMONY.—File No. 117.

In the matter of the investigation of the private land claim in Rio Arriba County, New Mexico, known as the Mesilla grant, in the name of José Trujillo, upon the petition of the heirs and legal representatives of said José Trujillo for the approval of the grant to him for said land. David J. Miller, translator and chief clerk of the surveyor-general's office, was called by the surveyor-general to testify in the case, and

having been first duly sworn by the surveyor-general, on his oath declares:

Question by the surveyor-general. How long have you resided in New Mexico; and have you been so connected with this (the United States surveyor-general's) office as to render you familiar with the old documents in its archives and the signatures of the different governors and captains-general of New Mexico? If so, state when and in what manner you have become thus familiar with them. Answer. I have resided in New Mexico here at Santa Fé since December, 1854, being employed very nearly all the time as clerk, translator, or chief clerk in the surveyor-general's office here, and in each of these capacities have had much to do with the old Spanish and Mexican archives in the office in the way of examining, translating, and copying them. I have in this manner become familiar with these archives and with the signatures of most or all of the governors and captains-general of New Mexico, so far as a pretty constant handling of the documents would make me so.

Q. Examine the documents, and especially document A, in this case, and state whether, in your opinion, the signatures borne by them are genuine.—A. I have examined the documents as requested; and I find that I am familiar with the writing in the body of Governor and Captain-General Cubero's decree of April 23, 1700, in document A, and with the signature appended to said decree purporting to be his, and I have not the slightest doubt that it is his genuine signature. I likewise know the signatures of Domingo de la Barreda, Roque Madrid, Juan de Uribarri and Cristobal de Gongora, borne by said document A, and I am satisfied and have no doubt they are genuine signatures. I know likewise the signature of Juan Estevan Garcia de Noriega, borne by document B, and I am equally well satisfied that as it there appears it is his genuine signature.

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

DAV. J. MILLER.

Subscribed and sworn to before me this September 29, 1877.

H. M. ATKINSON,
Surveyor-General.

[Private land claim.—File No. 118.]

THE ARROYO SECO TRACT.

Hon. HENRY M. ATKINSON,
United States Surveyor-General for New Mexico:

Your petitioners, the heirs and legal representatives of José Trujillo, deceased, respectfully represent:

That they are the owners and occupants of a certain tract or parcel of land known as the Arroyo Seco grant, in the county of Rio Arriba, in this Territory, bounded and described in the original title papers as follows: On the north a cross, on the road to the town of Santa Cruz; on the south by the Cuesta Alta, or high ascent from which Pojuaque is seen; on the east by Ceja, or hill from which are seen the Nambe Pueblo prairies, and on the west by land of the same José Trujillo, all of which are points well known to the people in the vicinity, and which may be identified without difficulty; and the land named as the western boundary being the same land described in the grant made to the said José Tru-

jillo April 23, 1700, on file in your office, and to which grant reference is hereby made for the purpose of establishing said western boundary.

That the grant for said land was made to the said José Trujillo on the 23d day of May, A. D. 1707, by the governor and captain-general of New Mexico, then a dependency of the Spanish monarchy in the viceroyalty of Mexico; that the land so granted was, by authority and under direction of said governor and captain-general, regularly delivered into the possession and enjoyment of said grantee, Trujillo, by the chief alcalde and war captain of the jurisdiction on the 16th day of June, A. D. 1707, and that the title of said grantee to said land was at the same time inspected, ratified, and confirmed by the visitor-general of the province of New Mexico.

That your petitioners herewith file the original grant and act of possession, made and executed as aforesaid, and the original certificate of inspection and confirmation of said grant, together with a sworn translation of the same from the Spanish into the English language.

That your petitioners estimate the size and extent of said tract of land as being from east to west about two leagues, and from north to south about one league and a half, as shown by the plat of the same, herewith filed, which your petitioners present as being approximately correct.

That your petitioners, for further and fuller evidence of their title to said land, refer to document marked B among the papers on file in your office with grant made to said José Trujillo in the year 1700, and hereinbefore referred to; the said document B being proceedings had under the last will and testament of said José Trujillo in the matter of the distribution of his estate among his heirs, in which proceedings the land here claimed by your petitioners is referred to and disposed of.

That the said grantee, José Trujillo, and his heirs and legal representatives, since the date of said grant have been in the undisturbed possession and enjoyment of said granted premises, and are now in the quiet and peaceable possession of the same.

Your petitioners pray that your honor investigate their title to the land, and that the same be approved and confirmed to them under the treaty of Guadalupe Hidalgo of 1848, between the republics of the United States and Mexico, and under the law of Congress of the United States establishing this office and providing for the investigation and confirmation of Spanish and Mexican grants to land in New Mexico.

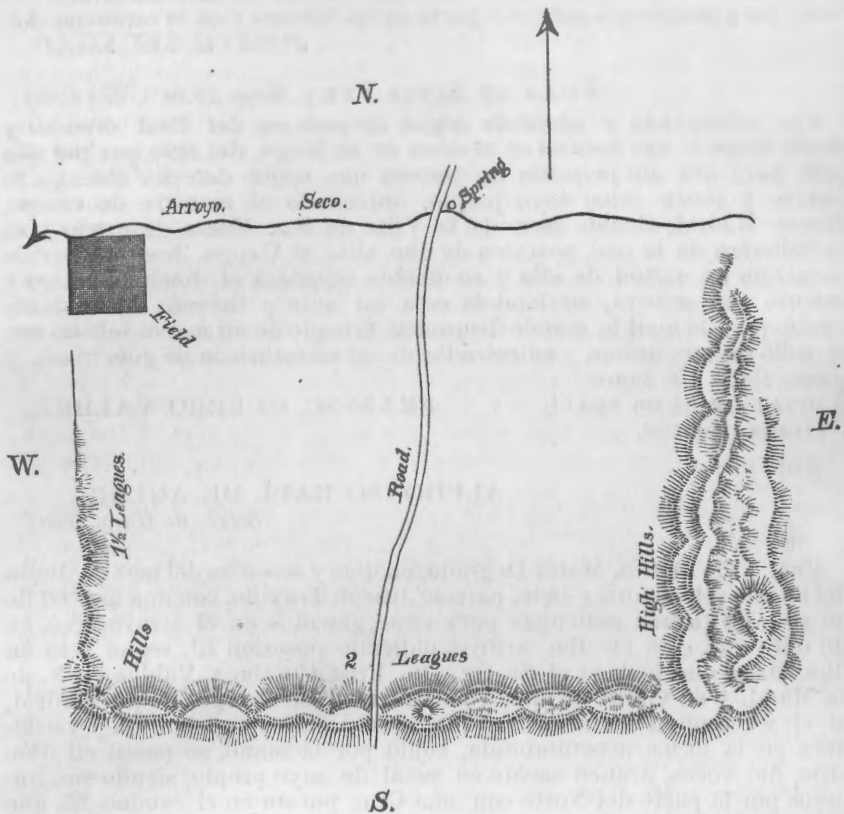
SILVESTER GOMEZ,

For himself and the other claimants,

By SAML. ELLISON,

Their Attorney.

Sketch map of the Arroyo Seco grant.—File No. 118.



[Muniments of title.—File No. 118.]

Sr. GOVERNOR. y CAPPN. GENERAL:

Joseph Truxillo, vezino de la Cañada y orixinario deste Reyno ante V. SSa. paresco en la mejor forma que aya lugar y al mio conbenga y digo, que está un sitio de tierras en el caminoque ba del Pueblo de Nambé para el puesto de la Villa nueva donde está un ojito muy pequeño de agua, el qual sitio es realengo, y no poder sembrarse por lo montuoso y lomas y muchos arroyos secos, solo sinen para pastos de ganados, y por poner y aquerenciar en el mis ganados y poner un rancho con dhō. ganado en el y apartarle de las labores ago registro á V. SS. en devida forma para que siendo servido adjudicarmelo en nombre de su Magd. (que Dios guarde) para dho. efecto, y linda por la parté del Norte con un arroyo seco ancho donde está una Cruz, por señal de haberse muerto alli elado un home. el qual se llamava Sayago, y por la del Sur con una lomas de donde se empieza á devisar el pueblo de Pujuaque, y por la del Oriente con una cuesta que desde su cumbre se ven los llanos de Nambé, y por la del Poniente con tierras de labor que son mias; por todo lo qual:—

Á V. SS. pide y supco. con la veneracion devida se sirva dé mandar-melas adjudicar para el efecto referido, y que se me dé posesion de ellas

con sus entradas y salidas, pastos, aguas y abovederos, y juro en debida forma de derecho no es mi escrito no ser de malicia, si solo por tener los ganados que refiero á parte de las labores y en lo necesario, &a.
JOSEPH TRUXILLO.

VILLA DE SANTA FEE y Mayo 23 de 1707 [A. S.]

Por presentada y admitida segun disposicion del Real derecho y desde luego le ago merced en nombre de su Magd. del sitio que por ella pide para que sin perjuicio de tercero que mejor derecho obtenga lo pueble y posea como suyo propio, ordenando al maestre de campo, Roque Madrid, alcalde mor. de la Villa de Sta. Maria de grado y su jurisdiccion de la real posesion de dho. sitio al Cappn. Joseph Truxillo para que en virtud de ella y su pueble adquiera el dominio, accion y señorío que solicita, sirviendole este mi auto y decreto de bastante titulo, para lo qual le mande despachar firmado de mi mano, sellado con el sello de mis armas, y autorizados de mi secretariaon de gobernaon. y gnea. fho. *Ut supra.*

[COAT OF ARMS SEAL].
Gratis [Rubric].

FRANSSC. CUERBO VALDEZ.

Ante mi:

ALPHONSO RAEI DE AGLAR.

Secro. de Gn. y Gua.

Ena. Villa de Sta. Maria Degrado, en diez y seis dias del mes de Junio del año de setecientos y siete, pareció Joseph Truxillo, con una merced de un sitio de tierras realengas para criar ganados en el arroyo seco, en un ojito que está en dho. arroyo, pidiendo posesion Rl. segun resa en dha. Mers. que le hizo el Sr. Gr. Dn. Frco. Cuerdo y Valdez en N. de su Magd. y en virtud de ella, yo el Mariscal de Campo, Roque Madrid, al. cl. y Cappn. á Gr. de dha. Villa, pasé á darle posesion Rl. y verdadera en la forma acostumbrada, cojilo por la mano, se paseó en dho. sitio, dió voces, araneó sacate en señal de suyo propio, siendo sus linderos por la parte del Norte con una Cruz puesta en el camino Rl. que ba para la Villa nueva de Sta. Cruz, y por el Poniente con la labor del dho. Joseph Truxillo, por el arroyo abajo y por el Sur con la cuesta alta que se dehisa á Pojuaque, y por el Oriente con la séja desde donde se debisa el llano del Pueblo de Nambé, y para que coste dha. posesion lo firme yo dho. M. de Campo, autuando como juez receptor en dho. dia, mes y año, siendo testigos, Franco. de Ribira y Jun. de Atienza, que lo fueron instrumentates, y Matias Mad, y Lasaro Durán. *Ut supra.*

Testigo de asistencia: JUAN DE ATIENZA.

Testigo de asta.: FR. DE RIBERA.

Ante mi como juez receptor.

ROQUE MADRID.

En dho. dia, mes y año, en esta Villa nua. de Sta. Cruz, ante mi el Genl. Jun. de Uribarri, sargto. mr. de este rno. y provas. de la Na. Mexco. su procurador gl. y rexido juez comisario, visitador por el Sr. Almirante Dn. Joseph Chacon Medina Salazar y Villaseñor cavl. del orden de Santiago, marqz. de la Peñuela, Govr. y Capn. Genl. de este dho. Reyno y Castellano de sus fuerzas y preds. pr. su Magd. fui presentada esta merced pr. el Alferez, Joseph Trujillo, thente. de alcalde mr. de esta dha. Villa á qu. y posesn. y preguntado al converso de gente si avian ó sabian contradisn. á dha. merced, dijieron todos á una voz, que no y siendo asi declaro na. mte. al dho. Alferez, Joseph

Trujillo, pr. lexmo. decino y poseedor de dha. merd. que queda visitada y pa. que conste lo firme con el Sro. de Cavdo. y visita. en dho. dia. Ut supra.

JUAN DE URIBARRI,
Juez Visitador.

Ante mi:

XPTTOBAL DE GONGORA.
Sero. de Cavdo. y Vista.

Sin derechos.

[Translation.—File No. 118.]

To His Excellency the GOVERNOR and CAPTAIN GENERAL:

I José Trujillo, resident of the Cañada and native of this province, appear before your excellency in due legal form and state: That there is a tract of land on the road going from the pueblo of Nambé towards the place of the new village, where there is a small spring of water, which tract is royal domain and cannot be planted on account of the forest and hills and many dry arroyos, and which are only fit for the pasturage of live stock, and in order to place and accustom my live thereon, and establish a ranch there with said live stock in order to keep the stock from the fields, I register the same before your excellency in due form, in order that you be pleased to adjudge it to me in the name of His Majesty (God preserve him), for said purpose, and which is bounded on the north side by a wide dry arroyo where there is a cross placed in testimony of having died there a man frozen, who was called Sayago, and on the south by some hills, whence there commences to be seen the pueblo of Pojuaque, and on the east side by an ascent, (cuesta) that from its summit the prairies of Nambé are seen, and on the west side by the cultivated lands which are my own.

Wherefore, I ask and pray your excellency with due veneration to be pleased to order them to be adjudged to me for the aforesaid purpose, and that possession thereof be given, with their entrances and exits, pastures, waters, and watering places, and declare in due form of law, that this my written petition is not through dissimulation, but only for the purpose of keeping the live stock referred to away from the fields, and what is necessary, &c.

JOSÉ TRUJILLO.

VILLAGE OF SANTA FÉ, *May 23, 1707.* [Rubric.]

Taken as presented and admitted according to the provisions of the royal law, and I at once make the grant to him, in the name of His Majesty of the tract of land therein applied for, that he may, without prejudice to any third party having a better right, settle and possess it as his own, ordering the field marshal, Roque Madrid, chief alcalde of the village of Santa Maria de Grado and its jurisdiction to give royal possession of said tract to Captain José Trujillo, that he may, by virtue thereof, and its settlement acquire the dominion, title, and seigniorage he solicits, this, my act and decree to serve him as a sufficient title; wherefore I ordered it to be despatched, signed with my hand, and sealed with the seal of my coat of arms, and attested by my secretary of government and war. *Ut supra.*

FRANCISCO CUERBO Y BALDEZ.

[SEAL and COAT of ARMS.] || Rubric.

Before me:

ALFONZO RAEI DE AGUILAR,
Secretary of Government and War.

At the village of Santa Maria de Grado, on the sixteenth day of the month of June, in the year seventeen hundred and seven, appeared José Trujillo with a grant to a tract of land, royal domain, for raising of live stock on the Dry Creek (Arroyo Seco), at a small spring of water in said arroyo, asking royal possession thereof, as set forth in said grant, which was made to him by his excellency the governor, Francisco Cuerdo y Baldez, in the name of His Majesty; and in virtue thereof, I, field marshal, Roque Madrid, chief alcalde and war captain of said village, proceeded to give him royal and true possession in the customary form; I took him by the hand, he walked over the said tract, he shouted, plucked up grass, in sign of its being his own, the boundaries thereof being on the north side a cross that is on the highway leading to the new village of Santa Cruz, and on the west by the field of the said José Trujillo, down the arroyo, and on the south by the high ascent (cuesta alta) from which is seen Pojuaque, and on the east by the brow (ceja), from which is seen the prairie of the pueblo of Nambé, and in testimony of said possession, I said field marshal, signed the same, acting as special justice on said day, month, and year, Francisco de Ribera and Juan de Atienza, being witnesses, and instrumentals, Matias Mal and Lazaro Duran. *Ut supra.*

Attending witnesses:

FRANCISCO DE RIBERA.

JUAN DE ATIENZA.

Before me as special justice.

ROQUE MADRID.

On said day, month, and year at this new village of Santa Cruz, before me General Juan de Uribarri, sergeant-major of this kingdom and provinces of New Mexico, solicitor-general, alderman, inspector of customs, visitor for Admiral José Chacon Medina Salazar y Villaseñor, knight of the order of Santiago, Marquis de la Peñuela, governor and captain-general of this said kingdom, and castellan of the forces and garrisons of His Majesty therein, this grant was prevented by Ensign José Trujillo, lieutenant chief alcalde of this said village, whom I certify I know, on my general visits, and it being read together with the acts of concession and possession, and asking the concurrence of people if they made or knew of any objection to the said grant, they all answered in one voice, no, and it being thus, I declared anew the said Ensign José Trujillo to be the lawful owner and possessor of said grant, which remains visited, and that it may so appear I signed this with the secretary of corporation and visitation on said day. *Ut Supra.*

JUAN DE URIBARRI,

Visiting Justice.

Before me

CRISTOVAL DE GONGORA,

Secretary of Corporation and Visitation.

Without fees.

The foregoing translation made by me from the original documents is true and correct to the best of my knowledge and belief.

SAML. ELLISON.

Subscribed and sworn to before me this September 28, 1877.

HENRY M. ATKINSON,

Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
September 28, 1877.

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

DAV. J. MILLER,
Translator and Chief Clerk.

TESTIMONY.—File No. 118.

In the matter of the investigation of the private land claim in Rio Arriba County, New Mexico, known as the Arroyo Seco grant, in the name of José Trujillo, upon the petition of the heirs and legal representatives of said Trujillo for the approval to him and them of the grant for said Arroyo Seco tract of land. David J. Miller, translator and chief clerk of the United States surveyor-general's office, was called by the Surveyor General to testify in the matter, and having been first duly sworn by the surveyor-general, on his oath answers and declares as follows:

Question by the surveyor-general. Have you been so connected with this (the surveyor-general's) office as to render you familiar with the old Spanish and Mexican documents in the archives, and with the signatures of the different governors and captains-general of New Mexico officiating under the former governments of the country? If so state when and in what manner you have become thus familiar with them.—Answer. Since the establishment and organization of the office in 1854 I have been, with but slight intermission, employed therein as clerk, translator, or chief clerk, and in each of these capacities have had much to do with the Spanish and Mexican archives in the office in the way of examining, translating, and copying them; whereby I have become familiar with them and with the signatures of most or all of the governors and captains-general borne by them, so far as a pretty constant handling of the documents would make me so.

Q. Examine the document in this claim of the Arroyo Seco tract, containing a decree of concession purporting to bear the signature and seal of Governor Valdez, and state whether in your opinion the signature and seal are genuine.—A. I have examined the document and the signature and seal as requested; and I find that I am familiar both with the handwriting in the body of Governor and Captain-General Francisco Cuerdo y Valdes' granting decree of May 23, 1707, referred to in the question, and with his signature and seal of coat of arms signed and attached thereto, and I have no hesitation in declaring that in my opinion both the signature and seal are genuine.

Q. Do you recognize also as genuine all or either of the other signatures borne by the document?—A. From having often seen them among the archives, I do recognize those of Alfonso Rael de Aguilar, Roque Madrid, Juna de Uribarri and Cristobal de Gongora.

Q. Have you any interest in this claim?—A. I have not.

DAV. J. MILLER.

Subscribed and sworn to before me this September 29, 1877.

H. M. ATKINSON,
Surveyor-General.

Investigation into private land claim, file Nos. 117 and 118, in the name of José Trujillo, resumed this 13th day of December, 1878; present, H. M. Atkinson, surveyor-general, David J. Miller, translator, and Samuel Ellison, attorney for claimant.

JOSÉ DE AGUERO, having been first duly sworn by the surveyor-general, on his oath declares:

Question by Mr. ELLISON, attorney for grant claimants. What is your name, age, occupation, and place of business?—Answer. My name is José de Aguero; my age is fifty-four years; my occupation is farmer, and my present residence is here at Santa Fé.

Q. Are you acquainted with the tract of land commonly known as and called the José Trujillo grant? If so, please state where it is located.—A. I know and have always known such a tract situated between the Puertecito de Pojouque and the Arroyo Seco, in the county of Rio Arriba, and Territory of New Mexico.

Q. Please state if you know what are the reputed boundaries of said tract of land.—A. I do not know them of my own knowledge, but they are reputed to be, on the north the Arroyo Seco, on the east I cannot say, on the south the Puertecito de Pojouque, and on the west the Rio del Norte.

Q. Is not the grant of José Trujillo, and that of the Mesilla, and that of the Arroyo Seco, commonly known as and called by either of these names indiscriminately?—A. It is known by either of these names.

Q. Please state if you know how long said tract or any portion thereof has been occupied by permanent settlement thereon?—A. From my earliest recollection it has been occupied by settlers thereon.

Q. By whom has the land been occupied the time you have known it?—A. It has been occupied by different persons during the time, among them the Trujillos, the Montoyas, the Archuletas, the Quintanas, and others.

Q. What relation did these occupants of the tract bear to the grantee, José Trujillo, as you understand?—A. I understand that they occupied and held lands there under the grantee, Trujillo, through titles derived from him.

Q. How long have you resided in the vicinity of this tract of the Mesilla?—A. All my life, with the exception of about two years.

Q. by the surveyor-general. Are any of the occupants of this tract descendants of Trujillo?—A. I understand that some of them are.

Q. Have you ever lived nearer to the tract than Santa Fé?—A. With the exception of the two years just mentioned I have always lived immediately adjoining it on my own land on the north side of the Arroyo Seco, which divides my land from this tract.

Q. How many inhabitants are there on this tract?—A. From twelve to fifteen heads of families.

Q. In this case there were two grants to José Trujillo; does your statement relative to the boundaries and occupation include both tracts?—A. I was not aware that there were two grants for the land. What I said had reference to what I understood to be a single tract of land.

Q. How near to the Arroyo Seco are the settlements?—A. They are immediately on the Arroyo Seco, the most distant house being perhaps a thousand yards therefrom.

Q. Are there any settlements south of the road leading from Pojouque to the pueblo of Santa Clara?—A. There are.

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

Q. Which of the occupants are descendants of the grantee, Trujillo?
 —A. A principal family there connected with the said Trujillo is the Trujillo family itself, the Gomez family, and besides there are various others bearing greater or less degrees of relationship.

JOSE DE AGUERO.

Subscribed and sworn to before me this December 13, 1878.

HENRY M. ATKINSON,

Surveyor-General.

LUCAS ARCHULETA, having been by the surveyor-general duly sworn, on his oath declares :

Question by Mr. ELLISON. What is your name, age, occupation, and residence?—Answer. My name is Lucas Archuleta; my age is about forty-nine years; my occupation is farmer, and my place of residence is at Santa Cruz de Cañada, in the county of Rio Arriba and Territory of New Mexico.

Q. Do you know the tract of land commonly called the Trujillo grant? If so, state where it is located.—A. I do. It is situated at the place called the Mesilla and the Polvadera, in Rio Arriba County, New Mexico.

Q. Please state its boundaries if you know them.—A. They are on the north the Arroyo Seco, on the east the Nambe Mountains, on the south the Mesita de San Ildefonso, and on the west the Rio del Norte.

Q. Is the tract of land occupied by settlers? If so, how long, to your own knowledge, has it been so occupied?—A. It is, and has been so occupied ever since I can remember.

Q. State, if you know, by what claim or title the occupants have held possession of said lands.—A. Under a grant to Trujillo, under whom the occupants as heirs and purchasers have held.

Q. State, if you know, how many settlers now reside upon the tract of land in question.—A. I cannot say definitely, but think there must be 25 or 30 heads of families at least.

Q. On what portion of the tract do these settlers reside?—A. They reside at the Mesilla and the Polvadera and in the western portion of the grant.

Q. Has the land you described been occupied by the settlers thereof by cultivating and pasturing their stock thereon since you have known it?—A. It has been so occupied and cultivated.

Q. On which side of the Arroyo Seco are situated the settlements of the Mesilla and Polvadera?—A. They are both on the south side of it.

Q. (By the surveyor-general.) Which of the present occupants hold land as heirs in this tract?—A. There are now not many there who hold as heirs. One of those who hold as heirs is, I believe, Don Vicente Montoya, and Gregorio Trujillo, Rafael Trujillo, Juan Ignacio Sanchez, and others.

Q. Do you know whether there was more than one grant made to Trujillo in that vicinity?—A. I understand there were two in that vicinity to Trujillo, one of them being an agricultural grant and the other towards the mountain, a grazing grant.

Q. Has the pastoral grant been occupied also?—A. It was occupied by the Trujillos.

Q. Have you any interest in this grant?—A. I have none now. I formerly had a small portion of land in the grant, but I sold a portion of it and the river carried away the rest.

Q. How near have you resided to this tract of Trujillo's?—A. I lived for about five years upon my land, upon the tract itself, when I removed

thence to Santa Cruz about sixteen years ago, where I have since resided. The town of Santa Cruz is about 3,000 or 4,000 yards, more or less, from the Arroyo Seco, the north boundary of the tract.

Q. Where were you born?—A. On the west side of the Rio del Norte, in front of the little town of Mesilla, which is on the grant, and where I resided until I was some sixteen years of age. I then went to reside at Polvadera, where I married, and where I resided about ten years.

Q. You say you were sixteen years old when you went to Polvadera; that you were at Polvadera ten years; that you left there about sixteen years ago, which would make 42 years in all, and you are 49 years old; how do you account for the other seven years of the 49 years?—A. I have lived only at the three points I have mentioned, and I believe I am 49 years old. I may have been mistaken in some of the particulars I stated as to times spoken of or referred to.

Q. Then these tracts have been occupied during this entire time by the heirs and legal representatives of Trujillo, have they?—A. They have.

his
LUCAS + ARCHULETA.
mark.

Witness:

DAV. J. MILLER.

Subscribed and sworn to before me this December 13, 1878.

HENRY M. ATKINSON,
Surveyor-General.

No. 112.

OPINION.

Grants.—File Nos. 117 and 118 Mesilla and Arroyo Seco tracts respectively.

These claims come before me for action under the treaty of Guadalupe Hidalgo, and the eighth section of the act of Congress approved July 22, 1854, establishing this office.

The grant of the Mesilla tract was made April 23, 1700, by the governor and captain-general of the province of New Mexico, to José Trujillo, upon his petition therefor, for the purposes of agriculture. On the 22d day of May, 1700, Field-Marshal Roque Madrid, chief alcalde and war captain of the village of Santa Cruz, in compliance with the order of the governor, placed Trujillo in possession of the tract granted, and July 15, 1700, Juan de Uribarri, visiting justice, inspected and approved the grant and act of possession of Trujillo.

In 1707 José Trujillo petitioned the governor and captain-general for a grant to a tract of land adjoining his other land, setting forth that he desired it for the purpose of pasturing his live stock thereon, and on the 23d day of May, 1707, the governor granted the land as petitioned for, and in pursuance of the governor's order Roque Madrid, chief alcalde and war captain of the village of Santa Maria de Grado, placed the grantee in possession June 16 following the date of the grant. On the same day in which possession was given General Inspector and Visiting Justice Juan de Uribarri approved the grant and act of possession. Both of these tracts so granted are situate in Rio Arriba County, Territory of New Mexico, and are contiguous to each other.

In 1735 Antonia Lopez, widow of José Trujillo, the grantee, and exec-

utrix of his last will and testament, petitioned the chief alcalde and war captain of Santa Cruz to partition off these lands of her husband's estate among the heirs, as required by the will Trujillo executed December 5, 1732, and, in pursuance thereof, the alcalde complied with the prayer of the petition and made the distribution, and in his official report of his action in making the partition he recites that he knows the grant to have been made to Trujillo, and after making the distribution of the cultivatable lands the alcalde refers to the tract granted Trujillo for pasture of live stock as held by the heirs in common. This recognition of the right of the heirs of Trujillo to the lands granted, respectively 35 and 28 years previous, tends strongly to support the conclusion that the two grants to José Trujillo were valid, and that the conditions of settlement and occupancy required by the Spanish law in force at that time had been fully complied with in each case.

The signatures of the various officials to the grants, acts of possession, and other documents in these two cases, on comparison with the signatures of the same officers upon other documents on file in this office, are found to agree therewith, and are believed to be genuine.

The testimony of Mr. Miller, the chief clerk and translator of the office, is positive upon that point.

The evidence of José de Agüero and Lucas Archuleta shows occupancy of the tracts by the heirs of the grantee since the witnesses could remember, and that some of the heirs still reside thereon.

The two grants made in 1700 and 1707 to José Trujillo are approved to the heirs and legal representatives of the grantee and their assigns, with the boundaries designated in the respective acts of possession. The boundaries set forth in the petitions and grants are incomplete and ambiguous, and as the acts of possession were both approved by the inspector-general and visiting justice who was acting under the authority of the governor, the boundaries therein set forth are accepted and approved as the governing ones on account of the incompleteness of the boundary calls in the grant proper.

Triplicate copies of all the papers in both cases, duly authenticated, will be transmitted for the action of Congress in the premises.

HENRY M. ATKINSON,

Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, December 13, 1878.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
November 13, 1880.

The foregoing is a correct transcript of the papers on file in this office in the case of private land claim, reported as number 112, in the name of José Trujillo.

[SEAL.]

HENRY M. ATKINSON,

United States Surveyor-General.

TRANSCRIPT OF PRIVATE LAND CLAIM REPORTED NO. 114, IN THE NAME OF VALENTIN MARTIN ET AL., KNOWN AS THE SANTA BARBARA TRACT, IN NEW MEXICO.

Date of grant January 11, 1796
Date of surveyor-general's approval March 12, 1879.

Transmitted to General Land Office by the surveyor-general of New Mexico, November 20, 1880.

SANTA BARBARA TRACT.

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

To the honorable the Surveyor-General of New Mexico :

Your petitioners, Concepcion Leyva, Prudencio Martinez, and José Domingo Abeyta, citizens of the United States of America, and residents of the Territory of New Mexico, for themselves, and in the name of and on behalf of such of the original grantees and of all such as may have acquired title by a compliance with the decree of grant (the original papers together with a duly certified translation of which are herewith filed), their heirs, assigns, and legal representatives, as well by deed as by descent, gift, or grant, would respectfully represent to your honor that they are the claimants and legal owners in fee of a certain tract of land situated, lying, and being in the county of Taos, Territory of New Mexico, and known as the Santa Barbara grant, and bounded as follows, to wit: On the north, the Rio del Pueblo; on the west, the eastern boundary of the pueblo of Picuris; on the south, Timber Mountain or a mountain covered with timber that runs to the eastern foot of the mountain of Lo de Mora; on the east, a line running along the eastern foot of the mountain of Lo de Mora; all of which points or boundaries are well known landmarks in the vicinity of said tract of land. And your said petitioners, the present claimants, claim a perfect title to said land by virtue of a grant made on the eleventh day of January, 1796 (seventeen hundred and ninety-six), by Don Fernando Chacon, military and political governor of the province of New Mexico, to Valentin Martin, Eusebio Martin, Juan Olgin, their associates and fellow petitioners, citizens of New Mexico, which grant was made as aforesaid by authority of the laws, usages, and customs of Spain in force at that time in Mexico, which included the province of New Mexico. For which power and authority see collection of the decrees and orders of the Cortez of Spain then in force in Mexico, published by Mariano Galvan, in 1829, page 56, and from page 91 to 101; also 8 Peters' Repts. U. S. S. Court, 436; 15 Peters, 130; 1 Howard, 24; 6 Peters, 691.

Your petitioners would further state that they cannot specify the exact quantity of land claimed by them, except as is set forth in the act of juridical possession. There are no other claimants to said lands that your petitioners are aware of. Your claimants further state by virtue of said grant they were put in possession of said lands by the proper authorities and have remained in the peaceable possession of the same to the present time, cultivating and pasturing the same. Claimants file

their claim before you under the 8th section of the act of Congress of July 22, 1854, and respectfully ask confirmation by you of their said claim.

CONCEPCION LEYVA,
PAUDENCIO MARTINEZ,
JOSÉ DOMINGO ABEYTA,

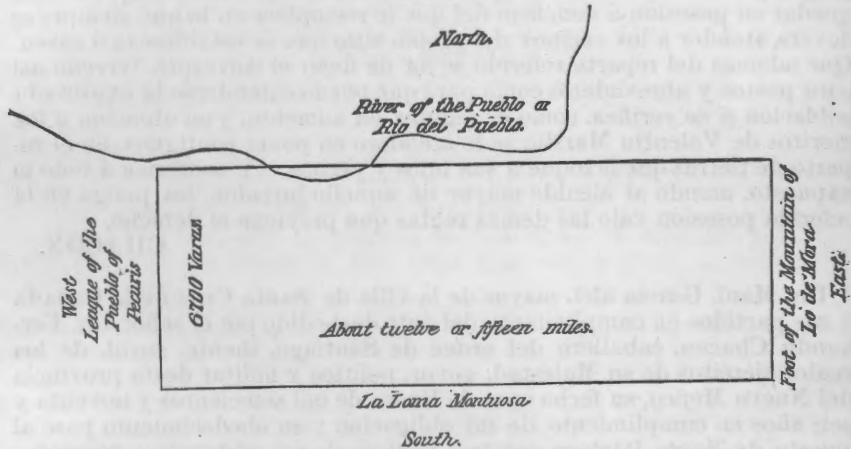
For themselves and their associates,

By R. H. TOMPKINS AND

H. L. LANGAN,

Their Attorneys.

Plat of the Santa Barbara tract.



Sr. Govdor. y Cappn. Gl. Dn. FERNANDO CHACON,
Governador politico y militar :

Balentin Martin, Usebio Martin, Juan Olgin, besinos del puesto de San José de Gracio de Las Trampas puestor á las plantas de V. Sa. paresemos ante la grandesa de V. Sa. en lugar que aga y al nuestro convengo y decimos todos unidos y conformes todos los pedidoras del sitio de Santa Barbara como nuevos poseadoras nos presentamos ante la grandesa de V. Sa. en pedimento y en nombre de su Magestad, que Dios guarde, dandonos la facultad si meresemos conferirnos en dicho puesto y dandonos la posesion en nombre de la Magestad la facultad de aser una ó dos plasas si V. Sa. lo alla por conbeniente y para que en lo susesivo no se padescan equibocos ni pleitos suplicamos á V. Sa. se dine de mirarnos con la mayor benenidad y si conseguimos tener la dicha que nos honra con el dicho pedimento del sitio de Santa Barbara suplicamos en nombre de Nuestro Soberano se nos de por linderos que nesan las escrituras brejas y suplicamos á V. Sa. sea muy serbido de miramos con la mayor benenidad y peramos en debida forma no ser de malicia nuestro pedimento, &c. Á ruego de los pretendientes que somos quarenta y uno.

CLEMENTE MESTAS.
BALENTIN MARTIN.
USEBIO MARTIN.
JUAN OLGIN.

SANTA FÉ, 11 de Enero de 1796.

En atencion á la solicitud que antecede de Valentin Martin, Eusevio Martin y Juan Olguin, vecinos del Puesto de San José de Gracia de Las

Trampas, á nombre de barrios individuos que desean repoblar el paraje anteriormente abandonado de Santa Barbara, vengo en concederles en nombre del Rey Nrs. Sor. dha. gracia, con las precisas circunstancias de que han de ser en numero lo menos de cincuenta. Que las tierras se han de distribuir por iguales partes sin quedar obcion á ninguno de los anteriores pobladores, si sus descendientes á solicitar ni reclamar las que en aquellos tiempos obtuvieron, por haver perdido en virtud de su abandono el dro. á toda posesion. Que posesionados dhos. pobladores á las tierras que se les repartan, no han de ser facultativos á venderlas ni enagenarlas hasta pasados diez años de arraigados en ellas, y si por conbenencia propio quisiere algun colono separarse antes del expresado tiempo, devero quedar su posesion á veneficio del que le reemplace en lo que siempre se devera atender á los vecinos del propio sitio que se establescan ó casen. Que ademas del reparto referido se ha de dejar el correspte. terreno asi para pastos y abrevaderos como para que puedo extenderse la expresada poblacion si se verifica, como es regular, en aumento, y en atencion á los meritos de Valentin Martin, se le atendero en poner contiguos, en el reparto de tierras que le toque á sus hijos y yernos. Y conforme á todo lo expuesto, mando al alcalde mayor de aquello jurisdon. los ponga en la referida posesion vajo las demas reglas que previene el derecho.

CHACON.

Dn. Manl. Garcia alcl. mayor de la villa de Santa Cruz de la Cañada y sus partidos en cumplimiento del auto despedido por el señor Dn. Fernando Chacon, caballero del orden de Santiago, thente. cornl. de los reales ejercitos de su Majestad, govor. politico y militar desta provincia del Nuevo Mejico, su fecha onse de Enero de mil setecientos y noventa y seis años en cumplimiento de mi obligacion y su obedecimiento pase al puesto de Santa Barbara con tres testigos de mi asistencia y presentes todos los pedidores que fueron sesenta y siete vesinos reconoci dicho sitio y despues de reconocido medi en el plan del rio tres mil y cuatrocientas varas de tierra y arriba del llano medi otras tres mil y trescientas varas dejando separada en las dos puntas del rio y llano y rio chiquito el terreno que sue ordena de labor para el aumento que pueda tener esta poblacion en lo sucesivo con sus pastos y abrevaderos libres por todos sus vientos y les tocó á cada uno de los sesenta y siete pobladores á cien varas á cada uno asi á los del rio como á los del llano y les señale dos plazas, una en el llano y otro en el rio de á treinta y tantos familias, una y otra en las inmediaciones de la labor y con sus linderos los mismos que anteriormente tenia el mismo sitio de Santa Barbara en su primer pueblo y son de oriente á poniente desde los linderos del pueblo de Picuris ha el sur una loma montuosa que corre hasta el pie de la sierra de Lo de Mora por el norte el rio que bajo para dicho pueblo y haviendo concluido estos señalamientos de linderos y medidas de dhas. tierras en compania de los testigos me opie del caballo y los coji de la mano á cada uno de porsí y los pacie por dicho sitio y arrancaron llerva y dieron voces en señal de posesion que les di en dicho sitio y solares de plaza en nombre del Rei harragladome ha la merse y anto del señor govor. que le recibieron gustosos y corieron y dispararar fusiles y dieron voces de contento y dijeron que viva el Rei que nos ampara y para qe. coste haver dado dha. posesion lo firmé hoy tres de Abril de 1796, años, hantuando como juez recetor con los testigos de mi asistencia deque doi fe.

MANL. GARCIA.

JUAN DOMINGO ROMERO.
ANTO. CRUZ.

[Claimants' translation.]

Master Governor and Captain General DON FERNANDO CHACON,
Political and Military Governor:

Valentin Martin, Eusebio Martin, Juan Olgin, neighbors of the place of San José, of Grace, of Las Trampas, placed at the feet of your highness, we appear before the grandeur of your highness in time that you act, and at the agreement of us all united, we say, and all of us, the petitioners for the place of Santa Barbara, and all of us agree and say, as new settlers, we present ourselves before the grandeur of your highness, and ask in the name of His Majesty, whom God preserve, giving us the faculty if we merit to have conferred upon us said place; and giving us the possession in the name of His Majesty, the faculty to build one or two towns, if your highness may find it convenient; and in order that they may not suffer in the future from mistakes nor suits, we supplicate your highness that you deign to look upon us with the greatest benignity, and if we succeed in having the happiness that you honor us with said request of the place of Santa Barbara, we supplicate in the name of our sovereign, that there may be given to us for boundaries the same as are recited in the old writings. And we supplicate your highness, that you may be pleased to look upon us with the greatest benignity, and we swear in due form that our petition is not made through malice, &c.

Adopted by the petitioners, who are forty-one.

CLEMENTE MESTAS.

JUAN OLGIN.

VALENTIN MARTIN.

EUSEBIO MARTIN.

SANTA FÉ, 11th of January, 1796.

In attention to the solicitation that precedes, of Valentin Martin, Eusebio Martin, and Juan Olgin, neighbors of the place of San José, of Grace, of Las Trampas; in the name of various individuals, who desire to repopulate the place, formerly abandoned, of Santa Barbara, I determine to concede to them in the name of the King, our lord, said gift, with the precise circumstances that there must be at least fifty in number, the lands must be distributed in equal parts, without continuing to any one of the anterior settlers, nor to their descendants, the option (opcion) to solicit nor to reclaim those which in those times they obtained, for having lost all right to the possession, by virtue of their abandonment. That said settlers being placed in possession of the lands that are to be divided, they shall not have the faculty to sell nor transfer them until they shall have appropriated them to their own use for at least ten years; and if, for the convenience of any one of the settlers, he should desire to separate himself prior to the time expressed, his portion shall remain for the benefit of him who replaces him, of which the neighbors of the same place who established themselves there, or marry there, shall always take notice. That besides the division referred to, there must be left the corresponding lands, thus in order for pastures and watering places, so that the expressed population may be extended, if it should be verified as is regular in increase; and in attention to the merits of Valentin Martin, he will be attended to in placing contiguous in the partition of the lands those that fall to the share of his children and his sons-in-law, and in conformity with all that is expressed. I command the chief alcalde of that jurisdiction to put them in the possession referred to, under all other rules that give right to possession.

CHACON. [Rubric.]

Don Manuel Garcia, chief alcalde of the town of Santa Cruz de la Cañada and its parts, in compliance with the judicial decree issued by Master Don Fernando Chacon, gentleman, of the order of Saint James, lieutenant-colonel of the royal troops of His Majesty and military governor, I proceeded at the command of said order, dated January 11, 1796 years, in compliance with and in obedience to my obligation, I went to the place of Santa Barbara with three assisting witnesses, and the petitioners all being present, who were seventy-seven neighbors. I knew said place, and after knowing it, I gave in the valley of the river three thousand four hundred varas of land, and above the plain I gave other three thousand three hundred varas, leaving separate, in both places of the river and plain and the little river, the lands that I was ordered by the decree that those people should have for cultivation in the future, with their pasture lands and watering places, free in every direction; there fell to the share to each one of these seventy-seven settlers one hundred varas to each one, thus to those of the river as well as to those of the plain, and I showed them two towns, the one on the plain, the other on the river; the one and the other contiguous to the cultivated lands, each consisting of thirty odd families; the boundaries of which are the same that the same place of Santa Barbara formerly had in its first settlement, and they are from the east to the west, from the boundaries of the Pueblo of Peuris, on the south, a mountain covered with timber (una loma montuosa), that runs to the foot of the mountain of Lo de Mora, on the north, the river that runs by said pueblo, and having concluded these marking of the boundaries and measurements of said lands in company with the witnesses, I alighted from the horse and took each one separately by the hand, and took them over said place, and they pulled up herbs and greeted in sign of possession which I gave them in said place and town lots in the name of the King. I arranged the grant and decree of the master governor, which they received greeting joyfully, and running over their lands, and uttering voices of content and saying long live, the King who favors us; and in order that it may appear that I have given said possession, I have signed this, this third day of April of 1796, years, acting as judge, being my own clerk, with assisting witnesses to which I give faith.

MANUEL GARCIA [Rubric].

JUAN DOMINGO ROMERO [Rubric].

ANTO. CRUZ [Rubric].

The foregoing translation made by me is a correct translation from the original to the best of my knowledge and belief.

R. H. TOMPKINS.

Subscribed and sworn to before me this July 3, 1878.

HENRY M. ATKINSON,

Surveyor-General.

[Official translation.]

His Excellency Governor and

Captain-General FERNANDO CHACON,

Civil and Military Governor:

We, Balentin Martin, Usebio Martin, and Juan Olgin, residents of the place San José de Gracia de las Trampas, placed at the feet of your excellency, appear before the greatness of your excellency in due legal form and state, all united and acquiescent, that we, all the applicants for the tract [sitio] of Santa Barbara, as new settlers present ourselves

before the greatness of your excellency, in petition and in the name of His Majesty, whom may God preserve, giving us, if we are worthy, the privilege [facultad] of locating ourselves at said place, and giving us the possession in the name of His Majesty. and giving us the privilege, if your excellency deems proper, of making one or two towns [plazas], and in order that in the future there shall be no mistakes or controversies we pray your excellency to deign to treat us with great favor; and if we obtain having the happiness of being honored in said application for the place Santa Barbara, we pray in the name of our sovereign that we be given for boundaries as the old documents recite, and we pray your excellency to be well pleased to regard us with the greatest benignity, and we declare in due form that our petition is not in dissimulation, &c. At the request of the applicants, we being forty-one.

BALENTIN MARIN.
 USEBIO MARTIN.
 CLEMENTE MESTAS.
 JUAN OLGIN.

SANTA FÉ, *January 11, 1796.*

In attention to the petition which precedes of Valentin Martin, Eusebio Martin, and Juan Olguin, residents of the place San José de Gracia de las Trampas, in the name of sundry individuals who desire to resettle the place formerly abandoned Santa Barbara, I do resolve to grant them that grace, in the name of our lord the King, under the imperative condition that they have to be at least fifty in number, that the lands have to be distributed in equal portions, without there remaining to any one of the former settlers or to their descendants the right to ask for or claim the lands which at those times they had, they having forfeited the right to all possession on account of their abandonment, that the said settlers when possessed of the lands which may be distributed to them are not to be authorized to sell or alienate the same until ten years are transpired of their being settled thereon, and if for his own convenience any colonist shall desire to retire before the time mentioned, his possession will remain for the benefit of him who shall substitute him, in which matter those citizens of the tract itself who may locate or marry shall always be considered, that besides the distribution referred to there shall be left the proper space [tereno] as well for pastures and watering places as that the said settlement may expand, if, as is reasonable, its increase is developed, and, in consideration of the merits of Valentin Martin, he will be attended to in the distribution of lands falling to him by placing his children [hijos] and sons-in-law contiguous. And in conformity with all that is expressed I direct the chief alcalde of that jurisdiction to place them in the possession aforesaid under the further regulations which the law prescribes.

CHACON.

I, Manuel Garcia, chief alcalde of the village of Santa Cruz de la Cañada and its districts, in execution of the decree issued by his excellency Fernando Chacon, knight of the order of Santiago, lieutenant-colonel in the royal army of His Majesty, civil and military governor of this province of New Mexico, its date the eleventh of January, year one thousand seven hundred and ninety-six, in discharge of my duty, and in obedience thereto, did proceed to the place Santa Barbara, with three witnesses of my attendance, and all the applicants being present, who were sixty-seven citizens, did examine said tract, and after being examined, I measured off in the bottom [plan] of the river three thousand

four hundred varas of land, and upon the prairie I measured off three thousand three hundred varas more, leaving set apart at the two points of the river and prairie and the Chiquito River the space which I am directed of the tillable land [de labor] for the increase which this settlement may have in the future, with its pastures and watering places free on all its cardinal points [todos sus vientos], and there fell to each one of these sixty-seven settlers one hundred varas to each one, as well to those on the river as to those on the prairie, and I designated to them [les señalé] two towns, one on the prairie and another on the river of thirty-odd families, the one and the other in the vicinity of the cultivable land, and its boundaries are the same which the same tract of Santa Barbara formerly had in its first settlement, and they are from east to west from the boundaries of the pueblo of Pieuris, to the south a timbered hill, which extends to the foot of the mountain of Lo de Mora, on the north the river which descends towards said pueblo. And having concluded these designations of boundaries and measurements of said lands, in company with the witnesses I alighted from the horse, and took them by the hand, each one for himself, and I led them over the said tract, and they plucked up weeds, and shouted in sign of possession, which I gave them of said tract and town lots, in the name of the King, governing myself according to the grant and decree of his excellency the governor, and they well pleased received it, and they ran, fired guns [illegible], and gave shouts of joy, and said, Long live the King who protects us. And that the having said possession may appear, I signed the same this third day of April, year 1796, acting as special justice, with the witnesses of my attendance, to which I certify.

MANUEL GARCIA.

JUAN DOMINGO ROMERO.

ANTONIO CRUZ.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO, March 10, 1879.

The foregoing is a correct translation made by me from the original in Spanish on file in this office.

DAV. J. MILLER,
Translator.

TESTIMONY OF WITNESSES.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
August 26, 1878.

In the matter of the investigation into the legality or illegality of the grant to Valentine Martin *et al.*, to what is known as the Santa Barbara tract, in the county of Taos, Territory of New Mexico, on this day set for hearing. Present, Henry M. Atkinson, surveyor-general; Armado Chaves, inspector and translator, who was by the surveyor-general duly sworn as such: H. L. Langan, attorney for claimants.

ALEJANDRO ORTEGA, having been first duly sworn, deposeth and saith:

Question by R. H. TOMPKINS, attorney for claimants. What is your name, age, occupation, and place of residence?—Answer. My name is Alejandro Ortega; my age is sixty-eight years; my occupation is farmer, and my residence Las Vegas, San Miguel County, New Mexico.

Q. Do you know anything relative to a grant supposed to have been

made by the Spanish Government to Valentine Martin and others?—A. I saw a grant made to Valentine Martin, Eusebio Martin, and Juan Olgin, in the year 1858, and I think I can recognize said grant were I to see the papers. [Here was exhibited to witness Spanish document marked A and asked whether that is the grant he referred to.] I believe it is the same. I saw it for the first time in the possession of Don Manuel Sanchez, of Santa Barbara. I also saw at the same time, together with the grant, the document in Spanish marked B, now shown me in the hands of said Manuel Sanchez.

Q. How did you happen to see the papers above referred to; under what circumstances?—A. In the year 1858 there was a dispute as to a piece of land, and the justice of the peace, Manuel Sanchez, before giving a decision, called for the production of the grant above referred to, which was produced, the same having been found in possession of José Manuel Mestas, from Embudo, the son of one of the original grantees. The justice of the peace showed the grant to me then.

Q. How long have you known that settlement?—A. I have known the same since I was about twenty years old.

Q. Has the place been inhabited ever since you have known it; and, if so, by whom?—A. The place has been settled ever since I have known it by Manuel Sanchez, Rinaldo Sanchez, and many others who have lived there themselves and their descendants ever since I have known the place.

Q. Do you know the boundaries of said grant; if so, what are they?—A. I saw the boundaries mentioned in the grant when it was shown to me, and they are, to the best of my recollection, the following: On the north (El centro del Rio del Pueblo) the center of the river of Pueblo. On the south (La Cuchilla de la Cebadia llozada la Lema Montosa), the ridge of Cebadia, commonly called "Loma Montosa." On the west the end of the league of the Picuris Indians. On the east (La Angostura del Caballo) the narrow pass of the horse.

Q. The boundary calls you have mentioned, are they well known natural objects?—A. They are very well known natural objects, and they have been known by the names given above ever since I can recollect.

Q. Do you know anything else relative to said grant and to the title of the people living thereon to the same?—A. I don't know anything more. Manuel Sanchez and José Manuel Mestas, in whose hands the original papers were found, are now dead.

Q. (By the surveyor-general.) How far do you reside from this tract of land?—A. I now reside at Vegas, but I don't know how far that is from the tract. When I first saw the grant papers I was a resident of Santa Barbara.

Q. How long did you reside at Santa Barbara, and when?—A. I resided at Santa Barbara from the year 1858 to 1861.

Q. What business were you engaged in while you resided there?—A. I was a farmer.

Q. Where did you go to live when you left Santa Barbara?—A. I first went to Mora, and lived there one year; from there I went to Vegas, where I have been living ever since.

Q. How often have you been on the Santa Barbara tract since you left Santa Barbara?—A. I have visited the place every year.

Q. How do you know that the residents on this tract were heirs of the original grantee?—A. I don't know whether they are heirs of the grantees or brothers of the heirs. Some of them have acquired right there by purchase, and others have resided there ever since I have known the place, about 48 years. I don't know from my own knowledge, but

the general reputation was that they were rightfully entitled to the grant.

Q. Where did you live when you first knew of the settlement on this tract of land?—A. I was then a resident of Santa Fé. When I was about twenty years old I visited the place, which was already settled, and I bought grain there then.

Q. Can you give the names of any of the parties who resided there then?—A. I can remember some of the residents, who were Matias Mestas, Candelario Montoya, and Antonio Medina. Matias Mestas is dead, but Candelario Montoya and Antonio Medina are living there yet, and are very old men.

Q. How many inhabitants are there on the tract now?—A. There are three towns on the tract, Santa Barbara, El Llano and El Llano Largo. In Santa Barbara there are about one hundred inhabitants, more or less, at El Llano a little less, and at El Llano Largo there are about 25 heads of families.

Q. Is Embudo on this tract; the place where José Manuel Mestas lived?—A. It is not within the tract; it is in the county of Rio Arriba.

Q. Has José Manuel Mestas ever, to your knowledge, lived upon this tract of land?—A. I do not know; I never saw him at Santa Barbara.

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

Q. Did you ever hear of the existence of this grant before you saw the grant papers; if so, when?—A. I had heard of the existence of the grant of Las Trampas, and was told in the same year that I saw the grant papers that there was a grant of Santa Barbara within the limits of the Las Trampas grant.

Q. Did you then hear that all of the Santa Barbara grant was within the limits of the Las Trampas grant?—A. I did.

ALEJANDRO ORTEGA.

Sworn to and subscribed before me this 26th day of August, 1878.

HENRY M. ATKINSON,
Surveyor-General.

JULIAN LUJAN, being by the surveyor-general duly sworn, declares and says:

Question by Judge Tompkins. What is your name, age, residence, and occupation?—Answer. My name is José Julian Lujan; my age is seventy-two years; I reside at the town of El Llano of San Juan de Pomuseno, and my occupation is farmer.

Q. Do you know anything relative to a grant supposed to have been made by the Spanish Government to Valentin Martin and others?—A. I know of such a grant which was made to Valentin Martin, Eusebio Martin, and Juan Olguin; the grant was conceded by Don Fernandez Chacon. It was granted to be given in possession to seventy-seven men, and Don Manuel Garcia de la Mora was ordered to place the parties in possession and designate the boundaries, and he designated the following boundaries: On the north the center of the river of the pueblo of Picuris, on the east the Angostura del Caballo, so-called, and which bounds the line of Mora, on the south the Cuchilla de la Cebadia, called Cochilla Montosa, on the west the league of the pueblo of Picuris. When I first heard of the grant papers they were in the hands of Don Clemente Mestas, and when Clemente Mestas died the papers remained in the hands of his son, José Manuel Mestas; when José Manuel Mestas died, the papers were left in the hands of Manuel Antonio Sanchez; after the death of Manuel Antonio Sanchez the papers remained in the

hands of Rumaldo Sanchez, and after the death of Rumaldo Sanchez the papers were left in the hands of Concepcion Leiba; from there the papers went to Prudencio Martin, in whose hands the grant papers were when I last heard of them.

Q. Did you know any of the original grantees who were placed in possession, and, if so, state their names?—A. I knew two of the original settlers who were placed in possession; they were Ramon Martin and Eusebio Medina.

Q. When did you first know the settlement of Santa Barbara in the llano?—A. I do not know how long it is; I was not a resident of the place.

Q. (By the surveyor-general.) Where were you born?—A. I was born at Rio Arriba, in the town of San Rafael.

Q. How long did you live there?—A. I lived there thirty-three years.

Q. What was your business after you were old enough to work?—A. I have always been a farmer.

Q. Where have you lived since that time, at what places, and how long have you lived at each place, and in what business have you been engaged in?—A. From San Rafael I moved to San Antonio in 1837, and I resided there until 1844. I was married at this place, and from here I moved to El Llano de San Juan de Pomuseno, and there I have lived from that time up to the present time, and I have always been a farmer.

Q. How far is Rio Arriba, where you first lived, from this tract?—A. It may be about eight leagues, I am not sure as to the distance, but that is my opinion.

Q. Were you ever on the grant while you were a resident of Rio Arriba?—A. I never was on the tract before I went to reside there.

Q. When did you first know Ramon Martin and Eusebio Medina?—A. I first knew them in the year 1844.

Q. Can you read or write?—A. I cannot.

Q. Then how do you know that any grant was made there by Fernando Chacon and possession given by Manuel Garcia de la Mora?—A. In the year 1845 I had some litigation to attend to, and Mr. Beaubien sent me to get this grant from José Manuel Mestas (in 1845), and after posting himself of its contents and reading the same to me, he ordered me to take it back to Mestas, which I did.

Q. How do you know in whose hands the grant papers have been since, as you have testified?—A. I know that in 1845 the grant was in the hands of José Manuel Mestas, as I have said, and as I have been a resident there since then I have had knowledge into whose hands the papers have fallen from time to time.

Q. How do you know that the papers were ever in the hands of Clemente Mestas, as you have testified?—A. I was told that Clemente Mestas was the father of José Manuel Mestas, and that when he died he left the papers to his son.

Q. When Beaubien sent you for the grant, was that the first you knew of its existence?—A. That was the first time I knew of the grant. I had never heard of it before.

Q. Did you not state in your direct examination that when you first knew of the grant papers that they were in the hands of Clemente Mestas?—A. I did.

Q. Now which is correct, your testimony on direct examination or your testimony on cross-examination, that you first knew of them when Beaubien sent you to José Manuel Mestas for the papers?—A. I knew from having been told by others that the papers had been at some time

in the hands of Clemente Mestas, but I first knew of my own knowledge of the grant when I got it from José Manuel Mestas.

Q. When did Ramon Martin and Eusebio Medina die?—A. I do not know what years they died in.

Q. What year did you last see them?—A. I do not remember in what year I saw them last; in 1845, when I took the grant to Beaubien, these two men were the witnesses who established the identity of the grant.

Q. Did you ever see them before that?—A. Yes, sir, I had seen them. In the year 1844 I went to live at El Llano, and these two men resided there then; it was at that time I saw them for the first time.

Q. How long did you know them after that?—A. I do not remember how long it was from that time to when they died.

Q. How do you know they were original grantees in this grant?—A. When, in 1845, I had a question as to the establishment of a town, the site of which was not designated in the grant, Mr. Beaubien ordered me to hunt up some of the original settlers, which I did, and these two men were by him sworn, and on being questioned by Mr. Beaubien as to whether they were of the first settlers who were placed in possession of the place they said that they were.

Q. Have they and their descendants resided there ever since?—A. I knew of the two men until they died, and their heirs lived there also until they died, so far as I know.

Q. Are there some of their relations living there yet?—A. Some Medinas are living there now, but I do not know whether they are of the same Medinas or not.

Q. When did the last of the heirs of these men that you knew die?—A. I knew two sons of Eusebio Medina, and it is already some years since they died. I don't remember when. I do not know whether they had any children; they died in Mora.

Q. Do you know of any of the descendants of the other grantees residing or having resided there, from your own knowledge or from general reputation?—A. I do not know who the heirs of original grantees were, or whether they lived there. I was told that many of the original grantees sold their interests and moved away, and the present occupants are recognized as the only heirs or owners.

Q. How many inhabitants are now on the tract? Give the names of the towns and the number of inhabitants in each town.—A. There are upon the tract two towns, the town of Santa Barbara, and that of San Juan de Pomusena in the Llano, but I have no idea as to how many inhabitants there may be in each town. There is another little town upon the tract called El Llano Largo. There are about 150 voters in the precinct and there are no towns in the precinct outside the tract.

Q. Have you any interest in this grant?—A. I have, having purchased one hundred and fifty varas therein.

JOSÉ JULIAN ^{his} × LUJAN.
mark.

Sworn to and subscribed before me this 26th day of August, 1878.

HENRY M. ATKINSON,
Surveyor-General.

JOSÉ DOLORES DURAN, being by the surveyor-general first duly sworn, declares and says:

Question by Judge TOMPKINS. What is your name, age, occupation, and place of residence?—Answer. My name is José Dolores Duran; my age is about sixty-five years; my occupation is farmer, and I reside a little below the town of Santa Barbara in the county Taos, New Mexico.

Q. Do you know anything relative to a grant supposed to have been made by the Spanish Government to Valentin Martin and others?—A. Yes, sir; about 32 or 33 years ago an uncle of mine by the name of José Manuel Mestas showed me a Spanish grant, in which Valentin Martin, Eusebio Martin, and Juan Olguin were the petitioners. The grant was made by the Governor Fernando Chacon, and the possession of the same was given to seventy-seven men, by the Alcalde Manuel Garcia, who designated the following boundaries: On the north the river of Pueblo, on the south the ridge of Cebadia and the Lomo Moutosa; on the west the league of the Pueblo Indians of Picuris, and on the east the Angostura del Cabala (a la loma que hace á lo de Mora). I know these facts, having derived them from the grant itself, and from general reputation, as I saw the grant papers while they were in the hands of my uncle, José Manuel Mestas, and afterwards also when the papers were in the hands of my father-in-law, Manuel Sanchez, both of whom were heirs of some of the original grantees.

Q. How long have you known this tract; has it been settled ever since you have known it; and, if so, by whom?—A. I have known the tract for about forty years; the place was then settled and has been settled ever since. When I first knew the tract I was a resident of Taos and went to Santa Barbara, where I was married about the year 1835. The place was settled by Candalario Montoya, Antonio Medina, Matias Mestas, Francisco Mestas, and many others. The men I mentioned were heirs of some of the original grantees.

Documents marked A and B are now shown the witness and asked whether they are the same grant papers referred to.—A. I believe they are the same, although I can't read or write, but I believe from the general appearance they are the same papers, but they were not so much mutilated then as they are now.

Q. Are the boundary calls you have mentioned well known natural objects?—A. They are all well known natural objects.

Q. Is the character of the inhabitants there now the same as when you first knew the place?—A. The place since I have known it has been settled by the same people, their heirs or purchasers, up to the present time.

Q. Do you know anything else relative to said grant, and to the title of the people living thereon to the same?—A. I do not remember of anything more that I know relative to the same.

Q. (By the surveyor-general.) How far do you live from this tract of land?—A. I live upon the grant a little below the town of Santa Barbara.

Q. How long have you lived there?—A. I have lived there over thirty years, last past.

Q. Where did you live before that?—A. I lived in Taos. I was born at Quemado and lived there 8 or 9 years, then moved to Taos, where I lived up to the time I went to reside at Santa Barbara.

Q. You are one of the parties in interest in this grant, are you not?—A. Yes, sir; I own about (300) three hundred varas in the grant, about 300 by 250 varas, and my house.

Q. You also own an interest in the commons, pastures, wood, &c.?—A. Yes, sir.

Q. You state in your direct examination, after describing the character of the title papers, who they were signed by, and mentioning the boundary calls, that these facts you derived from the grant itself, as well as from general reputation; you subsequently state that you can't read or write; now, explain how you could have ascertained anything from the grant itself, even though you have seen it, if you can't read or write.—

A. I can read and write, and I have read the grant several times; what I meant to say was that I could not read the papers now on account of their mutilated condition. I did not understand the former question and hence gave the wrong answer.

(The grant papers were here handed to the witness and he read part of them, and said they were the same papers referred to.)

Q. Has any one talked to you about what your testimony would be in this case, or suggested to you what you should testify to?—A. No, sir.

Q. You name certain parties as being heirs of the original grantees; how do you know that they were such?—A. I know it from the fact of their having told me so themselves.

Q. Which one of the grantees are you descended from?—A. I am an heir or purchaser of Francisco Mestas, who was an uncle of my wife.

Q. Which one of the original grantees was Francisco Mestas descended from?—A. I believe that he was not an heir, but a purchaser of some of the heirs of the grantees.

Q. Then he was not a lineal descendant of any of the grantees?—A. He was not.

Q. Were any of those men you have mentioned lineal descendants of the original grantees?—A. I was told by them that they were, but I do not know in what degree.

Q. Did Francisco Mestas ever tell you that he was a lineal descendant of any of the original grantees?—A. No, sir.

Q. Are there any mines or minerals upon this tract, to your knowledge?—A. I have no knowledge of any.

JOSÉ DOLORES DURAN.

Sworn to and subscribed before me this 28th day of August, 1878.

HENRY M. ATKINSON,

Surveyor-General.

The investigation of the case of Valentin Martin and others for the Santa Barbara tract resumed. Present, H. M. Atkinson, surveyor-general; David J. Miller, interpreter, and R. H. Tompkins, attorney for present grant claimants.

JUAN NEPOMUCENO VISCARRA, being by the surveyor-general first duly sworn, on his oath declares:

Question by Mr. TOMPKINS. What is your name, age, occupation, and place of residence?—Answer. My name is Juan Nepomuceno Viscarra; my age is 55 years; my occupation is tailor, and my residence is at the town of Santa Barbara, in the county of Taos, and Territory of New Mexico.

Q. State if you know anything about a grant made by the Spanish Government to Valentin Martin and others; and if you know anything of it, state what you know.—A. I do know something of the grant, having seen and read it in the year 1853 at the house of Manuel Antonio Sanchez, at Santa Barbara, who exhibited it to me for examination and to see how it was.

Q. If you were to see that document now would you recognize it?—A. I believe I would.

(Documents marked A and B in this claim were then shown witness and he was asked:)

Q. Do you recognize these documents? and, if so, please state what they are.—A. This document marked A and B is the same document I examined in 1853, and it is the grant to the Rio Santa Barbara tract.

Q. Do you know the boundaries of this tract of land as given in the concession? and, if so, please state what they are.—A. I know them, and

they are, on the north the current of the Pueblo River, on the east the Cuesta de Mora, on the south a hill called the Cuchilla Montosa, and on the west the dividing line between the lands of the Indian pueblo of Picuris and this tract of Santa Barbara.

Q. Do you know who have been in the occupancy of the Santa Barbara tract and how long, and under what title they claim?—A. There are now living upon the tract all Mexicans, with but one exception, at least two hundred voters or heads of families. I have known these settlements since the year 1852. They claim title to their possessions there under the Santa Barbara grant, some of them by descent, and the most of them by purchase. I do not know certainly, but I have often heard from him and others, and I believe that José Benavides, a resident upon the tract, is a descendant of one of the original grantees, and claims and holds his land there as such.

Q. Have you any interest in this grant? If so, please state when and how you acquired it.—A. I have an interest in the grant, and have had since the year 1865, the same consisting of a piece of land with house thereon erected by me, which piece of land was set apart and conveyed to me as a settler and contributor of work on the Acequia; the land was conveyed to me by Manuel Antonio Sanchez, in the name of himself and of the other inhabitants of the tract, he being the principal man of that community.

Q. Did you acquire the knowledge of this grant which you have testified to here before or after you acquired an interest in the land, and how long?—A. I acquired the knowledge in 1853, which is twelve years before acquiring my interest in the land.

Q. State what you have learned by general reputation of the length of time this tract of land had been occupied before your actual knowledge of the tract, and whether the occupants, if any, claimed under the Santa Barbara grant to which you have testified.—A. I have learned by hearing it often stated, and I know it is tradition, that this tract has been occupied and settled since the year 1796, and that its inhabitants have claimed and held under the Santa Barbara grant about which I have testified.

Q. (By surveyor-general.) Can you read and write?—A. I can.

Q. You stated that a portion of the occupants of this tract claimed by inheritance from the original grantees; how do you know that fact?—A. I do not know of my own knowledge, but have learned or heard the fact stated in the meetings which the settlers have held for the management of the grant.

Q. How do you recognize the title papers here presented you as the same you saw in 1853?—A. I recognize the papers by the fact of their containing the same substance, bearing the same signatures, and being the same paper. I repeat that they are the same papers I examined as stated.

Q. Can you state from general reputation who first settled this tract and continued to occupy it under this grant?—A. They were Valentin Martin, Eusebio Martin, Juan Olguin, and others whose names I do not remember.

I wish to state that also in the year 1862 I had in my possession and examined these papers and had the same in my possession eight days, and I know those now shown me are the same.

JUAN N. VISCARRA.

Sworn to and subscribed before me this February 20, 1879.

HENRY M. ATKINSON,
Surveyor-General.

In the matter of the claim of the people of the Santa Barbara grant before the surveyor-general of the Territory of New Mexico for the approval of said grant.

PROOF OF THE DOCUMENTS.

The documents creating the above-mentioned grant have nothing in their appearance to raise the slightest presumption against their being genuine, and upon their face and appearance they manifest to be eighty-two years old, which would render it impossible, according to the ordinary course of human affairs, to prove their execution. Then the only mode of proof left is to prove that they came from the proper custody (I Starkie on Evidence, Part 2, page 328). This fact was proven by all the witnesses examined in the case, who were examined separate and apart from each other, all giving substantially the same kind of testimony, yet differing in detail, so as to show clearly that it was not a conspiracy among the claimants or witnesses.

Alejandro Ortega, an entirely disinterested witness, and an intelligent man, identified the documents presented and filed in this case as being the same that he had seen and known for twenty years previous, in the possession and custody of one of the claimants to the above-mentioned grant of land, as being the documents under which the said claimants held and claimed title to said lands; that said claimants were then, and from common reputation had for a long time previously thereto been, in the undisputed possession and occupation of said lands described in said grant, and have so remained up to the present time, as did also all the other three witnesses examined in the case; but the others having known the documents and occupation and possession of said lands by said claimants for a longer time, the three having, since their first knowledge of the documents and the possession and occupation by said claimants of said described lands, obtained an interest within the limits of said grant, by purchase.

One disinterested witness, when uncontradicted, is sufficient to establish any point in any civil case (I Starkie on Evidence, Part 3, page 399, and Notes 1 and T.).

When a witness was once competent, he cannot, by the subsequent voluntary creation of an interest, without the concurrence or consent of the party, deprive him of the benefit of his testimony in any proceeding, whether civil or criminal (II Starkie on Evidence, Part 4, page 750).

Therefore, all of the witnesses who have testified upon the examination of the above-mentioned claim are competent to give testimony in regard to all the facts to which they have testified, and their testimony should be received, and especially that of Alejandro Ortega, who is wholly a disinterested witness, and his testimony uncontradicted in any particular, but corroborated in every material point. The documents having been sufficiently proven according to the requirements of the law, should be admitted, and the other evidence of possession and occupation by said claimants having been clearly proven by all of the witnesses, the claim should be approved.

R. H. TOMPKINS,
Attorney for Claimants.

OPINION.

THE HEIRS, LEGAL REPRESENTATIVES, AND }
 assigns of Valentin Martin *et al.* }
vs. }
 THE UNITED STATES. }

This claim for a certain piece of land known as the Santa Barbara tract, situated in the county of Rio Arriba, in this Territory, is presented by the heirs and legal representatives of Valentin Martin and others, and the case comes before me for investigation under the treaty of Guadalupe Hidalgo, and the act of Congress approved July 22, 1854, establishing this office.

The grant in this case purports to have been made to Valentin Martin, Eusebio Martin, and Juan Olguin, January 11, 1796, by Governor and Captain-General Fernando Chacon, upon the petition (signed also by one Clemente Mestas) of the said parties for themselves and thirty-seven others not named, for a grant of the Santa Barbara tract.

The governor, in his decree upon the petition, makes the grant, and directs the chief alcalde of that jurisdiction to put the petitioners in possession, stipulating that at least fifty families shall reside thereon, and in pursuance thereof, on the 3d day of April, 1796, Manuel Garcia, chief alcalde of the town of Santa Cruz, placed the parties in possession, setting forth in the act of possession that there were sixty-seven citizens thus put in possession by him.

The general outboundaries of the tract, as he states, are the same that the same place of Santa Barbara had at the time of its former settlement, which seems to have been abandoned by the original occupants under a previous grant. These boundaries are "from east to west from the boundaries of the pueblo of Picuris; to the south, a timbered hill which extends to the foot of the mountain of Lode Mora; on the north, the river which descends towards said pueblo."

There is no evidence among the old Spanish archives in this office that this grant was ever made; but the muniments of title which form the basis of this claim—although coming from the possession of claimants—appear to be genuine, as the signatures of Governor Chacon, who made the grant, and of Alcalde Garcia, who gave the juridical possession, as they appear upon these title papers, compare most favorably with the signatures of those officials upon other documents of the time now on file in this office, and are undoubtedly genuine. The evidence relative to the long possession of these documents by the claimants and their ancestors is also indicative of their genuineness, taken in connection with the proof of occupancy of the tract by the descendants of the grantees for a long period and up to the present date.

The claim is believed to be a valid one, as the authority of the granting magistrate is unquestionable, as the muniments of title are accepted as genuine, and as the evidence shows the occupation of this tract by the descendants of the grantees and their assigns for a period extending back over forty years. It must be presumed that the conditions of the grant itself, made eighty-three years ago, relative to settlement and occupancy, were complied with on the part of the grantees.

No boundaries are designated either in the petition or in the concession. The former asks for a grant to the Santa Barbara tract, and the governor in his decree concedes to the petitioners the place of Santa Barbara, which he states was formerly abandoned.

The alcalde who gave juridical possession appears to have discov-

ered the boundaries of the abandoned tract, and redesignated the same boundaries to the grantees in this case; though the eastern boundary call is for some reason omitted by him. The testimony of the witnesses, however, fixes the eastern boundary of the tract as the Narrow Pass of the Horse (Angostura del Caballo), which is understood to be, as stated in the evidence, the line of Mora; and hence the testimony of Juan N. Viscorra relative to the east boundary (wherein he gives it as the Cuesta de Mora) is presumed to refer to the same point. The other witnesses, however, agree that the "Narrow Pass of the Horse" is the eastern boundary of the tract which has always been claimed as such.

The claim is approved to the heirs and legal representatives, or their assigns, of the original grantees, with the boundaries set forth in the act of possession so far as given, and with the Narrow Pass of the Horse as the east boundary, as established by the testimony.

A transcript of all the papers in the case, in triplicate, will be transmitted for the action of Congress in the premises.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, March 12, 1879.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
November 13, 1880.

The foregoing is a correct transcript of the papers on file in this office in the case of private land claim reported as number 114 in the name of Valentin Martin *et al.*

[SEAL.]

HENRY M. ATKINSON,
United States Surveyor-General.

TRANSCRIPT OF PRIVATE LAND CLAIM REPORTED NUMBER 118, IN THE NAME OF NERIO ANTONIO MONTOYA, KNOWN AS THE OJO DE BORREGO TRACT, IN NEW MEXICO.

Date of grant.....March 17, 1768.
Date of surveyor-general's approval.....October 20, 1879.

(Transmitted to the General Land Office by the surveyor-general of New Mexico, November 20, 1880.)

Hon. HENRY M. ATKINSON,
United States Surveyor-General, New Mexico:

Your petitioners, the heirs, successors, and legal representatives of Nerio Antonio Montoya, long deceased, respectfully state and represent:

That to the said Montoya, in the year 1768, was granted by the governor of the province of New Mexico, then belonging to the crown of Spain, a certain piece or parcel of land situated in the present county of Bernallillo, formerly Santa Ana, in this Territory, and the boundaries of which, as set forth in the act of possession executed in said year to said grantee, are now well known and easily found, and are, to wit: On the north, the side of the Sierra del Valle mountain; on the east, land belonging by purchase to the Indian pueblo of Santo Domingo; on the south, the Jemez road; and on the west, a small table-land where the Jemez road and the Zia road to Cochiti come together; for a partial description of which boundaries, see papers in private land claim in your

office known as the Santo Domingo Pueblo Grant, which said grant to said Montoya was made at the city of Santa Fé, capital of said province, on the 7th day of March, 1768, by his excellency Pedro Fermin de Mendienueta, governor as aforesaid, and by his authority and instructions contained in said grant and given to one Bartolome Fernandez, chief alcalde, the land so granted and described was regularly given in possession to the said Montoya by the said chief alcalde on the 20th day of March then next following, and has from that time to the present been and remained in the continuous and undisturbed possession and enjoyment of the said Nerio Antonio Montoya and his heirs and legal representatives.

Your petitioners further represent that as no survey of said tract of land has ever been made, they cannot present any plat thereof known to be correct, but they herewith file a plat of same which they believe to be more correct than the plat now in your office, filed by their former attorney July 27, 1871, and which is as nearly accurate as is practicable without a survey.

And they herewith also present a sworn translation of said grant and papers. Your petitioners herewith file the original testimonio which was given to said grantee by the said chief alcalde by the direction of the governor in his said grant; but your petitioners refer to and make a part of this petition, and of their claim, the original grant and other title papers for and in connection with the land here claimed by your petitioners, which are now on file in your office, being file No. 583 of the old Spanish papers in your office, the same having been and remained in the possession and keeping of the government from the year 1768 to the present time.

Your petitioners, further represent that their attorney, John S. Watts, formerly employed by them to present and prosecute this their claim before your office, and who presented the same on July 27, 1871, as shown by private land claim file 97 in your office, has since died, without prosecuting their claim to a hearing, and that, therefore, they have employed another agent and attorney, Robert B. Willison, to attend to the matter for them before your honor's court.

Your petitioners, offering to produce testimony, if required, to prove and establish their perfect and sufficient claim to said tract of land, pray that the same be investigated and passed upon at an early day by your honor, under the treaty of Guadalupe Hidalgo, between the United States and Mexico, and under the act of Congress of 22d July, 1854, giving effect to the stipulations and guarantees of said treaty, and establishing your office, and that said grant be approved to the heirs and legal representatives of the said Nerio Antonio Montoya, deceased.

R. B. WILLISON,
Attorney for parties in interest.

[Translation.]

His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

I, Nerio Antonio Montoya, resident of the pueblo of Cochiti, appear before your excellency in due legal form, and state:

SIR: Whereas I am living upon the ranch of my father-in-law, José Miguel de la Peña, who is situated between the pueblos of Santo Domingo and Cochiti, and his premises being so limited that I cannot keep a herd of mares and a few cattle, sheep, &c., which I have, and in order not to injure the said pueblos in their planting lands, I deemed it well

to purchase from Felipe Sandoval, a soldier of this garrison, a stock ranch, which he had from the heirs of Diego Basquez Borrego, who lived for many years at a spring of water, which on that account is commonly called Borrego's spring; and this said deceased always asserted that he had purchased the same from Diego Gallego, deceased, to whom, according to report, the whole of the said tract was always recognized as belonging; and whereas the said Diego Gallego never executed any instrument whatever to the said Borrego, so as to show the sale made by him to the latter, whereby fraud in the vendor might be inferred, should it be that an instrument was executed, or in the said Borrego, who without any title held the ranch for so many years and declared the same to be his property in a clause of his will, on which basis the heirs sold to the said Sandoval, the party as before stated, from whom I purchased; and now neither the said Diego Gallego could sell nor the said Borrego purchase, for it is established that the said spring is public land by the grant then made to the said Diego Gallego, which grant is in possession of the community of the pueblo of Santo Domingo, as will appear to your excellency from that grant, to which I make reference, and which grant the said Indians had by purchase from the widow and heirs of the said Gallego. In view of which, and as I am now pasturing my mares and cows upon the said tract, for the reasons aforesaid, and it being certain that the tract is public land, and that up to this time those who have lived upon it have met with no objections whatever thereto, and having registered the same, and knowing that from the said spring I can support what God has been pleased to give me, and that it will not injure any person, it being between the Cochiti Mountain and the Jemez Mountain, quite distant from the said pueblos, as will appear to your excellency from the chief alcalde of the said pueblo, Bartolome Fernandez, and being as I have stated.

I ask and pray that your excellency be pleased to make me a grant to the said tract, in the name of His Majesty (whom may God preserve), including the said spring; and should it be granted me the boundaries will be: on the east, the boundaries of the grant to the said Indians; on the west, a table-land running from north to south and fronting towards Jemez; on the north, a small spring of water running towards the north; and on the south, the same grant of the said Indians, where, if the grant is made to me, I will place a firm and permanent land mark; also at the other boundaries, should your excellency not designate the same ones at the time of the grant.

Whereby I will receive benefit and favor, I, my children, heirs, and successors, and I declare not to act in dissimulation, &c.

NERIO ANTONIO MONTOYA.

DECREE.

SANTA FE, *March 4, 1768.*

Bartolome Fernandez, chief alcalde for the pueblos of the Queres Indians, will report whether the land for a grant to which Nerio Antonio Montoya prays is royal domain, and whether the granting of the same to him would work any injury to any one of the three pueblos of Santo Domingo, Cochiti, and Jemez, or to any other party, and will also report what distance the boundaries cited embrace on the respective courses, so as in view of this report to provide accordingly.

MENDINUETA.

REPORT OF THE ALCALDE.

His Excellency the GOVERNOR AND CAPTAIN-GENERAL :

Responding to the questions submitted to me by your excellency in the foregoing decree, I reply :

That the land applied for by Nerio Antonio Montoya is royal domain, and that from the granting thereof there cannot result any injury either to the pueblos or to any individual by designating to him as a boundary on the east where land purchased by the Indians of the pueblo of Santo Domingo lies, on the west a small table-land where the Jemez road and the Zia road towards Cochiti came together, on the south the said Jemez road, and on the north the side of the Sierra del Valle Mountain, which distances embrace from north to south somewhat exceeding two leagues, and from east to west somewhat exceeding two leagues.

In view of which report, your excellency will act as he may deem proper, and I have therefore signed this the seventh day of March, in the year one thousand seven hundred and sixty-eight.

BARTOLOME FERNANDEZ.

GRANT.

At this town of Santa Fé, on the 7th day of the month of March, in the year seventeen hundred and sixty-eight, in view of the foregoing petition presented by the party therein named, and of the report which at the end of my decree of the fourth of the same month and year is made to me by Bartolome Fernandez, chief alcalde and war captain of the pueblos of the Queres Indians, and considering that it is the will of the King, our sovereign, that his lands be settled, and that his subjects augment their wealth, I Pedro Fermin de Mendinueta of the order of Santiago, colonel in the royal armies, and governor and captain-general of this province, declared that I would make, and I do make, to Nerio Antonio Montoya, in the name of His Majesty (whom God preserve), the grant to the land for which he prays, for pasturage of his live stock, for himself, his children, and heirs, without prejudice to others having a better title, under the condition that he settle the land within the term fixed by law, and that he do not sell or alienate the same to any ecclesiastical person.

And the boundaries of this land so by me granted will be the same and have the same distances contemplated in the report referred to, and no more.

And to the end that the said Nerio Antonio Montoya may take possession of the land, I confer authority, ample and such as is by law required, upon the said chief alcalde, Bartolome Fernandez, to proceed after summoning the adjoining settlers to give the possession, and there appearing no objection from any legal party, he will give the same in the customary manner, and will also issue a duplicate of the whole, should the grantee request it, to be to him a sufficient title, and will return the original papers to be filed among the government archives.

And thus I have provided, commanded, and signed, with the undersigned my attending witnesses, for lack of notaries, of which there are none of any kind in this governmental jurisdiction.

PEDRO FERMIN DE MENDINUETA.

MATEO DE PEÑAREDONDA.

ANTONIO MORETO.

POSSESSION.

At this place, San Antonio, on the twentieth day of the month of March, year one thousand seven hundred and sixty-eight, I, Bartolome Fernandez, chief alcalde and war captain of the pueblos of the Queres Indians, by virtue of the appointment conferred on me by His Excellency Pedro Fermin de Mendinueta, of the order of Santiago, colonel in the royal armies, and governor and captain-general of this province of New Mexico, being at the said place, having summoned the natives of the pueblo of Santo Domingo, who are the adjoining occupants to the said land, they having purchased from Diego Gallego, and having ordered them to erect land-marks on their lines, and I being satisfied with the same, in view of which, and there not resulting any injury, I pointed out to Nerio Antonio Montoya the boundaries above specified, and granted by his excellency the governor, embracing the same land contemplated in my report, and on which I directed him to place firm and permanent land-marks, and I notified him of the conditions above prescribed.

And he being fully advised in the premises, I took him by the hand and led him over the said land and he plucked up grass and cast stones toward the four cardinal points, and we all shouted once and thrice "Long live the King our sovereign"! And may God preserve him, in sign of actual possession, into which I placed him, and upon which he entered quietly and peaceably and without objection.

And that it may so appear, I, the said chief alcalde, have signed this together with two attending witnesses, with whom I act for lack of notaries, of which there are none in this province, on the said day, month, and year, to which I certify.

BARTOLOME FERNANDEZ.

Witness:

MIGUEL TENORIO DE ALBO.

Witness:

BARTOLOME FERNANDEZ DE LA PEDRERA.

This agrees with its original which remains among the government archives at the city of Santa Fé, from whence I, Don Bartolome Fernandez, chief alcalde and war captain of Santo Domingo and the other pueblos de los Queres, caused the same to be taken letter for letter. It is faithful, corrected and compared, and the witnesses to its being taken were those of my attendance with whom I act for the want of a notary, there being none in this province, to which I certify and attach my signature and customary rubric.

BARTOLOME FERNANDEZ.

Witness:

MIGUEL TENORIO DE ALBA.

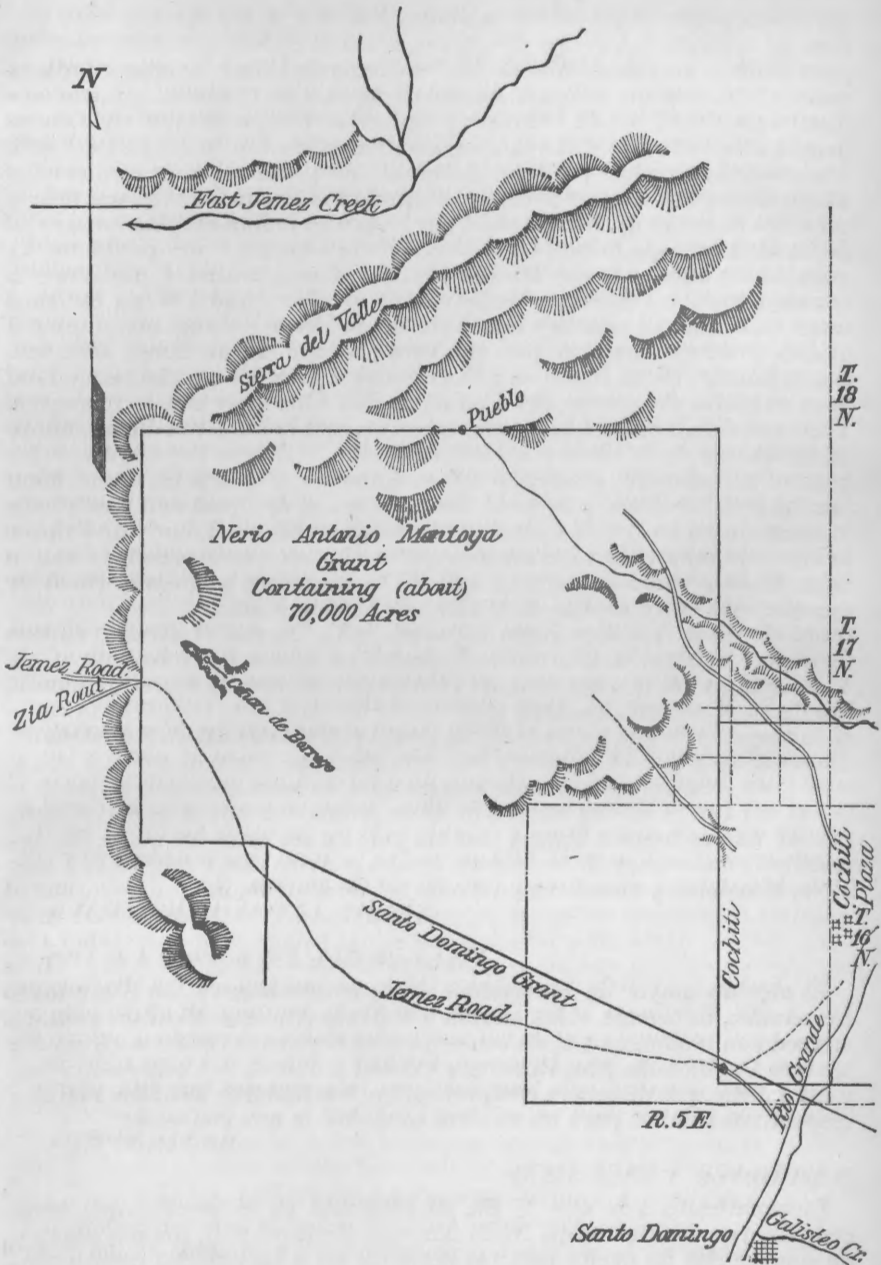
Witness:

BARTOLOME FERNANDEZ DE LA PEDRERA.

The foregoing is a correct translation of the original to the best of my knowledge and belief.

R. B. WILLISON.

Subscribed and sworn to before me this 13th of January, A. D. 1879.
HENRY M. ATKINSON,
Surveyor-General.



Sr. GOVR. Y CAPPN. GRAL.:

Nerio Antonio Montoya, vecino del Pueblo de Cochiti pareseo ante V. Sa. en toda forma dro. y digo señor que por quanto estoi biviendo en el rancho de mi suegro Jph. Migl. de la Peña qe. se alla entre medias de el Pueblo de Sto. Domingo y Cochiti y sertan corto su estalaje qe. no puedo mantener una manada de lleguas y algun ganado mayor y menor

qe. tengo, y por no perjudicar á dhos. Pueblos en sus lavores tuve por bien de comprar á Phelipe Sandoval, soldado de este presidio un sitio para ganado qe. este lo ubo de los herederos de Diego Bargas Borrego quien vivio muchos años en un ojo de agua que comunmente por ese motivo yaman el ojo de Borrego, y este dho. difunto siempre dijo qe. se lo avia conprado á el difunto Diego Gallegos, qe. fué de qu. siempre por sus voses se reconocio por suyo el todo del dho. sitio y por cuanto el dho. Diego Gallego no hizo instrumento ninguno á el sitado Borrego por donde constoro la venta qe. le avia echo por lo que se infiera malicia en el vendedor si es caso qe. lo iso ó en el dho. Borrego qe. sin tener propiedad lo goso tantos años, y lo declaro por sus bienes en clausula de testamento por cuyo motivo vendieron los herederos al dho. Sandoval qe. es como tengo dho. aqe. yo conpre y era sierto qe. ni Diego Gallego podio vender ni dho. Borrogo comprar por que esta probado ser realengo dho. ojo con la merced qe. se le dió en aql. entonces á dho. Diego Gallego y esta para en poder del comun del Pueblo de Sto. Domingo, como constaro á V. Sa. por dho. merced á la qe. me remito qe. esta la hubieron dichos indios en benta real de la vinda y herederos de dho. Gallegos por cuyo motibo y estar actualmente pastando mis y eguas y mis Bacas en dicho sitio por los motibos dhos. y estando sierto de qe. se ayo realengo y que asta la presente no ha tenido contradieron ninguna los qe. han vivido en el y habiendolo registrado y conosiendo qe. en dho. ojo puedo mantener lo qe. Dios asido serbido de darme y que no se perjudica á ninguna persona por que esta entre medias de lo siena de Cochiti y la de Jemes, muy distante de dhos. Pueblos como constará á V. Sa. por el alcalde mayor de dhos. Pueblos Dn. Bartolome Fernandes y siendo como tego dho. Á V. Sa. pido y suplico sea muy servido de conserme de merced en nombre de su Magestad, qe. Dios guarde, el dho. sitio con el expresado ojo y si se me concede sus linderos seran por el oriente con los de la merced de dhos. indios y por el poniente con una mesa qe. corre de norte á sur y miro para Jemes, y por el norte con un ojito de agua qe. corre al norte y por el sur con la misma merced de dhos. indios endonde si se me concede pondré una mohonera firme y estable y de no ser estos los qe. V. Sa. determinare á el tiempo de la data qe. en eya recibire vien y merced yo y mis hijos, herederes y susesores y juro no ser de malicia, &c.

NERIO ANTONIO MONTOYA.

VILLA DE STA. FÉ, y *Marzo 4 de 1768.*

El alcalde mayor de los pueblos de la nacion Queres Dn Bartolome Fernandez, informaia si las tierras que Nerio Antonio Montoya pide de merced son realengas y si de condeserselas resulta perjuicio á alguno de los tres Pueblos de Sto. Domingo, Cochiti y Jemes, ú á otro individuo, y asi mismo que distancia comprehenden los lindoros que cita por sus respectivos rumbos para en su vista probeher lo que convenga.

MENDINUETA.

Señor GOVOR. Y CAPN. GENL.

Respondiendo á lo que V. Sa. me pregunta en el decreto que antecede digo qe. las tierras qe. Nerio Antonio Montoya pide son realengas y de concederlas no puede resultar perjuicio asi á los pueblos como á ningun individuo, señalandole por lindero por la parte del oriente que es donde lindan las tierras que compraron los indios del Pueblo de Santo Domingo, por el poniente una mesita á donde se junta el camino de Jemes, con el de Zia, que vienen para Cochiti, por el sur el expresado camino de Jemes, y por el norte la folda de lo sierra del valle cuya distancia comprendera de norte á sur poco mas de dos leguas, y de oriente á poniente poco menos de dos leguas, en cuya atencion detterminara V. Sa. lo que

fuere servido y por ser asi lo firmé oy dia siete de Marzo de mil setecientos sesenta y ocho años.

BARTHOLOME FERNANDEZ.

En esta villa de Sta. Fé, en siete dias del mes de Marzo de mil setecientos sesenta y ocho años, en vista de la peticion qe. antecede presentada por el contenido en ella, é informe que á continuacion de mi decreto de cuatro del mismo mes y año, me hace Dn. Bartholome Fernandez, alcalde mayor y capitan á guerra de los pueblos de la nacion Queres, y asi mismo á ser la mente del Rei nuestro señor que sus tierras se pueblen y que sus vasallos aumenten sus bienes, yo, Don Pedro Fermin de Mendinueta, del orden de Santiago, coronel de los Reales exercitos, governador y capitan general de este Reino diga, que concedia y concedo en nombre de su Majestad (Dios le guarde) á Nerio Antonio Montoya la merced de tierras que para postor sus ganados pide, para el sus hijos y herederos, sin perjuicio de tercero que mejor derecho tenga, con la condicion de poblarlas dentro del termino prebenido en la lei, y de no venderlas ni enajenarlas en persona eclesiastica, y los linderos de estas tierras por mi mercenados en la forma dicha, deveran ser los mismos y bajo las mismas distancias comprehendidas en el citado informe, y no en mas, y para que el ya dho. Nerio Antonio Montoya tome posesion de ellas, doi comision bastante y cuanta por dro. se require al enunciado alcalde mayor Dn. Bartolome Fernandez para que con citacion de los colindantes, pase á darsela, y no resultando contradiccion de parte legitima, se la de en la forma acostumbrada, y asi mismo dara testimonio de todo si el mercenado lo pidiere, para que le sirva de bastante titulo, y devolvera los orijinales para colocarlos en este archivo de gobierno. Y asi lo probehi, mande y firme con los infrascritos testigos de mi asistencia á falta de escribanos que de ninguna clase los ay en esta governacion.

PEDRO FERMIN DE MENDINUETA.

MATHEO DE PEÑAREDONDA.

ANTO. MORETA.

En este puesto de Sn. Antto., en beinte dias del mes de Marzo de mil setesientos sesenta y ocho años, yo Dn. Bartholome Fernandez, alcalde mayor y cappn. á guerra de los pueblos de la nacion Queres, en virtud de la comision que me es conferida, por el Señor Don Pedro Fermin de Mendinueta, del horden de Santiago, coronel de los Reales exercitos, governador y cappn. general deste Reyno, de Nuevo Mejico, hallandome en el espresado paraje con citacion de los ijos del pueblo de Sto. Domingo, que son los colindantes con dhas. tierras por haber comprado á Diego Gallegos, y habiendoles mandado poner mojonera en sus linderos, quedando conforme con ellos, en cuya atencion y no haciendo resultado perjuicio, le señale á Nerio Antonio Montoya los linderos haniva espresados y mercenados por el Señor Governador bajo la misma tierra comprendida en mi informe, donde le mande poner mojoneras firmes y estables y le adverti las condiciones haniva espresadas y entendido de todo lo coji de la mano, lo pasie por dho. tierra, harranco sacate, tiro piedras, á los cuatro vientos y dijimos todos á una tres veces, viva el Rey Nuestro Señor, qe. Dios guarde, en señal de verdadera posesion lo que le di y aprendio quieta y pacifica sin contradiccion y para que hasi coste lo firme yo dho. alcalde mayor, á una con dos testigos de asistencia con quienes autuo á falto de escribanos que no los ai en este Reino, en dho. dia, mes y año. Doi fee.

BARTHOLOME FERNANDEZ.

To.: MIGUEL THENORIO DE ALBA.

To.: BARTHOLOME FERNANDEZ DE LA PEDRERA.

Señor GUOR. Y CAPPN. GL.:

Nerio Antt. Montoya, vecino del pueblo de Cochiti, paresco ante V. Sa. en toda forma de drho. y digo señor, que por qe. estoy biviendo en el rancho de mi suegro, Josephé Miguel de la Peña, qe. se halla entre medias del pueblo de Santo Domingo y Cochiti y ser tan corto su estalaje qe. no puedo mantener una manada de y eguas y algun ganado mayor y menor qe. y por no perjudicar á dhos. pueblos en sus labores tuve por bien de comprar á Phelipe Sandobal, soldado deste presidio un sitio para ganados que este lo ubo de los herederos de Diego Basquez Borrego quien vivio muchos años en un ojo de agua qe. comunmente por ese motivo llamor el ojo de Borrego y este dho. difunto siempre dijo que se lo habia comprado á el difunto Diego Gallegos qe. fué de qu. siempre por sus boses se reconocio por myo el todo del dho. sitio y por qto.; el dho. Diego Gallegos no hizo instrumento ninguno á el sitado Borrego por donde constara la venta que le habia hecho por lo que se infiere malicia en el vendedor si es caso qe. lo yso ó en el dho. Borrego qe. sin tener propiedad lo goso tantos años y lo declaro por sus bienes en clausula de testamento por cuyo motivo vendieron los herederos al dho. Sandobal, que es como tengo dho. á qu. yo compré y asiera qe. ni Diego Gallegos podia vender ni dho. Borrego comprar por que esta probado ser realengo dho. ojo con la mersed que se le dio en aquel entonces al dho. Diego Gallego y esta pasa en poder del comun del pueblo de Santo Domingo como costara á V. S. por dha. mersed al qe. me remito qe. está la ubieron dhos. indios en venta Real de la vinda heredera de dho. Gallegos por cuyo motivo y estar actualmente pastando mis y eguas y mis bacas en dho. sitio por los motivos dhos. y estando sierto de que se allo realenga y que hasta lo presente no ha tenido contradicion ninguna los qe. an bividido en el y habiendolo registrado y conosido que en dho. ojo puedo mantener lo que Dios ha sido servido de darme y que no se perjudica á ninguna persona por que esta entre medias de la sierra de Cochiti y la de Jemes, muy distante de dhos. pueblos como costara á Vs. por el alcalde mayor de dichos pueblos, Dn. Bartolome Fernandez, y siendo como tengo dho. á Vs. pido y suplico sea muy servido de conserderme de merced en nombre de su Mag., qe. Dios guarde, el dho. sitio con el expresado ojo y si se me concede sus linderos seran por el oriente con los de la mersed de dhos. indios, endonde si se me concede pondre una mojonera firme y estable y de no ser estos los que Vs. determinare al tiempo de la data que en llo recibire bien y merced, yo y mis hijos herederos y susesores y juro no ser de malicia, &c.

NERIO ANTONIO MONTOYA.

Villa de la Santa Fé y Marzo quatro de mil setecientos sesenta y ocho.

El alcalde mayor de los pueblos de la nacion Queres, Dn. Bartolome Fernandez, informará si las tierras que Nerio Antonio Montoya pide de merced son realengas y si de conserderselos resultara perjuicio á alguno de los tres pueblos, de Santo Domingo, Cochiti, y Jemez, ú á otro individuo y á si mismo que distancia comprenden los linderos qe. cita por sus respectivos rumbos para en su vista proveer lo que convenga.

MENDINUETA.

Señor GOVERNADOR Y CAPPN. GL.:

Respondiendo á lo qe. se me pregunta en el decreto que antecede digo, qe. las tierras qe. Nerio Anto. Montoya pide son realengos y de conserderlas no puede resultar perjuicio asi á los pueblos como á ningun individuo señalandole per lindero por el oriente qe. es donde lindan las tierras que compraron los indios del pueblo de Santo Domingo, por el poniente una

mesita á donde se junto el camino de Jemes con el de Zio que vienen paso Cochiti por el sur expresado camino de Jemes y por el norte la falda de la sierra del valle cuya distancia comprendera de norte á sur poco mas de dos leguas en cuya atencion determinara V. lo qu. fuere servido y por ser asi lo firme oi dio siete de Marzo de mil setecientos sesenta y ocho años.

BARTHOLOME FERNANDEZ.

En esta villo de Santa Fé en siete dias del mes de Marzo de mil setecientos sesenta y ocho años en vista de la peticion que antecede presentado por el contenido en ella é informe qe. á continuacion de mi decreto de quatro del mismo mes y año me hace Don Bartolome Fernandez, alcalde mayor y cappn. á guerra de los pueblos de la nacion Queres, y asi mismo á ser la mente del Rei nuestro Sr. que sus tierras se pueblen y qe. los vasallos aumenten sus bienes, Yo Don Pedro Fermin de Mendinueta del orden de Santiago, coronel de los Reales ejercitos, govor. y cappn. gl. deste Reino dijo que consedia y consedo en nombre de su Majestad (Dios le guarde) á Nerio Antonio Montoya la mersed de tierras para pastar sus ganados pide para el sus hijos y herederos sin perjuicio de tercero que mejor derecho tenga con la condicion de poblarlo dentro del termino prevenido en la ley, y de no venderlas ni enajenarlas en persona eclesiastica v los linderos de las tierras por mi mercenadas en la forma dha. deveran ser los mismos y bajo las mismas distancias comprendidas en el citado informo y no en mas y pra. que el yo dho. Nerio Antonio Montoya tome posesion de ellas doi comision bastante y quanta por derecho se requiere al enunciado alcalde mayor Dn. Bartholome Fernandez para que con citacion de los colindantes pose á darsela y no resultando contradicion de parte lejitima se lo en la forma acostumbrada y asi mismo dara testimonio de todo si el mersenado lo pidiere para que le sirva de bastante titulo y devolvera los orijinales para colocarlos en el archivo de gobierno, y asi lo provei mande y firmé con los infrascritos testigos de mi asistencia á falta de escribanos que de ninguna clase los hay en esta governacion.

PEDRO FERMIN DE MENDINUETA.

MATHEO PEÑARRADONDA.

ANT. MONETO.

En este puesto de San Antonio en veinte dias del mes de Marzo de mil setecientos sesenta y ocho años, Yo Dn. Bartholome Fernandez, alcalde mayor de los pueblos de la nacion Queres en virtud de la comision que me es conferida por el Señor Dn. Pedro Fermin de Mendinueta del orden de Santiago, coronel de los Reales ejercitos, govor. y cappn. genl. deste Reyno de Nuevo Mejico, hallandome en el expresado paraje con citacion de los hijos del pueblo de Sto. Domingo que son los colindantes co. dha. tierras por haber comprado á Diego Gallegos y habiendoles mandado poner mojoneras en sus linderos que dando conformes con ellos en cuia atencion y no habiendo resultado perjuicio señalé á Nerio Antonio Montoya los linderos haniva expresados y mercenados por el señor govor. bajo la misma tierra comprendida en mi informe donde le ordené poner mojoneras firmes y estables y le aberti las condiciones arriva espresados y entendido de todo, lo coji de la mano lo pasie por dhas. tierras, arranco sacate, tiro piedras, á los cuatro vientos y dijimos todos á una tres veces, viva el Rey Nuestro Señor, que Dios guarde, en señal de verdadera posesion lo qe. le di y aprendio quieta y pacifica sin contradicion y para qe. asi coste lo firmé yo dho. alcalde mayor á una

con los testigos de mi asistencia con quienes autuo á falta de escribanos que no los hay en este Reino, en dho. dia, mes y año. Doi feé,
BARTHOLOME FERNANDEZ.

To. : MIGUEL THENORIO DE ALBA.

To. : BARTHOLOME FERNANDEZ DE LA PEDRERA.

Concuenda con su original que queda en el archivo de gobierno de la villa de Santa Fé donde Yo, Dn. Bartholome Fernandez, alcalde mayor y cappn. á guerra, de Santo Domingo y Zio, y su jurisdiccion lo ise sacar á la letroba fiel correjido y concertado y al verlo sacar fueron testigos los de mi assistencia con quienes autuo á falta de escribanos que no los ai en este Reyno. Doi feé.

Pongo mi firma y rubrica acostumbrada.

BARTHOLOME FERNANDEZ.

To. : MIGUEL THENORIO DE ALBA.

To. : BARTOLOME FERNANDEZ DE LA PEDRERO.

LETTER OF TRANSMITTAL.

SANTA FÉ, N. MEX, July 27, 1871.

HON. T. RUSH SPENCER,
Surveyor-General :

SIR : Inclosed please find title and transfer of title to Juan Antonio Cabeza de Baca to the grant of lands called Ojo de Borrego, situate in Santa Ana County, New Mexico. The inclosed petition is for the heirs of Juan Antonio Cabeza de Baca, present owners of the grant, who now present it for confirmation by you as valid and bona fide title, and ask that it be remitted to Congress for confirmation.

Yours, respectfully,

JOHN S. WATTS,
Attorney for heirs of Juan Antonio Cabeza de Baca.

NOTICE OF CLAIMANTS.

UNITED STATES OF AMERICA,
Territory of New Mexico, County of Santa Fé.

To the Hon. T. RUSH SPENCER,
Surveyor-General of the Territory of New Mexico :

Your petitioners, the heirs and legal representatives of Juan Antonio Cabeza de Baca, would respectfully state, that on the 6th day of May, 1766, one Felipe Sandoval Fernandez, being the owner by purchase from Lucas Manuel de Alcalá of a ranch of summer pasturage for stock situate between the pueblo of Cochiti and Santo Domingo, and bounded as follows: On the north by the old pueblo of Cochiti, which is in the mountain; on the south by a spring of water, which is in the ravine which comes down to the little house called de Cubero; on the west by the road which comes down from Jemez to San Felipe, and on the east by the land of said pueblo, sold the same to one Nerio Antonio Montoya.

Your petitioners further state that on the 24th day of January, 1834, the said Nerio Antonio Montoya, the owner of said grant, sold, transferred and conveyed to said Juan Antonio Cabeza de Baca, meaning said land, for the sum of \$300 in money, which facts will more fully appear by reference to said conveyance of Felipe de Sandoval Fernandez to said Nerio Antonio Montoya, and of Nerio Antonio Montoya to Juan

Antonio Cabeza de Baca, hereby made a part of this petition and marked as Exhibit A, herein.

Your petitioners would further state that said land is situate in Santa Ana County, New Mexico, and being hilly and distant from water for irrigation is unsuited for cultivation and only fit for pasturage, wood and timber, and as no survey has been made, the quantity of land contained in said grant cannot be stated, but the landmarks specified in said title papers are well known and easily identified.

Your petitioners would further state that, in January, 1834, after the said purchase of said lands by the said Juan Antonio Cabeza de Baca, he took possession of said lands, and he and his descendants occupied and possessed, and claimed said lands, and still occupy, claim, and possess said lands for the purpose of pasture for their stock, and for fuel and timber for the use of their houses in Peña Blanca, a few leagues distant from said lands.

Your petitioners would further state that, so far as actual residence upon said lands is concerned, there is no one residing on said lands, and so far as known to your petitioners, no legal or valid adverse title exists to said lands known to your petitioners.

Your petitioners would further state that the said Juan Antonio Cabeza de Baca departed this life in the year 1835, leaving him surviving the following heirs and legal representatives, being children and their descendants of the said Juan Antonio Cabeza de Baca, to wit: Jesus Maria Baca, Thomas Cabeza de Baca, Incarnation Baca, Cesario Baca, Domingo Baca, Jose Baca, Josefa Baca, Altagracia Baca, Nicolosa Baca, Tonias de Dolores Baca, y Trinidad Baca.

Your petitioners would further state that the said Cesario Baca intermarried with one Jesus Maria Silba, but is now dead, and left her surviving the following children as her heirs: Francisco Silba, Isabel Silba, Jesus Maria Silba, Beneto Silba, and Manuel Silba.

Your petitioners would further state that Domingo Baca is also dead, and left him surviving the following children: Isabel Baca, David Baca, Santiago Baca, and Eulalia Baca.

Your petitioners would further state that said Nicolasa Baca intermarried with one Tomas Salazar, and has died, leaving her surviving the following children: Eliza Salazar, Refugio Salazar, and Caria Salazar.

Your petitioners would further state that it is over one hundred years since this grant was originally made by the King of Spain to this land, and it has been inherited, purchased, and sold for over a hundred years as private property as the archives of the Territory will attest.

Your petitioners further state that they have a perfect and complete valid title to said property, protected by the laws of nations, by the Treaty of Guadalupe Hidalgo, and the decisions of the Supreme Court, and they ask that their said title to said lands be investigated by the surveyor-general of New Mexico, under the 8th section of the act of Congress of 22d July, 1854, and, if found bona fide, to recommend to Congress for confirmation, in order that it may be surveyed and patented to your petitioners "the same as if it belonged to citizens of the United States."

Your petitioners would further ask that Congress be requested on the confirmation of this title, that it be surveyed and patented to them at the expense of the United States, in order that the 8th article of the Treaty of Guadalupe Hidalgo may not be violated by imposing such a tax and contribution upon said petitioners, as the citizens of the United States who purchase and pay for land of the government are not required to pay to obtain the final evidence of title to their lands.

Your petitioners further state that it is impossible to present a map of said lands with any accuracy until a survey is made, which cannot be done until after confirmation, without incurring a double expense of making two surveys.

Your petitioners further state that they present herewith a sworn translation of the title papers in this case, and ask that all the original title papers and conveyance in the archives in the possession of the surveyor-general of New Mexico be used in support of the title of your petitioners. All of which is respectfully submitted.

JOHN S. WATTS,
Attorney for Claimants.

AMENDED PETITION.—OJO DE BORREGO TRACT.

TERRITORY OF NEW MEXICO,
County of Santa Fé:

To the Hon. T. RUSH SPENCER,
Surveyor-General of New Mexico:

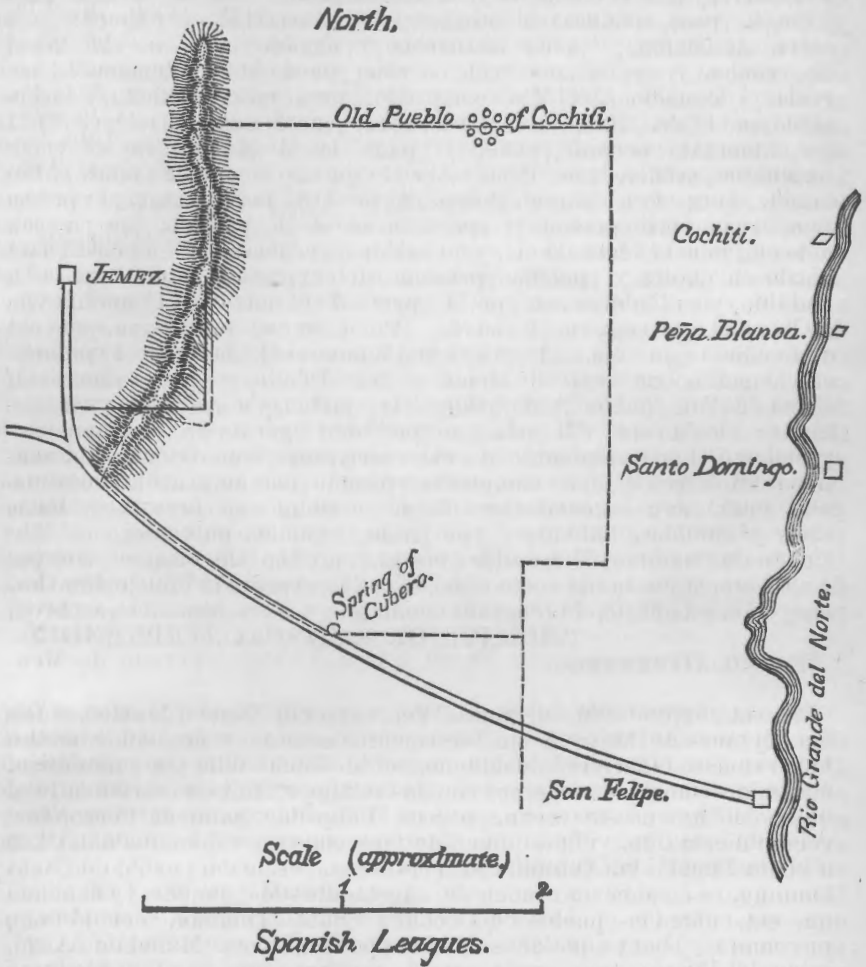
Your petitioners, the heirs at law of Don Luis Maria Cabeza de Baca, have filed a petition for the confirmation of title to a grant in Santa Ana County, which was derived by purchase of said Luis Maria Baca from one Nerio Antonio Montoya by transfer under purchase.

Your petitioners would further state that since the filing of said petition it has come to the knowledge of said heirs and their attorney that the original grant to Nerio Antonio Montoya is on file in the archives now in the possession of the surveyor-general, being No. 110, Index No. 583, which grant was made March 7, 1768, by Pedro Fermin de Mendinueta.

Your petitioners ask that said grant be considered as a portion of the title papers in this case, and that a copy of the same be filed with the papers in this case, and that due proof be allowed as to the existence of this document in the archives of your office as a chain in the title of your petitioners, derived by purchase from the original grantee, Nerio Antonio Montoya to the grant known as the Ojo del Borrego. All of which is respectfully submitted.

JOHN S. WATTS,
Attorney for Heirs of Louis Maria C. de Baca.

Sketch map of Ojo de Borrego grant.



No survey of grant having been made, the above is only an idea of the grant made from statements of persons who have been in that locality, and is not considered accurate.

En esta capital villa de Santa Fee, Reyno del Nuevo Mejico en seis dias de el mes de Mayo de mil setecientos sesenta y siete años, ante mi Don Francisco Guerrero, alcalde mayor de dha. villa y su jurisdicion, autuando como juez receptor con dos testigos, á falta de escribano Rl. que no le hay en este Reyno, farecio Phelipe de Sandoval Fernandez, vesino de esta dha. villa, á quien doi fé conosco y dijo, que dava y dio en venta Real á Dn. Antonio Nerio Montoya, vesino del pueblo de Santo Domingo, es ba saver un rancho de agostader de ganados y caballada que esta entre los pueblos de Cochiti y Santo Domingo, el cual lo uvo por compra y venta que del se le hizo por Dn. Lucas Manuel de Alcalá, vesino El Passo, como consta por la escriptura que á su favor le otorgo el dho. Dn. Lucas. Y que ahora se lo da y

vende á el dho. Montoya, por la cantidad de doscientos y cinqu. pesos de la tierra, y á sus conientes, y la expresada cantidad de los doscientos y cinqu. pesos, confiesa el otorgante la ha recibido cavalmte á su entera satisfacion, y quedo satisfecho, y pagado, y que no vale mas el dho. rancho, y que si mas vale, ó valer pueda de la demacia le hace gracia y donacion á el dho. comprador, pura, mera perfecta, é irrebo-cable que el dro. llama intervivos, sobre que renuncia las leyes de la non numerata pecunia, pruebo y paga, las de duobus res de vendit i autentica preficte, luso ribus, sobre lo que no le pondra pleito, ni demanda, ahora ni en ningun tiempo, ni por si ni por su mujer, ni por sus hijos, ni por otra persona, y que si acaso se lo pusieren, que no sean oidos en juicio ni fuera de el, y que saldra á lo demanda á su costa hasta dejarlo en quieta y pacifico posesion del expresado rancho que le ha vendido, y sus linderos son por la parte de el norte con el pueblo viejo de Chochiti que esta en la sierra. Por el sur un ojo de agua que esta en la cañada que vaja á la casita que llaman de Cubero, por el poniente con el camino que vaja de Jemez á San Phelipe, y por el oriente con tierras de dho. pueblo, y da poder á las justicias de su Magd. y en particular á los de esta villa para que por todo rigor de dro. le compelan y apremien á el cumplimiento de esta escriptura como si fuera por sentencia difinitiva de juez competente pasada, con autoridad de cosa juzgada, para cuyo saneamiento obliga, y obligo su persona, y bienes raises y muebles, habidos y por haber, todo lo cual otorgo el dho. Phelipe de Sandoval Fernandez por ante mi dho. alee. mayor y testigos de asistencia autuande como dho. es, en la expresada villa, en dho. dia, mes y año, y lo firmó el otorgante conmigo, y los testigos de que doy fé.

PHELIPE DE SANDOBAL FERNANDEZ.

FRANCO. GUERRERO.

En esta capital villa de Santa Fé, reyno del Nuevo Mexico, en seis dias del mes de Mayo de mil setecientos sesenta y siete años, ante mi Dn. Francisco Guerrero, alcalde mayor de dicha villa y su jurisdiccion, autuando como juez receptor con dos testigos á falta de escribano Real que no lo hay en este reyno, parecio Felipe de Sandoval Fernandez, vecino de esta dha. villa á quien doy fé conosco y dijo, que daba y dio en benta Real á Dn. Antonio Nerio Montoya, vesino del pueblo de Santo Domingo, es á saber un rancho de agostadero de ganados y caballada que esta entre los pueblos de Cochiti y Santo Domingo, el cual lo ubo por compra y benta que del se de hiso por Dn. Lucas Manuel de Alcalá, vesino del Passo, como consta por la escriptura que á su favor le otorgó el dho. Dn. Lucas y que ahora se lo da y bende á dho. Montoya por la cantidad de doscientos y cincuenta pesos de la tierra y sus corrientes y la expresada cantidad de los doscientos y cincuenta pesos confiesa el otorgante lo ha recibido cabalmente á su entera satisfacion y quedo satisfecho y pagado y que no vale mas el dho. rancho y que si mas vale ó valer pueda de la demasia le hace gracia y donacion al dho. comprador, pura, mesa perfecta irrebo-cable que el derecho llama intervivos, sobre que renuncia las leyes de la non numerata pecunia prueba y paga la duobus res de vendit i autentica preficte insoritus sobre lo que no se pondra pleito ni demanda ahora ni en ningun tiempo ni por si ni por su mujer ni por sus hijos ni por otra persona y que si acaso se le pusiere que no sean vidos en juicio ni fuera de el y que saldra á la demanda á su costa hasta dejarlo en quieta y pacifica posesion del expresado rancho que le ha vendido y sus linderos son por la parte del norte con el pueblo viejo de Cochiti que esta en la sierra, por el sur un ojo de agua que esta en la cañada que baja á la casita que llaman de Cubero, por el poniente

con el camino que baja de Jemes á San Felipe y por el oriente con la tierra de dho. pueblo. Y da poder á las justicias de S. M. S. y en particular á las de esta villa para que por todo rigor de dro. le compelan y apremien á el cumplimiento de esta escritura como si fuera por sentencia definitiva de juez competente pasada con autoridad de cosa juzgada, cuyo saneamiento obliga y obligó su persona y bienes raices y muebles habidos y por haber. Todo lo cual otorgo el dho. Felipe de Sandoval Fernandez por ante mi dho. alcalde mayor y testigos de asistencia, autuando como dho. es, en la expresada villa en dho. dia, mes y año, y lo firmó el otorgante con migo y los testigos de que doy fé.

FELIPE DE SANDOVAL FERNANDEZ.

FRANCISCO GUERRERO.

JUAN FRANCISCO NIÑO LADRON DE GUEVARA.

JOSÉ MIGUEL DE LA PEÑA.

Se saco testimonio para la parte y la rubriqué.

Concuerta con su orjinal de donde, yo Dn. Francisco Guerrero, lo hise trasuntar á la letra y ba cierto, verdadero corregido y concertado y corresponde con su original á que me refiero, y se hallaron presentes á lo verlo sacar los mismos testigos y se sacó á pedimento de la parte quedando su original en el archivo de esta goveron. y ba en dos ojas de papel util ordinario por no correr el sellado en estas partes. Y para que conste lo firme yo dho. alcalde mayor, á una con los testigos autuando como dho. es y en la expresada villa y en dho. dia, mes y año de que doy fé. En testimonio de verdad hago mi firma.

FRANCISCO GUERRERO.

JOSEF MIGL. DE LA PEÑA.

JUAN FRANCISCO NIÑO LADRON DE GUEVARA.

Hoy 24 de Henero de 1834 hise benta de todos los dros. que tengo en el anterior documento á Dn. Juan Antonia Cabeza, por el precio de 300 ps. en dinero qe. recebi de dho. Sor., y en virtud de que ninguna persona podrá ponerle pleito por ser de mi propiedad todo el sitio que en sierra este documento, le doy el presente traspaso en presencia de dos testigos en la Peña Blanca y en fecha que queda expresada.

NEREOO ANTO. MONTOYA.

To.: JUAN IGNACIO SALAS.

LUCIANO PADILLA.

To.: JUAN FRANCO. NIÑO LADRON DE GUEVARA.

JOSEPH MIGL. DE LA PEÑO.

En este puesto de San Carlos de la Alameda en cinco dillas del mes de Sbre. de 1812 años, ante mi Dn. Cleto de Miera y Pacheco, alcalde mayor de dha. jurisdiccion y sus partidos parecieron presentes Eusebio Rael y Dn. Luis Maria Baca, á quienes doy fe y conosco, y dijo dicho Eusebio Rael que otorga, que vende y con efecto bendio en venta Rial, al referido Dn. Luis Baca, huma ancion y derecho á la tierra que le correspondia á su esposa Donia Rosa Montoya en el citio y rancho del ojo de Borrega la que le correspondilla por osencia de su difunto padre Dn. Nerio Montolla, sujetandose dicho Dn. Luis Baca á la merced qe. pa. en dichos herederos para gosar de lo que le corresponda como á uno de los mismos herederos, cuya tierra ancion y derecho se la bendio con permiso de su esposa y de sus hijos, que le dio por el precio y cantidad de una llunta de buelles y dos toros cuya cantidad confiesa dho. Eusebio Rael haberla recibido á todo su satisfacion y coneuyo cantidad se da por contento, pagado y satisfecho, y si mas bale dicha tierra ó bales pueda de la demasia le hace

gracia y donacion della, pura, mesa perfecta, irrevocable que el derecho llama intervivas sobre que renuncia dicho vendedor su propio fuero, domicilio y becindad que á dichas tierras tenia y las leyes de la non numerata pecunia, prueba y paga y de la de mancomunidad que abla sobre la mitad del justo precio y se lo da libre de todo senso y otra hipoteca para que pueda venderlas ó cambiarlas á la persona que fuere su boluntad como propios suyas qe. son y qe. las gose por si, sus hijos, herederos y sucesores sin que pa. ello le sea puesto pleito ni demanda alguna por el susodicho, ni sus hijos, ni sucesores y si acaso se lo pusieren que no sean oidos en juicio ni fuera de el y dio poder cuanto por derecho se requiere á las reales justicias de su Magestad sin el que por si tienen para que por todo rigor de derecho lo conpelan y apremien á su cumplimiento como si fuere por sentencia difinitiva dada por juez competente, consentida y no apelada y al caneamiento de esta escritura obliga el referido Eusebio Rl. su persona y bienes muebles y raices abidos y por haber y como Rl. bendedor renuncia todas cuantas leyes alegar puedan á su favor. Asi lo otorgo el referido Eusebio Rael ante mi, dho. alcalde mayor y los testigos de mi asista. con quienes autuo pr. resetono á falta de escribano publico ni Rial que no lo hay de ninguna clase en esta gobernacion, y ba en papel comun por no haber del sellado en la autualidad, de que doy fé.

EUSEBIO RAEL.

Juez Recetor:

CLETO MIERA Y PACHECO.

Acia.: JOSÉ CAYETANO PROVENCIO.

[Claimant's translation.]

Year 1768.

LAND GRANT MADE TO NERIO ANTONIO MONTOYA.

His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

I, Nerio Antonio Montoya, resident of the pueblo of Cochiti, appear before your excellency in due legal form, and state:

SIR: Whereas I am living upon the ranch of my father-in-law, José Miguel de la Peña, who is situated between the pueblos of Santa Domingo and Cochiti, and his premises being so limited that I cannot keep a herd of mares and a few cattle, sheep, &c., which I have, and in order not to injure the said pueblos in their planting lands, I deemed it well to purchase from Felipe Sandoval, a soldier of this garrison, a stock ranch, which he had from the heirs of Diego Basquez Borrego, who lived for many years at a spring of water which on that account is commonly called Borrego's Spring; and this said deceased always asserted that he had purchased the same from Diego Gallegos, deceased, to whom, according to report, the whole of the said tract was always recognized as belonging; and whereas the said Diego Gallego never executed any instrument whatever to the said Borrego, so as to show the sale made by him to the latter, whereby fraud in the vendor might be inferred should it be that an instrument was executed, or in the said Borrego, who, without any title, held the ranch for so many years and declared the same to be his property in a clause in his will, on which basis the heirs sold to the said Sandoval, the party as before stated, from whom I purchased; and now neither the said Diego Gallego could sell nor the said Borrego purchase, for it is established that the said spring is public land by the

grant then made to the said Diego Gallegos, which grant is in possession of the community of the pueblo of Santo Domingo, as will appear to your excellency from that grant to which I make reference, and which grant the said Indians had by purchase from the widow and heirs of the said Gallego; in view of which, and as I am now pasturing my mares and cows upon the said tract, for the reasons aforesaid, and it being certain that the tract is public land and that up to this time those who have lived upon it have met with no objection whatever thereto, and having registered the same, and knowing that from the said spring I can support what God has been pleased to give me, and that it will not injure any person, it being between the Cochiti Mountains and the Jemez Mountains, quite distant from the said pueblos, as will appear to your excellency from the chief alcalde of the said pueblo, Bartolome Fernandez, and being as I have stated.

I ask and pray that your excellency be pleased to make me a grant to the said tract in the name of his majesty (whom may God preserve), including the said spring; and should it be granted me, the boundaries will be—on the east, the boundary of the grant to said Indians; on the west, a table-land running from north to south, and fronting towards Jemez; on the north, a small spring of water running towards the north; and on the south, the same grant of the said Indians, where, if the said grant is made to me, I will place a firm and permanent landmark; also at the other boundaries, should your excellency not designate the same ones at the time of the grant.

Whereby I will receive benefit and favor, I, my children, heirs, and successors; and I declare not to act in dissimulation, &c.

NERIO ANTONIO MONTOYA.

SANTE FÉ, *March 4, 1768.*

Bartolome Fernandez, chief alcalde for the pueblo of the Queres Indians, will report whether the lands for a grant to which Nerio Antonio Montoya prays is royal domain, and whether the granting of the same to him would work any injury to any one of the pueblos of Santo Domingo, Cochiti, and Jemez, or to any other party; and will also report what distance the boundaries cited embrace on the respective courses, so as, in view of the report, to provide accordingly.

MENDINUETA.

His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

Responding to the questions submitted to me by your excellency in the foregoing decree, I reply—

That the land applied for by Nerio Antonio Montoya is royal domain, and that from the granting thereof there cannot result any injury either to the pueblos or to any individual by designating to him as boundary—on the east, where land purchased by the Indians of the pueblo of Santo Domingo lies; on the west, a small table-land where the Jemez road and the Zia road towards Cochiti come together; on the south, the said Jemez road; and on the north the side of the Sierra del Valle Mountain; which distances embrace, from north to south, somewhat exceeding two leagues, and from east to west somewhat exceeding two leagues. In view of which report your excellency will act as he may deem proper, and I have therefore signed, this seventh day of March, in the year one thousand seven hundred and sixty-eight.

BARTOLOME FERNANDEZ.

At this town of Santa Fé, on the seventh day of the month of March, in the year seventeen hundred and sixty-eight, in view of the foregoing petition presented by the party therein named, and of the report which at the end of my decree of the fourth of the same month and year is made to me by Bartolome Fernandez, chief alcalde and war captain of the pueblos of the Queres Indians, and considering that it is the will of the king our sovereign that his lands be settled and that his subjects augment their wealth, I, Pedro Fermin de Mendinueta, of the order of Santiago, colonel in the royal armies, and governor and captain-general of this province, declared that I would make, and I do make, to Nerio Antonio Montoya, in the name of his majesty (whom God preserve), the grant to the land for which he prays for the pasturage of his live stock for himself, his children, and heirs, without prejudice to others having a better title, under the condition that he settle the land within the term fixed by law, and that he do not sell or alienate the same to any ecclesiastical person. And the boundaries of this land so by me granted will be the same and have the same distances contemplated in the report referred to and no more. And to the end that the said Nerio Antonio Montoya may take possession of the land, I confer authority ample and such as is by the law required upon the said chief alcalde, Bartolome Fernandez, to proceed, after summoning the adjoining settlers, to give the possession, and there appearing no objection from any legal party, he will give the same in the customary manner, and will also issue a duplicate of the whole, should the grantee request it, to be to him a sufficient title, and will return the original papers to be filed among the government archives. And this I have provided, commanded, and signed, with the undersigned my attending witnesses for lack of notaries, of which there are none of any kind in this governmental jurisdiction.

PEDRO FERMIN DE MENDINUETA.

MATEO DE PEÑAREDONDA.

ANTONIO MORETA.

At this place, San Antonio, on the twentieth day of the month of March, year one thousand seven hundred and sixty-eight, I, Bartolome Fernandez, chief alcalde and war captain of the pueblo of Queres Indians, by virtue of the appointment conferred on me by his excellency Pedro Fermin de Mendinueta, of the order of Santiago, colonel in the royal armies and governor and captain-general of this province of New Mexico, being at the said place, having summoned the natives of the pueblo of Santo Domingo who are the adjoining occupants to the said land, they having purchased from Diego Gallego, and having ordered them to erect landmarks on their lines, and I being satisfied with the same, in view of which and there not resulting any injury, I pointed out to Nerio Antonio Montoya the boundaries above specified and granted by his excellency the governor, embracing the same land contemplated in my report, and on which I directed him to place firm and permanent landmarks, and I notified him of the conditions above prescribed, and he being fully advised in the premises, I took him by the hand and led him over the said land, and he plucked up grass and cast stones towards the four cardinal points, and we all shouted once and thrice, "Long live the King our sovereign, and may God preserve him," in sign of actual possession into which I placed him, and upon which he entered quietly and peaceable and without objection. And that it may so appear, I, the said chief alcalde, have signed this together with two attending witnesses, with

whom I act for lack of notaries, of which there are none in this province, on the said day, month, and year, to which I certify.

BARTOLOME FERNANDEZ.

Witness:

MIGUEL TENORIO DE ALBA.

Witness:

BARTOLOME FERNANDEZ DE LA PEDRERA.

At the capital, the city of Santa Fé, province of New Mexico, on the sixth day of the month of May, in the year seventeen hundred and sixty-seven, before me, Francisco Guerrero, chief alcalde of the said city and its jurisdiction, acting under appointment with two witnesses for want of a royal notary, there being none in this province, came Felipe Sandoval Fernandez, resident of this said city, whom I know and accredit, and who declared that he would sell, and sells in genuine sale, to Antonio Nerio Montoya, resident of the pueblo Santo Domingo, as follows: one ranch for the summer pasturing of live stock, situated between the pueblos of Cochiti and Santo Domingo, which ranch he held by purchase, and the sale thereof made to him by Lucas Manuel Alcala, resident of El Pasa, as appears from the document, executed to him by the said Lucas, and that he now delivers and sells the same to the said Montoya for the sum of two hundred and fifty dollars in current money, and its equivalent, and the said sum of two hundred and fifty dollars the maker hereof acknowledges to have received in full and to his satisfaction, and has satisfied and paid, and that the said ranch is not worth more, and that should it or could it be worth more, he makes gift and donation of the excess to the said purchaser, full, complete, perfect, and irrevocable, termed by the law *intervivos*, and furthermore renounces the law of *non numerata pecunia*, proof and payment, and the laws of "*duobus res*," of *vendit i autentica pre fide iusaribus*, and furthermore, that no suit or complaint shall be brought against him now or at any time, by himself, his wife, nor his children, nor by any other persons; but that should it be done by them let them not be heard in court, nor out of court, and that he will, at his own expense, defend in the suit, until he leaves the vendee in peaceable possession of the said ranch, the same sold to him; and its boundaries are: on the north the old pueblo of Cochiti, situated upon the mountains; on the south, a spring of water in the Cañada, running down to the little cubero house, so-called; on the west, the road running from Jemez to San Felipe; and on the east, the land of the said pueblo; and he empowers the courts of His Majesty, and especially those of this city, to compel and enforce him, with all the vigor of the law, to the fulfillment of this instrument, as if by final judgment of a competent justice rendered after trial, and for the security of all which he binds and has bound his person, and his present and future real and personal estate.

All of which the said Felipe de Sandoval Fernandez covenanted before me, the said chief alcalde, acting as aforesaid, and attending witnesses, at the city aforesaid, in the said day, month and year, and the vendor signed with me and the witnesses, to which I certify.

FELIPE DE SANDOVAL FERNANDEZ.
FRANCISCO GUERRERO.

Witnesses:

JUAN FRANCISCO NIÑO LADRON DE GUERRARA.

JOSÉ MIGUEL DE LA PEÑA.

A duplicate was made for the party, and I rubric this. (Guerrero's rubric.)

[Translation of title papers.]

At the town of San Carlos de la Alameda, on the fifth day of September of the year 1812, before me, Cleto de Miera y Pacheco, chief alcalde of said jurisdiction and its dependencies, personally appeared Eusebio Rael and Luis Ma. Baca, whom I certify that I know; and said Eusebio Rael stated that he sells and in effect has sold by legal conveyance to the said Luis Baca, a share and right in the land which belonged to his wife, Doña Rosa Montoya, in the tract and rancho of the Ojo de Borrego, which fell to her by inheritance from her deceased father, Nerio Montoya, said Luis Baca taking place in the grant belonging to said heirs in order to enjoy that which falls to him as one of said heirs; which land, share, and right he sold with the permission of his wife and their children; that he sold it for the price and consideration of one yoke of oxen and two bulls, which consideration the said Eusebio Rael acknowledges to have received to his entire satisfaction, and with which consideration he declares himself content, paid, and satisfied; and if said land may or can be worth more, he makes him a gift and donation of it pure, complete, perfect, and irrevocable, termed in the law *inter vivos*, said vendor further renouncing his proper rights of domicil and citizenship which he has in said lands, and the laws of *non numerata pecunia*, he proves and pays, also that of partnerships concerning half of the just price; and he gives it free from all quitrent or other mortgage, that he may exchange or sell it to any person he may wish, as his own which it is, and that he may enjoy it for himself, his children, heirs, and successors, without having any suit or demand brought against him by the aforesaid, his heirs, and successors, and if by chance any should be they may not be heard in court or out of it, and he gives all legal power to the royal tribunals of His Majesty, if not already in their prerogative, that with all the rigor of the law they oblige and compel him to carry it out, as though by express decree given by a competent judge, confessed and not appealed, and to the fulfillment of this instrument the said Eusebio Rael binds his person, and real and personal property, present and future, and as actual vendor he renounces all laws whatever that stand in his favor: so the said Eusebio Rael executed it, before me, said chief alcalde, and my attending witnesses with whom I officiate as special justice, in the absence of a public or royal notary, there being none of any kind in this province; and it is given on ordinary paper, there being none stamped at hand, to which I certify.

EUSEBIO RAEL.

Special justice:

CLETO MIERA Y PACHECO.

Attending:

JOSE CAYETANO PROVENCIO.

I do solemnly swear that the above is a true and correct translation from the original Spanish to the best of my knowledge and belief.

J. H. WATTS.

Sworn to and subscribed before me this 6th April, 1872.

[SEAL.]

SAM'L ELLISON,

Clerk Probate Court.

[Translation of title papers.]

Copy—title papers.

In this city of Santa Fé, capital of the kingdom of New Mexico, on the sixth day of the month of May, seventeen hundred and sixty-six, before me, Francisco Guerrero, chief alcalde of said city and its jurisdiction, officiating as special judge, with two witnesses in the absence of a royal notary, there being none in this kingdom, appeared Felipe de Sandoval Fernandez, citizen of this city, whom I certify that I know, and stated that he sells and has sold to Antonio Nerio Montoya, resident of the pueblo of Santo Domingo, to wit, a ranch of summer pasturage for stock, which is between the pueblos of Cochiti and Santo Domingo, which he had by purchase and sale made to him by Lucas Manuel de Alcalá, resident of El Paso, as appears from the conveyance made in his favor by said Lucas, and which now he gives and sells to said Montoya, for the sum of two hundred and fifty dollars current money, which sum of two hundred and fifty dollars the vendor acknowledges to have received in full and to his entire satisfaction, and that he is satisfied and paid, and that said ranch is not worth more, but if it may or can be worth more, he makes a gift and donation of it to said purchaser, pure, complete, perfect, and irrevocable, termed in the law *intervivos*; further that he renounces the laws of *non numerata pecunia*; proves and pays that of *duobus res de vendit i autentica pre fide insoribus*; further that he will not bring suit or demand, now or at any time, neither himself, nor his wife, nor his children, nor by any other person, and if by chance any should be brought, that they may not be heard in court or out of it, and that he will meet the demand at his cost until he is left in quiet and peaceable possession of the said ranch, which he has surrendered to him; and its boundaries are, on the north by the old pueblo of Cochiti, which is in the mountain; on the south, a spring of water, which is in the ravine which comes down to the little house called *de cubero*; on the west, by the road which comes down from Jemez to San Felipe; and on the east by the land of said pueblo. And he empowers the courts of His Sovereign Majesty, and particularly those of this city, that with all the force of law they compel and oblige him to fulfill this indenture, as though by express decree of a competent judge judicially issued by authority, for the performance of which he binds and has bound his person and property, real and personal, present and future. All of which the said Felipe de Sandoval Fernandez executed before me, said chief alcalde, and attending witnesses, officiating as aforesaid, in said city, said day, month, and year, and the said vendor signed it with me and the witnesses. To which I certify.

FELIPE DE SANDOVAL FERNANDEZ
FRAN'CO GUERRERO.

JUAN FRAN'CO NIÑO LADRON DE GUEBARA.

JOSÉ MIGUEL DE LA PEÑA.

Agrees with its original, from which I, Fran'co Guerrero, caused it to be copied to a letter, and it is certain, true, correct, and adjusted, and agrees with its original, to which I refer, and the same witnesses were present when it was taken, and it was made by request of the party, the original remaining in the archives of this government, and it is written upon two sheets of ordinary paper, there being none of the stamped in these parts; and in order that it may so appear, I, said chief alcalde,

signed it with the witnesses officiating as aforesaid, in the city mentioned, and on said day, month, and year. To which I certify.

FRANCISCO GUERRERO.

JOSÉ MIGUEL DE LA PEÑA.

JUAN FRAN'CO NIÑA LADRON DE GUEVARA.

This 24th day of January, 1834, I sold all the rights which I have in the foregoing document to Juan Antonio Cabesa for the sum of \$300 in money, which I received from said gentleman, and in effect that no person may bring suit against him because the entire tract embraced in this document is my property, and I make him the present conveyance in the presence of two witnesses, at Peña Blanca, and on the date above written.

NERIO ANT'O MONTOYA.

Witness: JUAN YGNACIO SALAS.

Witness: LUCIANO PADIYA.

I do solemnly swear that the above is a true and correct translation of its original Spanish to the best of my knowledge and belief.

J. H. WATTS.

Sworn to and subscribed before me this 6th April, 1872.

[SEAL.]

SAM'L ELLISON,
Clerk Probate Court.

[Official translation.]

Year 1768.

LAND GRANT MADE TO NERIO ANTONIO MONTOYA.

His Excellency the GOVERNOR AND CAPTAIN GENERAL :

I, Nerio Antonio Montoya, resident of the pueblo of Cochiti, appear before your excellency in due legal form, and state :

SIR: Whereas I am living upon the ranch of my father-in-law, José Miguel de la Peña, who is situated between the pueblos of Santo Domingo and Cochiti, and his premises being so limited that I cannot keep a herd of mares and a few cattle, sheep, &c., which I have, and in order not to injure the said pueblos in their planting lands, I deemed it well to purchase from Felipe Sandoval, a soldier of this garrison, a stock ranch, which he had from the heirs of Diego Basquez Borrego, who lived for many years at a spring of water, which on that account is commonly called Borrego's Spring; and this said deceased always asserted that he had purchased the same from Diego Gallego, deceased, to whom, according to report, the whole of the said tract was always recognized as belonging; and whereas the said Diego Gallego never executed any instrument whatever to the said Borrego, so as to show the sale made by him to the latter, whereby fraud in the vendor might be inferred should it be that an instrument was executed, or in the said Borrego, who, without any title, held the ranch for so many years and declared the same to be his property in a clause of his will, on which basis the heirs sold to the said Sandoval, the party, as before stated, from whom I purchased, and now, neither the said Diego Gallego could sell, nor the said Borrego purchase, for it is established that the said spring is public land by the grant then made to the said Diego Gallego, which grant is in possession of the community of the pueblo of Santo Domingo, as will appear to your excellency from that grant, to which I make reference, and which

grant the said Indians had by purchase from the widow and heirs of the said Gallego; in view of which, and as I am now pasturing my mares and cows upon the said tract, for the reasons aforesaid, and it being certain that the tract is public land, and that up to this time those who have lived upon it have met with no objection whatever thereto, and having registered the same, and knowing that from the said spring I can support what God has been pleased to give me, and that it will not injure any person, it being between the Cochiti Mountain and the Jemez Mountain, quite distant from the said pueblos, as will appear to your excellency from the chief alcalde of the said pueblos, Bartolome Fernandez, and being as I have stated:

I ask and pray that your excellency be pleased to make me a grant to the said tract, in the name of His Majesty (whom may God preserve), including the said spring; and should it be granted me the boundaries will be, on the east the boundaries of the grant to the said Indians; on the west a table-land running from north to south and fronting towards Jemez; on the north a small spring of water running towards the north; and on the south the same grant of the said Indians, where, if the grant is made to me, I will place a firm and permanent landmark; also at the other boundaries, should your excellency not designate the same ones at the time of the grant.

Whereby I will receive benefit and favor, I, my children, heirs, and successors, and I declare not to act in dissimulation, &c.

NERIO ANTONIO MONTOYA.

VILLAGE OF SANTA FÉ, *March 4, 1768.*

Bartolome Fernandez, chief alcalde for the pueblos of the Queras Indians, will report whether the land for a grant to which Nerio Antonio Montoya prays is royal domain, and whether the granting of the same to him would work any injury to any one of the three pueblos of Santo Domingo, Cochiti, and Jemez, or to any other party; and will also report what distance the boundaries he cites embrace on the respective courses, so as in view of the report to provide accordingly.

MENDINUETA.

His Excellency the GOVERNOR AND CAPTAIN GENERAL:

Responding to the questions submitted to me by your excellency in the foregoing decree, I reply:

That the land applied for by Nerio Antonio Montoya is royal domain, and that from the granting thereof there cannot result any injury, either to the pueblos or to any individual, by designating to him as a boundary on the east where lands purchased by the Indians of the pueblo of Santo Domingo adjoin; on the west a small table-land where the Jemez road and the Zia road towards Cochiti come together; on the south the said Jemez road; and on the north the side of the Valle Mountain; which distance embraces from north to south somewhat exceeding two leagues, and from east to west somewhat less than two leagues.

In view of which report your excellency will act as he may deem proper, and I have therefore signed this the seventh day of March, in the year one thousand seven hundred and sixty-eight.

BARTOLOME FERNANDEZ.

At this town of Santa Fé, on the seventh day of the month of March, in the year seventeen hundred and sixty-eight, in view of the foregoing

petition presented by the party therein named, and of the report which at the end of my decree of the fourth of the same month and year is made to me by Bartolome Fernandez, chief alcalde and war captain of the pueblos of the Queres tribe, and considering that it is the will of the king our sovereign that his lands be settled, and that his subjects augment their wealth, I, Pedro Fermin de Mendinueta, of the order of Santiago, colonel in the royal armies, and governor and captain-general of this province, declared that I would make, and I do make, to Nerio Antonio Montoya, in the name of His Majesty (whom God preserve), the grant to the land for which he prays, for the pasturage of his live stock, for himself, his children and heirs, without prejudice to others having a better title, under the condition that he settle the land within the term fixed by law, and that he do not sell or alienate the same to any ecclesiastical person.

And the boundaries of this land so by me granted will be the same and have the same distances contemplated in the report referred to and no more.

And to the end that the said Nerio Antonio Montoya may take possession of the same, I confer authority, ample and such as is by law required, upon the said chief alcalde, Bartolome Fernandez, to proceed, after summoning the adjoining settlers, to give the possession, and there appearing no objection from any legal party, he will give same in the customary manner, and will also issue a duplicate of the whole, should the grantee request it, to be to him a sufficient title, and will return the original papers to be filed among the government archives.

And thus I provided, commanded, and signed, with the, undersigned, my attending witnesses, for lack of notaries, of which there are none of any kind in this jurisdiction.

PEDRO FERMIN DE MENDINUETA.

MATEO DE PEÑAREDONDA.

ANTONIO MORETA.

At this place, San Antonio, on the twentieth day of the month of March, year one thousand seven hundred and sixty-eight, I, Bartolome Fernandez, chief alcalde and war captain of the pueblos of the Queres nation, by virtue of the appointment conferred on me by his excellency Pedro Fermin de Mendinueta, of the order of Santiago, colonel in the royal armies and governor and captain-general of this province of New Mexico, being at the said place, having summoned the natives of the pueblo of Santo Domingo, who are the adjoining occupants to the said land, they having purchased from Diego Gallego, and having ordered them to erect landmarks on their lines, and in conformity with the same, in view of which, and there not resulting any injury, I pointed out to Nerio Antonio Montoya the boundaries above specified, and granted by his excellency the governor, embracing the same land contemplated in my report, and on which I directed him to place firm and permanent landmarks, and I notified him of the conditions above prescribed. And he being fully advised in the premises, I took him by the hand and led him over the said land, and he plucked up grass and cast stones towards the four cardinal points, and we all shouted once and thrice: "Long live the king, our sovereign!" and "May God preserve him!" in sign of true possession into which I placed him, and upon which he entered quietly and peaceably and without objection.

And that it may so appear, I, the said chief alcalde, have signed this, together with two attending witnesses, with whom I act for lack of

Notaries, of which there are none in this province, on the said day, month, and year, to which I certify.

BARTOLOME FERNANDEZ.

Witness:

MIGUEL TENORIO DE ALBA.

BARTOLOME FERNANDEZ DE LA PEDÉRA.

At this capital, the city of Santa Fé, province of New Mexico, on the sixth day of the month of May, in the year seventeen hundred and sixty-seven, before me, Francisco Guerrero, chief alcalde of the said city and its jurisdiction, acting under appointment, with two witnesses for want of a royal notary, there being none in this province, came Felipe de Sandoval Fernandez, resident of this said city, whom I certify I know, and who declared that he would give and did give, in royal sale to Antonio Nerio Montoya, resident of the pueblo of Santo Domingo, as follows: One ranch for the summer pasturing of live stock, situated between the pueblos of Cochiti and Santo Domingo, which ranch he held by purchase and the sale thereof made to him by Lucas Manuel de Alcalá, resident of El Paso, as appears from the document executed to him by the said Lucas, and that he now delivers and sells the same to the said Montoya for the sum of two hundred and fifty dollars in current money or its equivalent, and the said sum of two hundred and fifty dollars the maker hereof acknowledges to have received in full and to his entire satisfaction, and was satisfied and paid, and that the said ranch is not worth more, and that should it or could it be worth more, he makes gift and donation of the excess to the said purchaser, full, complete, perfect and irrevocable, termed by the law *interoiros*, and furthermore renounces the law of *non numerata pecunia*, proof and payment, and the laws of *duobus res of vendit la autentica pre fide luso ribus*; and, furthermore, that no suit or complaint shall be brought against him now or at any time by himself, his wife nor his children, nor by any other person, but that should it be done by them, let them not be heard in court nor out of court, and that he will, at his own expense, defend in the suit until he leaves the vendee in peaceable possession of the said ranch, the same sold to him, and its boundaries are: On the north the old pueblo of Cochiti, situated upon the mountain; on the south a spring of water in the Cañada, running down to the Little Cubero house, so called; on the west the road descending from Jemez to San Felipe; and on the east the land of the said pueblo; and he empowers the courts of His Majesty, and especially those of this city, to compel and enforce him, with all the rigor of the law, to the fulfillment of this instrument, as if by final judgment of a competent justice rendered after trial, and for the security of all which he binds and has bound his person, and his present and future real and personal estate.

All of which the said Felipe de Sandoval Fernandez covenanted before me, the said chief alcalde, acting as aforesaid, and attending witnesses, at the city aforesaid, on the said day, month, and year, and the vendor signed with me and the witnesses, to which I certify.

FELIPE DE SANDOVAL FERNANDEZ.

FRANCISCO GUERRERO.

Witness:

JUAN FRANCISCO NIÑO LADRON DE GUEVARA.

JOSÉ MIGUEL DE LA PEÑA.

A duplicate was made for the party, and I rubric this.

[Guerrero's rubric.]

SURVEYOR-GENERAL'S OFFICE, SANTA FÉ, N. MEX.,
September 30, 1879.

The foregoing is a correct translation made by me from the original documents in Spanish now on file in this office.

DAV. J. MILLER,
Translator.

NERIO ANTONIO MONTOYA.—OJO DE BORREGO TRACT.

Testimony of witnesses.

ANTONIO, JOSÉ LUCERO, being by the surveyor-general sworn to declare in the case of this private land claim, on his oath declares:

Question. What is your name, age, and residence, and have you any interest in this claim?—Answer. My name is Antonio José Lucero; my age is sixty-six years; my residence is now and always has been at the town of Peña Blanca; and I have no interest in the case. I am by profession a worker in woolen or blanket maker.

Q. Do you know anything about the Ojo de Borrego grant; and, if so, in whose possession and occupancy has it been, if you know?—A. I do; it was first in the possession of Juan Antonio Cabeza de Baca, and is now in that of Tomas Cabeza de Baca. I cannot say exactly how long it was in their possession, but I know it has been since I was about fifteen years of age.

Q. In what direction and what distance is the land in question from the town of Peña Blanca?—A. It is west, and about a league or league and a half distant.

Q. If you can do so, please state the boundaries of the land of the Ojo del Borrego.—A. I think I can from my recollection of them, and they are on the north the bench or mesa of the old pueblo of Cochiti, on the east the leagues of the Indians of Cochiti and Santo Domingo, on the south the mesa of Santa Ana, and on the west the mountain.

Q. Since you have known the tract, have the father of Tomas Cabeza de Baca and the latter himself and their families used the land for the purpose of procuring thence their fuel and for pasturing therein their live stock?—A. They have so used the tract.

Q. (By SURVEYOR-GENERAL.) Was it also used for those purposes by the people generally of Peña Blanca?—A. It has been used in that way also by the people of Peña Blanca.

Q. Since you have known this tract of the Ojo del Borrego, has or has not the same been recognized by the general community of that section as belonging to the family of Tomas Cabeza de Baca?—A. It has always been so recognized by the people of the vicinity.

Q. Are not a large portion of the people of Peña Blanca, as you understand, relatives and heirs of the late Juan Antonio, father of Tomas Cabeza de Baca now present?—A. They are.

Q. Did the said Juan Antonio Cabeza de Baca, deceased, always reside at Peña Blanca, so far as you know?—A. He did.

ANTONIO J. ^{his} × LUCERO.
mark.

Sworn to and subscribed before me April 6, 1872.

Surveyor-General.

ANTONIO JOSÉ GAMBOA, being by the surveyor-general sworn to depose in this case, on his oath declares:

Question. (By Attorney JOHN S. WATTS.) What is your name, age, and residence, and have you any interest in the claim now here pending?—Answer. My name is Antonio José Gamboa; my age is sixty years; my residence is at the Cañada de Cochiti, where I have always resided; and I have no interest in the Ojo del Borrego tract of land.

Q. How long have you known the Ojo del Borrego grant or tract of land?—A. Many years, and since I was a small boy.

Q. By whom has that tract of land been occupied since you have known it?—A. By the grandfather and the father of Tomas Cabeza, now here present, and then by Tomas Cabeza himself.

Q. Was it or not customary for the grandfather and the father of Don Tomas, now present, to procure firewood from and to pasture their live stock upon that tract of land, and is or is it not the custom now of Don Tomas to do the same?—A. Such has always been and is the custom.

ANTONIO J. ^{his} × GAMBOA.
mark.

Sworn to and subscribed before me April 6, 1872.

Surveyor-General.

NERIO ANTONIO MONTOYA.

Examination of witnesses:

VICENTE GARCIA, having been by the surveyor-general first duly sworn, on his oath declares:

Question. (By Mr. WILLISON, attorney for claimants.) What is your name, age, residence, and occupation?—Answer. My name is Vicente Garcia; my age is fifty-one years; my residence is here at Santa Fé; and my occupation is farmer and stock raiser.

Q. Do you know the Ojo de Borrego grant? If so, please state where it is situated.—A. I know of a tract of land so called, which is situated in the Cañada de Borrego, in Bernalillo County, in this Territory, and about one league west of the Indian pueblo of Santo Domingo and two leagues southwest of the pueblo of Cochiti.

Q. How long have you known this tract, and in whose possession has it been since you have known it?—A. I have known it a good many years, since about the year 1862, and it was then in the possession of José Burgos Montoya, now deceased, and since his death has continued in possession of his niece, Maria Gregoria Garcia de Baca, adopted daughter of said deceased.

Q. Do you know a small mesa fronting towards Jemez pueblo and where the Jemez and Zia roads join?—A. I do.

Q. In what direction from the Cañada de Borrego is that little mesa?—A. Towards the west.

Q. What relation, if any, was the José Burgos Montoya you mentioned to Nerio Antonio Montoya, the grantee in this case?—A. I cannot say with certainty, but he was of that family of Montoyas.

Q. (By surveyor-general). How many inhabitants are there upon this tract?—A. Formerly a considerable number of persons resided on the tract, but I know of none now residing thereon except the family of said

José de Burgos and of said Maria Gregoria, consisting of the widow of José de Burgos and Maria Gregoria and her two children.

Q. About how many persons resided on the tract when you first knew it?—A. Only the families of the Montoyas resided there then, including their employés or peons, amounting sometimes to forty or fifty persons. The place they live at is the little town of Cubero, containing, all told, about ten inhabitants, which village is situated upon the tract.

Q. How long had this tract been occupied previous to 1862, and by whom occupied, from general reputation?—A. I cannot say, of my own knowledge, beyond 1862, but I knew the Montoyas as residing there as long ago as 1850, and first met said José Burgos in 1841, when he was residing there, as I understood. Miguel Montoya, brother of José Burgos, resided and died upon the tract, as did also their father, José Nicolas Montoya.

Q. By what title did these parties hold possession of the land?—A. I cannot say.

Q. Then you do not know whether they held title under the grant as heirs, or purchasers, or were mere squatters, having no title?—A. I do not know under what title they were there, but I am sure they were there legally, having titles under grant or by purchase.

Q. How do you know they were there legally?—A. Because I was so informed by the deceased José de Burgos Montoya.

Q. How do you know these residents on this tract were the descendants of the grantee Montoya?—A. I do not know that they were all related and descendants. I know that José de Burgos Montoya, who died at my house at Santa Fé about two years ago, was a descendant of the Montoyas first living on the tract, as he often told me so. I cannot say whether the Montoyas I refer to were or were not relatives or descendants of the grantee Montoya.

Q. How often have you been upon this tract?—A. A great many times; very frequently.

Q. Do you know the boundaries of the tract? If so, state them.—A. I do not know them.

Q. Then how do you know that the parties you named lived on the tract?—A. Though I do not know the boundaries of the tract, I know that the persons mentioned live at or in the immediate vicinity of the Cañada de Borrego and outside of the cultivated land of the Indians of the pueblo of Santo Domingo from which they are distant some four hundred yards; these Indians cultivated lands extending to the western limits of their tract, which the Montoya land adjoins.

Q. Was there any cattle or stock pastured on this tract since you knew it; and, if so, by whom owned?—A. There always has been since I knew the place, and there are considerable herds pastured there now, those now there belonging to said Maria Gregoria and her children.

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

VICENTE GARCIA.

Subscribed and sworn to before me this January 21, 1879.

HENRY M. ATKINSON,
Surveyor-General.

ANTONIO ANDRES GONZALES, being first duly sworn by the surveyor-general, on his oath declares.

Question. (By Mr. WILLISON.) What is your name, age, occupation, and place of residence?—Answer. My name is Antonio Andres Gon-

zales; my age is seventy-five years; and my place of residence is at the Bajada, in Bernalillo County, in this Territory, and my occupation is farming.

Q. Do you know the place called Ojo de Borrego? and, if so, please state where it is situated and how long you have known it.—A. I know such a place, which is situated in what is now the said county of Bernalillo, and which was formerly the county of Santa Ana, and have known it since I was a small boy. The spring Ojo de Borrego is upon the right-hand side of the road going from Peña Blanca to the Jemez pueblo and about a league from the road.

Q. Who occupied that spring for the purpose of lambing sheep when you first knew it, and who have occupied it since?—A. The Montoyas of Cubero were then using it for that purpose and have continued to do so from time to time since.

Q. Please state, if you know, where stands the little mesa where the Zia and Jemez roads come together with respect to said Borrego spring.—A. It is about a league to the westward.

Q. Do you know where was situated the old pueblo of Cochiti in the mountain? and, if so, please say what distance it was from the Rio Grande.—A. I know that old pueblo. It is about three leagues to the west of that river in the mountain. It is between two and three miles to the westward from the Cañada de Cochiti, this being at the eastern base of the high mountain on which the old pueblo stands.

Q. Do you know the place or rancho called Cubero? If so, please state who have lived there since you have known it.—A. I know the place mentioned since I was a small boy. José Montoya lived there then, and his descendants have continuously lived there and now live there. José Montoya died many years ago and when I was yet a young man.

Q. (By surveyor-general.) How many people live upon this tract?—A. There are living at Cubero, which is on the tract, some five or six families.

Q. Where did you live when you first knew the tract?—A. At the Bajada, where I have always lived, which is some two or three leagues from Cubero.

Q. What were you doing upon the tract or how did you become acquainted with it?—A. I was a shepherd upon the ground with animals, and thereby became acquainted with the tract.

Q. Were the occupants you have referred to of the tract descendants of Nerio Antonio Montoya?—A. I did not know Nerio Antonio Montoya, but have heard him mentioned. I cannot say whether those occupants were his descendants or not.

Q. By what title, if by any, do the said Montoyas claim the land?—A. I cannot say by what title they claim. I have always heard that it was land belonging to them and to the Bacas, and they so claimed.

Q. Then you do not know whether this tract has been occupied within your time by descendants of the grantee or not, do you?—A. I do not know, because I do not know that the Montoyas I referred to are his descendants.

Q. In what connection have you heard the name of Nerio Antonio Montoya mentioned?—A. In no particular connection, but in general and casual conversations I have often heard him mentioned.

Q. Have you ever heard his name mentioned in connection with the ownership of this land?—A. I have not.

Q. Have you any interest in this tract?—A. I have not.

Q. (By Mr. WILLISON). Was José Montoya an aged man when you

knew him, and of about what age was he?—A. He was quite aged; he was 80 or 90 years of age.

ANTONIO ANDRES ^{his} + GONZALES.
mark,

Witness:

DAV. J. MILLER.

Subscribed and sworn to before me this January 28, 1879.

HENRY M. ATKINSON,
Surveyor-General.

ANTONIO BACA, being by the surveyor-general first duly sworn on his oath declares:

Question. (By the surveyor-general.) What is your name, age, occupation, and residence?—Answer. My name is Antonio Baca, my age is sixty-four years, my occupation is farmer, and my residence is at the Rancho de Sile, precinct of Peña Blanca, in the county of Bernalillo.

Q. Do you know a piece of land in that county called the Borrego Spring tract? If so, please state where it is situate in the county, to whom and by whom it was granted, and who, if any one, has been in possession of the land since you have known it.—A. I know such a tract, which is situate in that county, on the west side of the Rio Grande, about midway between that river and the Jemez River. I have never seen the grant for the land in question, but have understood from my grandfather and from my uncles that many years ago a grant for the tract was made by the Spanish Government to one Nerio Antonio Montoya. The land has been continuously since I have known it, and I have always understood continuously since the date of the grant by said grantee, Nerio Antonio Montoya and his heirs, and legal representatives, and it is now, in their possession and use.

Q. Have you any interest in this land, and if so what interest?—A. I have an interest and occupy a portion of the tract as one of the heirs of the grantee, Nerio Antonio Montoya, who was my great grandfather on my mother's side.

ANTONIO BACA.

Subscribed and sworn to before me this October 18, 1879.

H. M. ATKINSON,
Surveyor-General.

OPINION.

THE HEIRS AND LEGAL REPRESENTATIVES OF }
Nerio Antonio Montoya }
vs. }
THE UNITED STATES. }

Before the United States surveyor-general for the district of New Mexico.

In the matter of the investigation of the grant to Nerio Antonio Montoya, Oja de Borrego tract in Bernalillo County, Territory of New Mexico.

This case comes before me for investigation under the treaty of Guadalupe Hidalgo and the eighth section of the act of Congress approved July 22, 1854, establishing this office.

In the year 1768 Nerio Antonio Montoya petitioned the then governor and captain-general of this, at that date an ultra marine, province of

Spain, for a tract of land lying west of what is known as the Indian pueblo of Santa Domingo.

On the 4th of March, 1768, Governor Mendinueta directed Bartolome Fernandez, the chief alcalde for the pueblos of the Queres Indians, to ascertain and report whether the land petitioned for was royal domain, and whether the granting of the same to the petitioner Montoya would work any injury to the pueblos of Santa Domingo, Cochiti, and Jemez.

In pursuance of these instructions the alcalde reported to the governor that the land applied for by Montoya was royal domain, and that from the granting thereof "there cannot result any injury, either to the pueblos or to any individual, by designating to him, as a boundary, on the east, where land purchased by the Indians of the pueblo of Santa Domingo lies; on the west, a small table-land, where the Jemez road and the Zia road towards Cochiti come together; on the south, the said Jemez road, and on the north the side of the Sierra del Valle Mountain, which distances embrace from north to south somewhat exceeding two leagues, and from east to west somewhat less than two leagues."

Under date of the 17th of March, 1768, Governor Pedro Fermin de Mendinueta granted to Nerio Antonio Montoya the land for which the petitioner prayed, according to the boundaries and distances set forth in the report of the Alcalde Fernandez to the governor, and directed that officer to place the grantee in possession of the tract so granted, which act of possession was executed on the 20th of the same month in accordance with the governor's decree.

The testimony of the several witnesses examined in the case shows continued occupancy of the tract by the grantee, his heirs and assigns, up to and for many years previous to the present time, and the presumption follows that such occupancy of the tract has existed from the period of the grant to date.

The original muniments of title were found among the old Spanish archives now in the custody of the surveyor-general, and they evidently bear the genuine signatures of the Alcalde Fernandez and of Governor Mendinueta, and the grant is believed to be genuine, and it is therefore approved to the heirs and legal representatives of Nerio Antonio Montoya and their assigns.

A transcript in triplicate of all the papers in the case will be transmitted for the action of Congress in the premises.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, October 20, 1879.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
November 13, 1880.

The foregoing is a correct transcript of the papers on file in this office in the case of private land claim, reported as number 118, in the name of Nerio Antonio Montoya.

[SEAL.]

HENRY M. ATKINSON,
United States Surveyor-General.

TRANSCRIPT OF PRIVATE LAND CLAIM REPORTED NO. 119 IN THE NAME OF LORENZO MARQUEZ, KNOWN AS THE SAN MIGUEL DEL BADO TRACT, IN SAN MIGUEL COUNTY, NEW MEXICO.

Date of grant..... November 25, 1794.
Date of surveyor-general's approval..... November 13, 1879.

(Transmitted to the General Land Office by the surveyor-general of New Mexico, November 20, 1880.)

CLAIMANTS' PETITION.

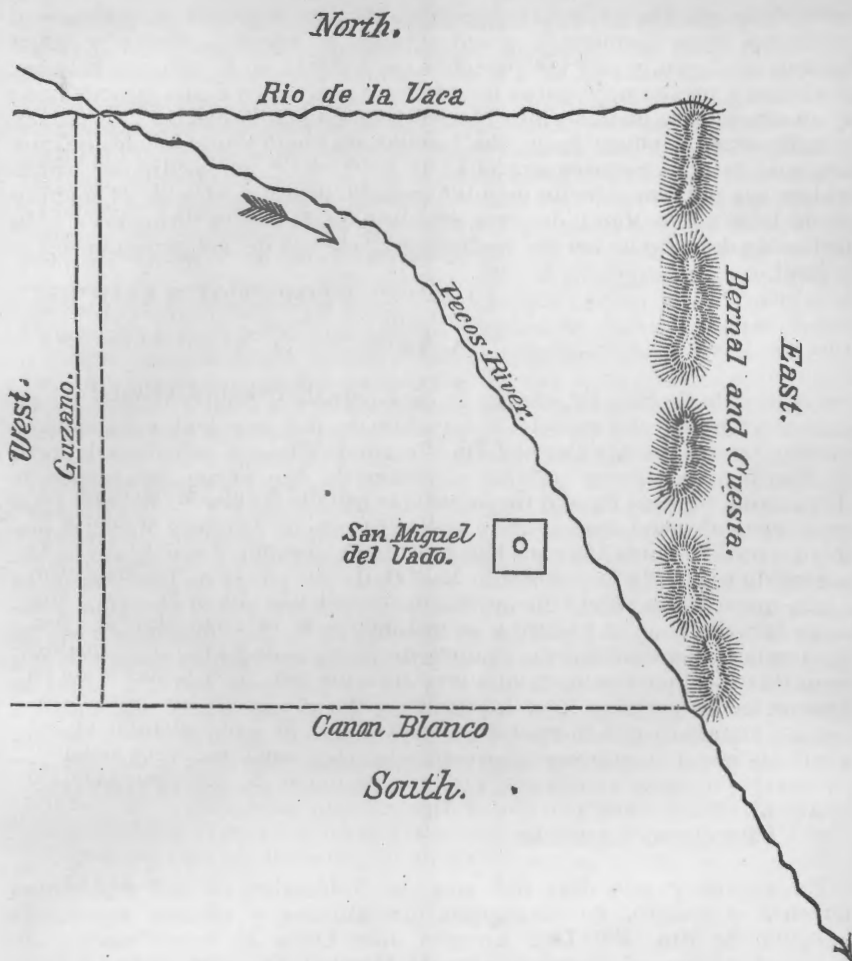
SAN MIGUEL DEL BADO,
March 18, 1857.

The surveyor-general of New Mexico is hereby notified that, under the provisions of an act of Congress approved 22d July, 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," I, Faustin Baca y Ortez, a resident of San Miguel, in the county of San Miguel and Territory of New Mexico, for and in the name of the inhabitants of the settlements of La Cuesta, San Miguel, Las Mulas, El Puebla, Puertecita, San José, el Gusano y Beneal, do claim a certain tract of land, situated in said county of San Miguel, under a grant made by the governor of the province of New Mexico, under His Royal Majesty the King of Spain, on the 25th day of November, A. D. 1794, to Lorenzo Marques and fifty-one other individuals. Said donation being perfect, was executed by Don Antonio José Ortiz, alcalde mayor of the city of Santa Fé, commanded so to do by Don Fernandez Chacon, colonel, governor, and military commander of the province of New Mexico, under authority of his Spanish majesty, in accordance with the laws and customs of that period. Said donation embraces all cultivated and uncultivated lands of the above-mentioned settlements, and has the following boundaries: On the north, El Rio de la Baca desde ardonde llaman la Rancheria hasla el agua Caliente; on the south, El Cañon Blanco; on the east, La Cuesta con los cerritos de Bernal; and on the west, el paraje que comunmente llaman el Gusano.

No conflicting claims exist, as far as the claimant knows.

The aforementioned grant, dated November 25, 1794, in original, and the testimony of Don Juan Sena and Anastasio Sandobal, residents of the city and county of Santa Fé, will be relied upon to establish the claimants' right to the aforementioned grant of land, as being the legal heirs and successors of the aforementioned Lorenzo Marques and fifty-one other persons, and that they have been up to this date in a continual possession of the terrain in said grant specified.

FAUSTIN BACA Y ORTIZ,
Juez de Paz.



PETICION.

Sor. THTL. CORONL. Y GOVOR. POLITO. Y MILITAR:

Lorenzo Marques, vesino de esta villa de Sta. Fee por si y en voz de cincuenta y uno hombres qe. me acompañan, ante V. S. parezco y digo, Señor: que en atencion á hallarme con mui cresida familia asi yo como los qe. me acompañan, aunque todos tenemos en esta villa algunos pedassos de tierra, no son suficientes para nuestra manutencion asi por pocas como por la mucha escases de agua qe. hay, y la muchedumbre de gente, qe. todas no podemos tener el gose de ella; por lo qe. tenemos registrado un citio en el Rio de Pecos, el qual se halla yermo y despoblada, en donde comunmente llaman El Vado en donde hai amplitud, no solo para los cincuenta y uno qe. pedimos, sino es tambien para todos quantos en la provincia haiga desacomodados; y son sus linderos por el norte el Rio de la Baca desde haonde llaman la Rancheria hasta el Agua Caliente; por el sur el Cañon Blanco, por el oriente la cuesta con los serritos de Bernal; y por el poinente el paraje qe. comunmente llaman el Gusano; cuyo sitio pedimos se nos dé mersed en nombre dé

ntro. Amo. qe. Ds. qe. y en estos cincuenta y un hombres qe. pedimos se yncluyen trese Genisaros, y entre todos se cuentan viente y cinco harmas de fuego, y son las personas qe. constan en la adjunta lista qe. devidamente presento, y todos unanimes y conformes á una prometemos el amurrallarnos en una plaza bien fortificada con baluartes y torreones y esforsarnos á poner todas las harmas de fuego y municiones qe. nos sea posible; y por que esparamos * * * * * pedimos y suplicamos sea mui survido de mandar seamos posecionados en el nombre de la Real sacra Magd. de ntro. soberano qe. Ds. qe. y juramos en toda forma de derecho no ser de malicia, &a., en vos de los presentantes y por mi.

LORENZO MARQUES.

AUTO.

En la villa de Sta. Fé, capita de este reyno del Nuebo Mexico, en viente y cinco dias del mes de Nobiembre de mil setecientos nobenta y quatro, yo el Teniente Coronel Dn. Fernando Chacon, caballero del orn. de Santiago, governor politico y militar de dho. reyno, sub-inspector de la tropa reglada en el é inspector de sus milicias por S. M. (que Dios gue.) visto el presente escrito y su pedimento de Lorenzo Marques por si y en vos de cincuenta y un hombres devia mandar y mandí al alcalde mayor de esta villa Dn. Antonio José Ortis los ponga en posesion de la dicha mersed que piden los suplicantes, para que por si sus hijos y so-seres la tengan ayan y posean en nombre de S. M.; obserbanda en su data todas las circunstanancias y requisitos qe. en samejantes casos sedenen practicar y en particular la que cita sin perjuicio de tercero. Assi lo provey, mande, y firme con los testigos de mi asistencia con quienes actuo á falta de escribano publicani real que na lo ay en el sitado Reyno, y en este papel comun por no averlo de ningun sello de que doy fee.

CHACON.

Assa.:

FERNANDO LAMELAS.

En viente y seis dias del mes de Nobiembre de mil setecientos noventa y quatro, yo el capitan de milicias y alcalde mayor de la villa de Sta. Fé, Dn. Antonio José Ortis en cumplimiento de lo mandado por el Señor Theinente Coronel Dn. Fernando Chacon, caballero del orn. de Santiago, y governor politico y militar de este reyno, antes de pasar yo dho. alcalde maor. á el puesto del vado, en compania de dos testigos qe. lo pueron Xauier Ortis y Domgo. Santiestevan estando presentes los cincuenta y dos presentantes, les hise entender la peticion qe. asian y les exprese que para recibir la posesion avian de guardar y cumplir en toda forma derecho las condiciones siguientes: Primera que el paraje prefigado ha de ser comun, no solo á ellos sino á todas los vecinos que puedan yr congregando en lo subsesibo; segundo, que respecto á lo arriesgado del paraje deneran mantenerse equipados de harmas de fuego ú flechas de lo que se les ha de pasar muestra tanto en su entrada como en qualquier tiempo que lo tubiere por combeniente el alcalde que los mande, entendidas que pasados dos años de la posesion todas las harmas qe. tengan de ueran ser presisamente de fuego vajo la pena de que los que no lo ejecutaren seran despedidos de dicha poblacion, tersera, que la plaza qe. fabriquen ha de ser en los terminos qe. expresan en su solicitud y en el ynterin de ueran situarse en el pueblo de Pecos, donde hay suficiente alojamiento para que se alberguen

las sitadas cincuenta y do familias, quarta, que el alcalde que mandare en dho., pueblo se le han de señalar por seperado una corta porcion de estas tierras, para que las siembre por si á su arbitrio, sin que puedan obptar. á ella sus hijos ni subseores, y ssi en su lugar el que lo sastituga, quinta que assi la maniobra de su plaza, como sacas de acequias y todas quantas maniabras se les oprescan haser para su bien comun, las han de ejecutar todas de mancomun con la union que para su gobierno deberan guardar y oido y echose cargo todas y cada uno de por si de las citas ya referidas en su conformidad respondieron de mancomun quedar impuestos y enterados de lo que se les advierte. En consecuencia de lo cual los tome por la mano y dige en vos clara é intelgibles boses que en nombre de S. M. (que Dios gue.) y sin perjuicio de su Rael aver ni el de tersero los posee por dichas tierras, arrancaron sacate, tiraron piedras y dieron voces diciendo viba el Rey, tomando posesion de dichas tierras quieta y pasificamente sin cotradicion alguna señalandoles los linderos que son por el norte el Rio de la Baca desde á onde llaman la rancheria hasta el Agua Caliente, por el sur el Cañon Blanco; por el oriente la cuesta con los serritos de vernal; y por el poniente el paraje que comunmente llaman el Gusseno, advirtiendo les qe. los pastos y abrebaderos son comunes. Y para que en todo tiempo conste lo firme actuando por reseptoria á falta de todo escribano qe. no lo hay en esta governacion, con los testigos de mi assa. con quienes actuo de que doy fee.

ANTONIO JOSÉ ORTIS.

De assa.:

ANTONIO JOSÉ ORTIS.
JOSE CAMPO REDONDO.

Concuerta con su orjinal que queda en el archibo de esta villa, y esta fiel y legalmte. sacodo corregido y consertado, y en testimonio de verdad —†— ago mi firma aconstumbrada, en esta villa de Sta. Fee en ocho dias del mes de Nobiembre de mil setecientos noventa y quatro.

ANTO. JOSÉ ÓRTIZ.

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UN QUARTILLO.

Sello quarto, un quartillo, años de mil setecientos noventa y ocho y noventa y nueve.

En este puesto de San Miguel del Bado del Rio de Pecos, jurisdiccion de la villa capital de Santa Feé del Nuebo Mexico, en doce dias del mes de Marzo de este presente año de mil ochocientos tres, yo el alcalde de segundo voto de la dicha villa de Santa Feé y su jurisdiccion, Dn. Pedro Bapta. Pino, por orden verbal del Señor Coronel y Govr. desta Prova. Dn. Fernando Chacon, he pasado á esta dicha poblason á hacer el reparto de tierras en la que se alla labrada, á todos los individuos que ocupan la sitada poblason, y haviendo scho. el cargo correspondiente de la dha. tierra labrada, tomé las medidas del toda de ella de norte á sur y luego fui haciendo y cotexando las partes con presencia de todas las interesadas hasta aber formalisado el arreglo en los mejores medios que hasi á mé, como á dhos. interesados nos parecieron convenientes, para que todas quedasen conformes con sus pertenencias, sinembargo, de que es sumamente quebrada dha. tierra por las muchas bueltas que tiene el rio y estando todas las partes igualadas

en el mejor estado que fué posible les eche en sorteo, y cada individuo saco su suerte y se le anotaron las varas de que se compone la pertenencia de cada uno, como consta por la adjunta lista que comprende el numero de los individuos que avitan este partido el que asiende al de cincuenta y ocha familias á las que se les repartio el todo de la tierra exchuyenda sola la parte que le correspondiente al justicia de este partido segun consta en la posesion dada por dho. señor govr. y otra parte corta que sobre la ql. con anuencia de todas á quedado á veneficio de las venditas animas del Purgatorio con la condicion que del producto de ella se han de pagar anualmente tres misas cuyos vales se deveran entregar al alcalde respectivo de dho. jurisdision, y despues de echo el reparto pase á señalar los linderos de dho. sitio los que señale de norte á sur, siendo por el norte una loma que está á la orilla del rio arriva de la vocasequia que comprende dhas. tierras, y por el sur la punta de la loma del pueblo y canada que llaman los temporales quedandoles por dicho rumbo sur á los individuos de este partido una estencion muy necesaria pará que rompan tierras todos los que haigan menester mas lo que deverá ser con anuencia del justicia de dho. partido quien devera selar y vigilar sobre este assumpto señalandole á cada uno de los que le conste que necesitan de mas tierras la que sea necesaria y pueda cultivar el que la solicite, y despues de efectuado todo lo anterior los hise juntar á todos y les adverti que luego sin dilacion pusiera cada uno sus mojoneras firmes de piedra en sus pertenencias para que se escusen questiones y á si mismo les adberti que ninguna es adbitra á vender ni enajenar su tierra hasta el termino de dies años, contando desde esta fecha, segun me ordenó dicho señor governador quien se es de su agrado dará la correspondiente aprobacion al pie de esta constancio de la que devera quedar testimonio en este partido y su original en el archivo donde corresponda, es dado en este partido en el citado dia, mes y año, firmado de mi mano con dos testigos de asistencia con que acuro á falto de escribano publico ni Rael que de ninguna clase los hay en este rayno. Doy feé.

PEDRO BAUPTA. PINO.

Asa.:

JOSÉ MIGL. TAFOYA.

En virtud de la actuado por Dn. Pedro Pino, alcalde mayor de segunda vato de esta villa capital de Santa Feé, sobre el reparto. de tierras hecho en nombre de S. M. á los vecinos de la nueva poblacion del Bado conocida por San Miguel, declaro por verdaderos por sedors. á los citados vecinos del vado aprovando y confirmando la posesion dada por el mencionado Alcalde Mayor D. Pedro Pino, y para que conste en todo tiempo lo firme en Santa Feé, del Nuevo Mexico á 30 de Marzo de 1803.

FERNANDO CHACON.

Lista donde conste el numera de indibiduos que ocupan la plasa de San Miguel del Bado del Rio de Pecos y en que se comprende el numero de las varas de tierra que le tocó uno y es como signe, á saver :

	Varas.		Varas.
Diego Baca.....	65	Calletano Garrera.....	65
Antonio Ortega.....	65	Antonio Duran.....	65
Don Felipe Sandobal.....	65	Miguel Nioste.....	65
Matias Sandobal.....	65	Juan José Sandobal.....	230
José Pedro Marques.....	65	Damiana Otega.....	100
Lorenzo Marques.....	50	Geronimo Lopez.....	100
José Esquibel.....	65	Domingo Trujillo.....	65
José Archibeque.....	65	Francisco Garduño.....	65
Polonio Rodrey.....	50	José Maria Garduño.....	130
Pedro Sandobal.....	50	Juan Domingo Martin.....	50
Ramon Archuleta.....	65	José Cornelio Martin.....	50
Ramon Boca.....	65	Juan Armijo.....	65
Francisco Martin.....	65	Pablo Armijo.....	65
Eusebio Martin.....	65	Manuel Maese.....	65
Juan Venovides.....	65	Pablo Maese.....	65
Andres Sandobal.....	50	Manuel Fuentes.....	65
Josefa Trujillo.....	50	Phelipe Jaramilla.....	65
Geronimo Lopez.....	65	José Migl. Vrito.....	118
Santiago Sandobal.....	65	Balbaneda Moran.....	65
Diego Padilla.....	50	Cristoval Gerrero.....	65
José de la Cruz Arias.....	65	Antonio Martin.....	50
Juan de Dios Lujan.....	65	Don Xavier Fragoso.....	65
José Migl. Carache.....	150	Diego Manl. Boca.....	49
Manuel Mestas.....	65	Franco. Martinez.....	65
Antonio Maria Ribera.....	65	Matias Analla.....	130
Bentura Bustamante.....	65	José Maria Lovato.....	65
Juan Domingo Armijo.....	65	José Manl. Troncoso.....	101
Antonio José Lucero.....	65	José Antonio Marques.....	100
José Antonio Rael.....	65	Juan Antonio Cheferi.....	—

Se anotan en esta lista cincuenta y ocho familias.

San Miguel del Bado y Marzo dose de mil ocho sientos tres años.

PEDRO BAUPTA. PINO.

Dada de gratis con el transito de veinte y tantas leguas.

[Rubrica.]

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PETITION.

To the Lieutenant-Colonel and Civil and Military Governor :

I, Lorenzo Marquez, resident of this town of Santa Fé, for myself and in the name of fifty-one men accompanying me, appear before your excellency and state that in consideration of having a very large family, as well myself as those accompanying me, though we have some land in this town, it is not sufficient for our support, on account of its smallness and the great scarcity of water, which, owing to the great number of people, we cannot all enjoy, wherefore we have entered a tract of land on the Rio Pecos, vacant and unsettled, at the place commonly called El Vado, and where there is room enough not only for us, the fifty-one who ask it, but also for every one in the province not supplied.

And its boundaries are on the north the Rio de la Vaca, from the place called the Rancheria to the Agua Caliente, on the south the Cañon Blanco, on the east the Cuesta, with the little hills of Bernal, and on the west the place commonly called the Guzano—which tract we ask be granted us in the name of our sovereign, whom may God preserve! and among these fifty-one men petitioning are thirteen Indians, and among them all are twenty-five firearms, and they are the same persons who appear in the subjoined list, which I present in due form; and we unanimously and harmoniously, as one person, do promise to inclose ourselves in a plaza well fortified with bulwarks and towers, and to exert ourselves to supply all the firearms and ammunition that it may be possible for us to procure. And as we trust in a compliance with our petition, we request and pray that your excellency be pleased to direct that we be placed in possession in the name of his royal Majesty our sovereign, whom may God preserve! And we declare in full legal form that we do not act with dissimulation, &c.

LORENZO MARQUEZ,
For himself and the petitioners.

DECREE.

At the town of Santa Fé, capital of this kingdom of New Mexico, on the twenty-fifth day of the month of November, one thousand seven hundred and ninety-four, I, Lieutenant-Colonel Fernando Chacon, knight of the order of Santiago, civil and military governor of said kingdom, sub-inspector of the regular troops therein and inspector of the militia thereof, for his Majesty (whom may God preserve!), having seen the foregoing document and the petition of Lorenzo Marquez for himself and in the name of fifty-one men, should and did direct the principal alcalde of this town, Antonio José Ortiz, to execute said grant as requested by the petitioners, so that they, their children, and successors may have, hold, and possess the same in the name of his Majesty, observing at the same time the conditions and requisites required in such cases to be observed, and especially that relative to not injuring third parties. Thus I provided, ordered, and signed with the witnesses in my attendance, with whom I act for want of a royal or public notary, of which there is none in the said kingdom, and upon this common paper, there being none of any seal, to which I certify.

CHACON.

Attending:

FERNANDO LAMELAS.

On the twenty-sixth day of the month of November, one thousand seven hundred and ninety-four, I, Antonio José Ortiz, captain in the militia and principal alcalde of the town of Santa Fé, in pursuance of the order of Lieutenant-Colonel Fernando Chacon, knight of the order of Santiago, and civil and military governor of this kingdom, before proceeding to the site of El Vado, I, said principal alcalde, in company with two witnesses, who were Xavier Ortiz and Domingo Santiestevan, the fifty-two petitioners being present, caused them to comprehend the petition they had made, and informed them that to receive the grant they would have to observe and fulfill in full form of law the following conditions:

First. That the tract aforesaid has to be in common, not only in regard to themselves, but also to all the settlers who may join them in the future.

Second. That with respect to the dangers of the place, they shall have to keep themselves equipped with fire-arms, and bows and arrows, in which they shall be inspected as well at the time of settling as at any time the alcalde in office may deem proper, provided that after two years' settlement all the arms they have must be fire-arms, under the penalty that all who do not comply with this requirement shall be sent out of the settlement.

Third. That the plaza they may construct shall be according as expressed in their petition; and in the mean time they shall reside in the pueblo of Pecos, where there are sufficient accommodations for the aforesaid fifty-two families.

Fourth. That to the alcalde in office in said pueblo they shall set apart a small, separate piece of these lands for him to cultivate for himself at his will, without their children or successors making any objection thereto; and the same for his successor in office.

Fifth. That the construction of their plaza, as well as the opening of acequias, and all other work that may be deemed proper for the common welfare, shall be performed by the community with that union which in their government they must preserve.

And when this was heard and understood by each and all of the aforesaid persons, they accordingly unanimously responded that they understood and heeded what was communicated to them. Wherefore I took them by the hand, and announced in clear and intelligible words that in the name of His Majesty (God preserve him), and without prejudice to the royal interest or that of any third party, I led them over said lands, and they plucked up grass, cast stones, and shouted "Long live the King!" taking possession of said land quietly and peaceably, without any objection; pointing out to them the boundaries, which are—on the north, the Rio de la Vaca, from the place called the Rancheria to the Agua Caliente; on the south, the Cañon Blanco; on the east, the Cuesta, with the little hills of Bernal; and on the west, the place commonly called the Guzano; notifying them that the pastures and watering places are in common. And that in all time it may so appear, I, acting by appointment, for want of a notary, there being none in this jurisdiction, signed this with my attending witnesses, with whom I act. To which I certify.

ANTONIO JOSÉ ORTIZ.

Attending:

JOSÉ CAMPO REDONDO.
ANT'O JOSÉ ORTIZ.

This copy agrees with its original on file among the archives of this town, and is faithfully and legally made, compared, and corrected. In testimony whereof + I make my customary sign manual, in this town of Santa Fé, on the eighth day of the month of November, one thousand seven hundred and ninety-four.

ANTONIO JOSÉ ORTIZ.

SURVEYOR-GENERAL'S OFFICE,
TRANSLATOR'S DEPARTMENT,
Santa Fé, New Mexico, September 30, 1862.

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

DAV. J. MILLER,
Translator.

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[SEAL.]

FOURTH RIAL.

Fourth seal, fourth rial, years one thousand seven hundred and ninety-eight and ninety-nine.

[SEAL.]

At this place, San Miguel del Bado del Rio de Pecos, jurisdiction of the capital town of Santa Fé, New Mexico, on the twelfth day of March, in the present year, one thousand eight hundred and three, I, Pedro Bautista Pino, justice of second vote of the town of Santa Fé and its jurisdiction, by verbal order of Colonel Fernando Chacon, governor of this province, have proceeded to this said settlement for the purpose of distributing the lands which are under cultivation to all the individuals who occupy said settlement, and having examined the aforesaid cultivated land I measured the whole of it from north to south, and then proceeded to lay off and divide the several portions with the concurrence of all parties interested until the matter was placed in order, according to the means myself and the parties interested deemed the best adapted to the purpose, in order that all should be satisfied with their possessions, although said land is very much broken on account of the many bends in the river, and after the portions were equally divided in the best manner possible I caused them to draw lots, and each individual drew his portion, and the number of varas contained in each one portion was set down, as will appear from the accompanying list, which contains the number of the individuals who reside in this precinct, amounting to the number of fifty-eight families, between whom all the land was divided, excepting only the portion appertaining to the justice of this precinct, as appears by the possession given by the said governor, and another small surplus portion, which by the consent of all is set aside for the benefit of the blessed souls in purgatory, on condition that the products are to be applied annually to the payment of three masses, the certificates for which are to be delivered to the alcalde in office of said jurisdiction. And after having made the distribution I proceeded to mark out the boundaries of said tract from north to south, being on the north a hill situated at the edge of the river above the mouth of the ditch which irrigates said lands, and on the south the point of the hill of pueblo and the valley called Temporales, a large portion of land remaining to the south, which is very necessary for the inhabitants of this town who may require more land to cultivate, which shall be done by the consent of the justice of said town, who is charged with the care and trust of this matter, giving to each one of those contained in the list the amount he may require and can cultivate, and after having completed all the foregoing I caused them all to be collected together, and notified them that they must each immediately erect mounds of stone on the boundaries of their land, so as to avoid disputes, and I also notified them that no one was privileged to sell or dispose of their land until the expiration of ten years from this date, as directed by said governor, who, if he be so pleased, will certify his proper approval at the foot of this document, of which a copy shall remain in this town and the original be deposited in the archives where it properly belongs. Done in the aforesaid town on the day, month, and year above mentioned; signed with my hand with two attending witnesses, with whom I act in the absence of a public or royal notary, there being none of any description in this kingdom. I certify.

PEDRO BAUPTISTA PINO.

Attending: JOSÉ MIGUEL TAFOYA.

List showing the number of individuals who occupy the town of San Miguel del Bado del Rio de Pecos, and the number of varas of land each one received, and which is as follows, to wit:

	Varas.		Varas.
Diego Baca	65	Antonio Ortega	65
Felipe Sandoval	65	Matias Sandoval	65
José Pedro Marques	65	Lorenzo Marques	50
José Esquibel	65	José Archiveque	65
Polonia Rodrigues	50	Pedro Sandoval	50
Ramon Archuleta	65	Ramon Baca	65
Francisco Martin	65	Eusebio Martin	65
Juan Venavides	65	Andres Sandoval	50
Josefa Trujillo	50	Geronimo Lopez	65
Santiago Sandoval	65	Diego Padilla	50
Antonio Duran	65	Miguel Urioste	65
Juan José Sandoval	230	Damiana Ortega	100
Geronimo Lopez	100	Domingo Trujillo	65
Francisco Garduño	65	José Maria Garduño	130
Juan Domingo Martin	50	José Conelio Martin	50
Juan Armijo	65	Pablo Armijo	65
Manuel Maese	65	Pablo Maese	65
Manuel Fuentes	65	Felipe Jaramillo	65
José Miguel Vrito	118	Balbareda Moran	65
José de la Cruz Arias	65	Juan de Dios Lujan	65
José Miguel Carache	150	Manuel Mestas	65
Antonio Maria Ribera	65	Bentura Bustamente	65
Juan Domingo Armijo	65	Antonio José Lucero	65
José Antonio Rael	65	Cayetano Guerrero	65
Cristoval Guerrero	65	Antonio Martin	50
Xavier Fragoso	65	Diego Manuel Baca	49
Francisco Martinez	65	Matias Analla	130
José Maria Lovato	65	José Manuel Troncoso	101
José Antonio Marques	100	Juan Antonio Cheferi	

There are contained in this list fifty-eight families.

San Miguel del Bado, March twelfth, one thousand eight hundred and three.

PEDRO BAUPTA. PINO.

Given gratis, together with twenty-odd leagues travel.

[Pinos' rubric.]

By virtue of what has been done by Pedro Pino, senior justice of second vote of this capital town of Santa Fé, concerning the distribution of lands made in the name of His Majesty to the residents of the new town of El Bado, known as San Miguel, I declare the aforesaid residents of El Bado the lawful owners thereof, approving and confirming the possession given by said Senior Justice Pedro Pino; and in order that it may so appear in all time, I signed this at Santa Fé, New Mexico, on the 30th day of March, 1803.

FERNANDO CHACON.

SURVEYOR-GENERAL'S OFFICE,

TRANSLATOR'S DEPARTMENT,

Santa Fé, New Mexico, September 30, 1862.

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

DAV. J. MILLER, *Translator.*

SAN MIGUEL DEL VADO.

GUADALUPE ROMERO, being by the surveyor-general duly sworn to depose in the matter of the private land claim of the people of the town of San Miguel del Vado, on his oath declares :

Question by Samuel Ellison as attorney for claimants. What is your name, age, residence, and occupation?—Answer. My name is Guadalupe Romero, my age is fifty-six years, my residence is and for the last thirty-six years has been at the town of Pueblo, in San Miguel County, New Mexico, and my occupation is farmer.

Q. Do you know a tract of land commonly known as and called the San Miguel del Vado tract? and if so, please state where it is situated, what are its boundaries, and how long you have known the place.—A. I do know such a tract of land, the same being situate upon both sides of the Pecos River, in the county of San Miguel; and the boundaries of the tract are, on the north the point known as the Rancheria, the Vaca River and the spring of the Ojo Caliente, on the east the Bernal Hill and the town of La Cuesta, on the south the Cañon Blanco, and on the west the Guzano. I have known the land thus described since I moved upon it to reside thirty-six years ago.

Q. Please state what towns and about how many people are upon said tract, and whether any and which towns were in existence at the time of the American occupation of New Mexico in 1846.—A. There are standing upon the tract the towns of San Miguel, of about 200 heads of families; of San José, of about 225; of Las Mulas, of about 50; of Pueblo, of about 50; and of Puertecito, of about 50; and I think a portion of the town of La Cuesta is also included, embracing perhaps as many as 50 heads of families. The estimate here made includes the numbers of families in the towns and their vicinities, respectively. All these towns were as such in existence in the year 1846, when the American Government took military possession of New Mexico.

Q. (By surveyor-general.) Do you know of any mines or mineral lands within said tract of land?—A. I do not.

Q. Have you any interest in the claim of the inhabitants of said tract for the land therein?—A. I am not myself the owner of any land therein, and have no interest in the claim.

GUADALUPE ROMERO.

Subscribed and sworn to before me this February 23, 1875.

JAMES K. PROUDFIT,
Surveyor-General.

CATARINO SENA Y ROMERO, having been by the surveyor-general duly sworn, on his oath declares :

Question by Mr. Ellison. What is your name, age, occupation, and residence?—Answer. My name is Catarino Sena y Romero; my age is about fifty-five years; my occupation is farmer; and my residence is now and always has been at the town of Pueblo, in San Miguel county, in this Territory.

Q. Do you know a tract of land commonly called the San Miguel del Vado grant? If you do, please state where it is situated, what towns and how many inhabitants are upon it, and if you know them what are its boundaries?—A. I know such a tract very well. It is situated in the county of San Miguel upon both sides of the Pecos River, and has within its limits the towns of San Miguel, Pueblo, Cuesta, Puertecito, Entrañosa, Mulas, San José, and Guzano; all these towns and their vicinities

within the grant containing at least six hundred permanently resident families in my opinion, and the towns named were all in existence as towns when the United States military forces entered and took possession of New Mexico in 1846, and have never been abandoned by their inhabitants. The boundaries of the grant as I understand them are, on the north the Rancheria, the Vaca River, and the Ojo Caliente Spring; on the east, a line between the Bernal Hill and the town of La Cuesta, this boundary adjoining that of the Anton Chico grant; on the south, the Cañon Blanco; and on the west, the heights of the Guzano.

Q. (By surveyor-general.) Have you any interest in the land here in question or in this claim?—A. I have no interest, except in that I live upon and cultivate some land in the grant, but the land does not belong to me.

CATARINO ^{his} + SENA y ROMERO.
mark.

Sworn to and subscribed before me this February 23, 1875.

JAMES K. PROUDFIT,
Surveyor-General.

SAN MIGUEL DEL VADO.

JUAN FRANCISCO CHAVES, being by the surveyor-general first duly sworn, on his oath declares :

Question by Thomas B. Catron, attorney for grant claimants. What is your name, age, occupation, and place of residence?—Answer. My name is Juan Francisco Chaves; my age is 82 years; my occupation is farmer; and my residence is at Puertecito, in San Miguel County.

Q. How long have you resided at Puertecito?—A. Since the year 1821.

Q. Did you know Lorenzo Marquez; and if so, when did you first know him?—A. I did know him well, and first knew him soon after I went to Puertecito in 1821. He then resided at the town of San Miguel in said county, and he was then quite an aged man.

Q. Do you know the property known as the San Miguel del Vado grant?—A. Yes, I know such a tract, but do not know its exact boundaries.

Q. Do you know whether the town of San Miguel is within or without the said San Miguel del Vado grant?—A. The town of San Miguel (called San Miguel del Vado) is within the grant.

Q. Did Lorenzo Marquez, when you knew him, live within or without the limits of the said grant?—A. He resided in the said town of San Miguel del Vado upon the grant, and resided there until he died, about 20 years after I first knew him.

Q. Did he have any children?—A. He had one whom I knew, named José Pedro, who lived upon the grant and died there. I knew no other children of his, though he had a grandson named Juan Antonio Marquez, who also lived upon the grant, and who was killed by the Indians. The said son José Pedro died after the death of his father.

Q. Have you any interest, and, if so, what interest, in the San Miguel del Vado grant?—A. I own and occupy 153 varas of land upon the grant, which is the only interest I have in the grant.

Q. Do you know where the original grant papers in this case now are?—A. I do not know where they are now. The people on the grant have searched and inquired for them, but, so far as I know, have not found them. I know they were in possession of Lorenzo Marquez during his lifetime, in whose hands I saw them and heard them read.

Q. Please examine this paper, marked File 49 B, now handed you, and say whether in your opinion the paper is the same as the one, or a part of the ones, you saw in the hands of Marquez and heard read.—

A. It looks to me like the same paper, but it has been so long ago since I saw the papers, and as I cannot read, it is difficult to say with certainty. It is the same kind of paper at any rate.

Q. Do you know the places called the Agua Caliente, the Rio de la Baca and the Rancheria? If so, please state where they are respectively situated.—A. Yes, I know the places named. The Agua Caliente, which is a spring of that name, and whose branch is called the Rito del Agua Caliente, is at the side of the mountain north of the town of San José. The Rancheria is a spot on the Baca River, at its head, where there is a mesa or bench in the mountain north of the town of Las Mulas.

JUAN FRANCISCO ^{his} + CHAVES.
mark.

Sworn to and subscribed before me this November 12, 1879.

HENRY M. ATKINSON,
Surveyor-General.

MANUEL GALLEGOS, being by the surveyor-general first duly sworn, on his oath declares:

Question by Mr. Catron. What is your name, age, occupation and place of residence?—A. My name is Manuel Gallegos; my age is 58 years; my occupation is farmer, and my residence is three miles below the town of San Miguel del Vado, on the Pecos River.

Q. How long have you resided there?—A. For the last 36 years. Before I went there to live I had always resided at San Minguel del Vado, where I was born.

Q. Did you know Lorenzo Marquez? If so, when and where did you know him?—A. I was born near his residence in the town of San Miguel del Vado, and knew him well at that place.

Q. Do you know the tract of land known as the San Miguel del Vado grant?—A. I was born upon the grant and know the tract well. I know all the boundaries personally, except the northern one, which I have never seen but have often heard referred to, and I have often seen and read the grant in possession of Miguel Sena y Romero and Gabriel Rivera, whereby I know what are the boundaries.

Q. Please look at the papers now handed you, marked File 49 B and C, and state if you have ever seen the papers before.—A. They appear to be, the writing and all, the same papers I saw in the hands of the said Sena y Romero, whose first wife was a great-granddaughter of said Lorenzo Marquez.

Q. Please state, if you know, how long Lorenzo Marquez lived upon the grant in question.—A. He and his family resided upon the grant until he died, and his family after his death continued to reside there. I knew two of his children who survived him and who died upon the tract, they leaving children, all of whom now reside in that section of the country, and some of them upon the tract.

Q. Have you any interest in this case; and, if so, what interest?—A. I am the owner of and live upon and cultivate some land upon the tract.

MANUEL GALLEGOS.

Sworn to and subscribed before me this November 12, 1879.

HENRY M. ATKINSON,
Surveyor-General.

OPINION.

THE HEIRS, LEGAL REPRESENTATIVES, AND }
 assigns of Lorenzo Marquez }
vs. }
 THE UNITED STATES. }

Before the United States surveyor-general in and for the Territory of New Mexico.

In the matter of the investigation of the grant to Lorenzo Marquez for the San Miguel del Bado tract in San Miguel County.

This case comes before me under the treaty of Guadalupe Hidalgo, and the 8th section of the act of Congress approved July 22, 1854, establishing this office.

The muniments of title, consisting of a certified copy (or expediente) of the petition, grant, and act of possession by Antonio José Ortiz, the chief alcalde of Santa Fé, who gave the juridical possession, are filed by the claimants. The signature of Ortiz is undoubtedly genuine, as it agrees with his signature upon other documents on file in the archives of this office.

The petition was made by Lorenzo Marquez for himself and fifty-one others not named, for a tract of land on the Pecos River known as the San Miguel del Bado tract, in what is now San Miguel County. The boundaries of the land applied for were: "On the north, the Río de la Vaca from the place called the Rancheria to the Agua Caliente; on the south, the Cañon Blanco; on the east, the Cuesta with the little hills of Bernal; and on the west, the place commonly called the Guzana."

On the 25th day of November, 1794, Fernando Chacon, civil and military governor of New Mexico, granted the land as petitioned for, and directed Antonio José Ortiz, the alcalde, to place the grantee in possession, in pursuance of which order on the 26th of the same month the alcalde gave the juridical possession in accordance with the decree of the governor, and the same boundaries set forth in the petition were named by the alcalde.

The certificate of Antonio José Ortiz to the documents, being a copy of the original on file in the archives, is dated November 8, 1794, but it was evidently intended to be December 8, 1794, or some subsequent month, and this discrepancy in the date to the copy is not deemed material in view of the numerous evidences of the existence and validity of this grant, and while no original muniments of title are among the old Spanish and Mexican archives in the possession of this office, yet the grant is referred to in several subsequent original documents that are among the archives, as in the case of the Las Vegas grant, No. 20, made in 1835, and the town of Anton Chico grant, No. 29, made in 1822, the west boundaries of which are given as the boundary of the San Miguel del Bado grant, showing that the grant under consideration was recognized at periods of 28 and 41 years subsequent to the date of same. There are other documents in the archives referred to of subsequent date which refer to the San Miguel del Bado grant, hence the validity of the grant is clearly established.

Among the documents filed by the claimant in this case is a list of settlers and distribution of lands embraced in the San Miguel del Bado grant, made by the alcalde of the jurisdiction of Santa Fé, Pedro Bautista Pino, on the 12th of March, 1803, nine years subsequent to the

grant in question, which distribution is approved by Governor Chacon, under date of March 30, 1803, and appears to be an original document, as it bears the genuine signature of Chacon. This latter document, however, has no relation to the grant except as evidence of the same having been made, as it does not profess to be an act of possession, but a mere survey or distribution of lands on the grant among certain occupants thereof at that date.

There were certain conditions subsequent required to be fulfilled by the recipients of these donations, and hence one reason for the rule of law requiring some specific description, or naming of the grantee, in order that his or their identity as such might be easily established, for if a grant was made to blank it would be void for uncertainty and indefiniteness; therefore, in order to have vested title on the fifty-one persons referred to as co-grantees with Marquez, none of whom are named, it was essential that they should either have been named or so clearly described as to leave no question as to who they were.

"If the intended grantee be not named, he should be ascertained by description so as to be distinguished from all others; and any uncertainty in this respect renders the grant void" as to such intended grantee.

"It may be laid down as a rule that a grant, in order to be valid, must be to a *corporation*, or some person certain named, in his own right or as trustee." (Washburn on Real Property, vol. 3, pp. 236-8; Jackson v. Corey, 8 John's New York Repts.; Hornbeck v. Westbrook, 9 John's New York Repts.; Thomas v. Marshfield, 10 Pick., pp. 367-8.)

A grant made to the petitioner who sets forth that he desires the tract for himself and a number of families, and does not give the names of the families: held to be a grant to the petitioner alone. (1st Hoffman's Repts., p. 126.) Grant to John A. Sutter for himself and colonists: held to be a grant to Sutter alone, the colonists not being named specifically. (10 California, p. 589.) Recitals in a grant that the grantee solicited the land "for his personal benefit and that of his family and others" cannot control the operative words of the grant. (Scott v. Ward, 13 California, p. 447.)

Title rests solely in grantee named. (*Ibid.*) In case of José and Sisto Berreyesa, where the petition set forth that they were married and had children, and also a considerable number of cattle and horses, and needed land on which to place them; and also in a second petition setting forth that their families were very large, and included their parents, children, and brothers, and more than one hundred Indians besides, whom it was necessary to maintain; and for these reasons prayed for a larger grant, the grant was thereupon made for their personal benefit and that of their parents, children, brothers, and families: held, that it was a grant to José and Sisto Berreyesa *alone*, and that the parents, children, brothers, and Indians were referred to only as inducements for enlarging the bounty of the government to the petitioners, and not as distinct and additional beneficiaries; that the recitals in the grant did not control the course of the title, but were only the inducements for the grant, and the title vested in the two Berreyesas or grantees named, exempt from any trust in favor of any one else. (Berreyesa v. Schultz; Schultz v. Beasley, 21 Cal., p. 513; Nieto v. Carpenter, 21 Cal., p. 455.)

The testimony in the case shows occupation of the tract by Lorenzo Marquez and his heirs from the date of the grant to the present time, and believing the grant to be a good and valid one, it is approved to

the heirs, legal representatives, and their assigns, of Lorenzo Marquez as grantee, to whom it is recommended it be confirmed by Congress.

A certified transcript, in triplicate, of all the papers in the case will be transmitted to Congress for its action.

HENRY M. ATKINSON,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, November 13, 1879.

SURVEYOR-GENERAL'S OFFICE,
SANTA FÉ, NEW MEXICO,
November 13, 1880.

The foregoing is a correct transcript of the papers on file in this office in the case of private land claim reported as number 119, in the name of Lorenzo Marquez.

[SEAL.]

HENRY M. ATKINSON,
United States Surveyor-General.

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