

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

2-6-1861

New Mexico – Private land claim of the heirs of Luis Maria C. De Baca. Letter from the Acting Secretary of the Interior, transmitting documents in relation to the private land claim of the heirs of Luis Maria C. de Baca.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

H.R. Exec. Doc. No. 58, 36th Cong., 2nd Sess. (1861)

This House Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

NEW MEXICO—PRIVATE LAND CLAIM OF THE HEIRS OF
LUIS MARIA C. DE BACA.

LETTER

FROM

THE ACTING SECRETARY OF THE INTERIOR,

TRANSMITTING

*Documents in relation to the private land claim of the heirs of Luis
Maria C. de Baca.*

FEBRUARY 6, 1861.—Referred to the Committee on Private Land Claims, and ordered to be
printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 5, 1861.

SIR: I have the honor to transmit herewith, for the action of Congress, as contemplated by the eighth section of the act of Congress of July 22, 1854, the documents in relation to the private land claim of the heirs of Luis Maria C. de Baca, No. 44, approved by the surveyor general of New Mexico on the 12th of December, 1860, together with the schedule of the papers, and a copy of a letter of the Commissioner of the General Land Office of the 29th ultimo.

Very respectfully, your obedient servant,

MOSES KELLY, *Acting Secretary.*

Hon. WM. PENNINGTON,

Speaker of the House of Representatives.

GENERAL LAND OFFICE, *January 29, 1861.*

SIR: I herewith transmit documents in relation to private land claim of the heirs of Luis Maria C. de Baca, No. 44, approved by the surveyor general of New Mexico on the 12th of December, 1860, together with schedule of the papers.

I have to request that the foregoing claim may be submitted for the

consideration of Congress, pursuant to the eighth section of the act of July 22, 1854.

With great respect, your obedient servant,

JOS. S. WILSON,
Commissioner.

MOSES KELLY, Esq.

Acting Secretary of the Interior.

Schedule and synoptical brief to accompany claim No. 44, (corrected list.)

No.	Name of claimant.	No. of docs.	Documents composing claim.	Remarks.
44	Heirs of Luis Maria Cabeza de Baca.	6	1, grant—Spanish; 2, grant—translation; 3, petition to surveyor general; 4, amendment of petition; 5, testimony; 6, report.	Filed October 17, 1856; approved December 12, 1860; transmitted December 29, 1860.

CLAIM No. 44.

Grant.—Heirs of Luis Maria C. de Baca.—Grant—Spanish, document No. 1.

Señor Gobernador de la Provincia:

Don Luis Maria Baca vecino de nuestra Señoria de Guadalupe de la Peña Blanca ante V. S. parece, en las mas debida atencion que el derecho sue permite, y al mi convenga, y digo, Señor, que habiendo registrado un terreno rialargo, el que comunmente llaman el ojo del Espiritu Santo que esta ahora cinco ó seis leguas del Pueblo de Jemez al poniente, y siendome forzoso retirar mio animales para evitar contradicciones con los Indios Quintarsas, y dicho sitio tiene la amplitud bastante para mio dichos animales, y considerando, y considerando no ser perjudicable á ninguna persona pido á V. S. rendidamente se sirva concederme la merced de dicho sitio en nombre de S. M. que Dios guarde dicho sitio lo pido para mi para mi hijos que con quince, pues en dicho silio considero mantener mis bienes y los de mi hijos, tambien se puede hacer una corta labor con algun trabajo por ser poca el agua, aunque sin embargo de lo espuesto hago saber á V. S. que los Señores Ortizes dicen se los mercenó dicho sitio el Sor. Gobernador que fué de esta Provincia Don Fernando de la Concha, hace el tiempo de veinte y tantos años que este Señor salio de esta Provincia, y en todo este tiempo que llero dicho no se ha verificado que dichos Señores Ortizes lo hayan poblado, ni con sus familias ni con hacienda, ni arrendarlo ni prestarlo á ninguna persona, y dicho sitio si fuere del agrado de V. S. hacer me la merced que impetro en nombre de su magestad que Dios guarde, sus linderos son por el oriente la cumbre de la Sierra de Jemez, por el poniente el Rio Puerco y la punta de la mesa Prieta, por el norte la mesa que

comunmente llaman la Ventana, por el Sur la cañada de la Querencia, y el lindero del rancho de Don Antonio Armenta por todo lo cual a V. S. podi y suplico rendidamente se digue atenderme en justicia, que en hacer como lo podi recibiré merced, la que impetro y juro no ser de malicia, etc.

PEÑA BLANCA, *Mayo 23 de 1815.*

LUIS MARIA CABEZA DE BACA PERSEGUIDO.

SANTA FÉ, *24 de Mayo de 1815.*

Si como representa el suplicante ha perdido Don Antonio Ortiz los derechos que tenia al sitio del Ojo del Espiritu Santo en la Alcaldia de Jemez, en el abandono y despueblo de mas de veinte años, que asi se verá ser segun la última Real órden que trata de estos casos se puede permitir al que representa poblar el citado paraje mercenandole en nombre de su magestad solares para casa y corrallos con las suertes de tierra de labor, y demas que comprende á dicho sitio para él y sus hijos, y comision al alcalde de Jemez para que entienda el arreglo de poblacion, y buena orden.—Maines.

En catorce de Junio del año de mil ochocientos quince, en virtud del decreto que á mi se dé del Sor. Gobernador desta provincia Teniente coronel Don Alberto Maines pasé acompañado de los testigos de mi asistencia y los solicitantes al terreno mercenado Don Luis Maria Cabeza de Baca y sus quince hijos que son, José Antonio Baca, Juan Antonio Baca, José Baca, Domingo Baca, José Miguel Baca, Luis Maria Baca, Ramon Baca, Prudencio Baca, Maria Baca, Jesus Maria Baca, Juan Felipe Baca, Guadalupe Baca, Rosa Baca, Maria Josefa Baca, y Juana Paula Baca, y en dicho paraje del ojo del Espiritu Santo que reconocido por mi, les hize saber el superior decreto de la gracia concedida, á todo los posesioné en de dicho sitio, arrancando sacate, tiraron piedras por los cuatro vientos, y dijeron todos á una vez tres vecis, viva el Rey, en señal de verdadera posesion, la que aprendieron pacifica y pacificamente sin contradiccion alguna, señalandoles los linderos que constan en la antecedente peticion, como asi mismo los solares de casas y corrales y suertez de tierra de labor por iguales partes sin preferencia alguna arreglandome á las Reales leyes de la Recopilacion de Indias que tratan de repuebles, merced, dados, y para que consta lo firmé en dicho dia mes, y año, con los testigos de mi asistencia á falta de Escribano que de ninguna clase lo hay en esta provincia de todo lo cual doy fé.

(Firmado) IGNACIO SANCHEZ VERGARA,

(Rubrico.)

Testigo :-

(Firmado) MIG'L MONTOYA.

(Firmado) ANTO. ARMENTA, *Assta.*

Es copia de su original á que me refero y en testimonio de verdad, hago mi firma ácostumbrada, borrado entre reglar.

(Firmado) IGNACIO SANCH. VERGARA,

(Rubrico.)

SURVEYOR GENERAL'S OFFICE, SANTA FÉ, N. M.,
Translator's Department, December 10, 1860.

The foregoing is a true copy of the original Spanish on file in this office.

J. HOWE WATTS, *Translator.*

CLAIM No. 44.

Grant.—Heirs of Luis Maria C. de Baca.—Grant—translation, document No. 2.

Sir Governor of the Province:

Don Luis Maria Baca, resident of our Lady of Guadalupe of Peña Blanca, appears before you with the due attention which the law will allow me, and is convenient to me, and state, sir, that having registered a piece of uncultivated land, commonly called the Spring of the Holy Ghost at this time, distant five or six leagues from the pueblo of Jemez to the west, and being compelled to withdraw my animals to avoid difficulties with the Quintaras Indians; and said tract contains sufficient capacity for my said animals; and considering, and considering that it is not injurious to any person, I humbly ask your excellency to be pleased to grant me said tract in the name of his Majesty, whom may God preserve. I ask for said tract for myself, for my children, fifteen in number, as upon said tract I intend to maintain my property and that of my children. A small tract can also be cultivated with some difficulty, as the water is scarce; although, notwithstanding what I have stated, I inform your excellency that the Messrs. Ortiz state that said tract was granted to them by Don Fernando de la Concha, who was governor of this province. It is twenty and more years since that gentleman left this province, and during all that time which I have stated, it is not known that said Messrs. Ortiz have settled upon it with their families or their stock, nor leased or loaned to any person; and if your excellency is pleased to grant me said tract in the name of his Majesty, (whom may God preserve,) its boundaries are: on the east the summit of the Jemez mountain; on the west the Puerco river and the point of the Prieto table land; on the north the table land commonly called "La Ventana;" on the south the cañon of La Querencia and the boundary of the farm of Don Antonio Armenta; in view of all which, I humbly pray and request your excellency to be pleased to accord my petition, in justice. By doing as I request, I will receive grace, which I impetrate. I swear that it is not done in malice, &c.

LUIS MARIA CABEZA DE BACA PERSEGUIDO.

PEÑA BLANCA, *May 23, 1815.*

SANTA FÉ, *May 24, 1815.*

If, as represented by the petitioner, Don Antonio Ortiz has forfeited his right to the tract of the Spring of the Holy Ghost, in the jurisdiction of the justice of Jemez, in abandoning and depopulating it for

more than twenty years, which should be forfeited according to the last royal order in reference to these cases, the petitioner may be allowed to settle upon it, granting him, in the name of his Majesty, building lots and enclosures, with tracts of land for cultivation, and whatever more may appertain to said tract, for himself and his children; and I commission the justice of Jemez to superintend the arrangements for the settlement and preservation of order.

MAINEZ.

On the fourteenth day of June, one thousand eight hundred and fifteen, by virtue of the foregoing decree of Lieutenant Colonel Don Alberto Mainez, governor of this province, I proceeded, in company with my attending witnesses and the petitioners, to the lands granted to Don Luis Maria Cabeza de Baca and his fifteen children, who are José Antonio Baca, Juan Antonio Baca, José Baca, Domingo Baca, José Miguel Baca, Luis Maria Baca, Ramon Baca, Prudencio Baca, Matio Baca, Jesus Maria Baca, Juan Felipe Baca, Guadalupe Baca, Rosa Baca, Maria Josefa Baca, and Juana Paula Baca, at the aforementioned place of the Spring of the Holy Ghost, which being examined by me, I made known to them the superior decree containing the favor granted—to all those who were present. Being satisfied with what had been determined, I put them in possession of said tract. They pulled up grass, threw stones towards the four points of the compass, and all exclaimed together, in a loud voice, three times, Long live the King, as evidence of legal possession, which they took quietly, without any opposition whatever—pointing out to them the boundaries contained in the foregoing petition, as well as house lots, enclosures, and tracts of land for cultivation, in equal parts, without showing any preference, in accordance with the royal laws of the Recopilation of the Indies, which refer to settlements, grants, donations; and in order that it may so appear, I signed on said day, month, and year, with my attending witnesses, in the absence of a notary, there being none of any description in this province; to all of which I certify.

YGNACIO SANCH'S VERGARA.

Witness:

MIGUEL MONTOYA.

ANTO. ARMENTA, *Attending.*

The above is a copy of the original, to which reference is made. In testimony whereof, I affix my customary signature.

YGNACIO SANCH. VERGARA.

SURVEYOR GENERAL'S OFFICE,

Translator's Department, Santa Fé, N. M., November 21, 1856.

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

DAVID V. WHITING,
Translator.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, N. M., December 15, 1860.

The foregoing is a true copy of the original on file in this office.

A. P. WILBAR,
Surveyor General.

CLAIM No. 44.

Grant.—Heirs of Luis Maria C. de Baca.—Petition to surveyor general, document No. 3.

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

To the Hon. William Pelham, surveyor general of the Territory of New Mexico, under the act of Congress approved July 22, 1854:

Your petitioners, the surviving heirs-at-law of one Luis Cabeza de Baca, deceased, would respectfully state that on the 23d day of May, 1815, the said Luis Cabeza de Baca presented his petition to the governor of the province of New Mexico, asking for a grant of land to himself and children of a tract of land situate at present in the county of Santa Ana, in the Territory of New Mexico; and upon said petition a grant was made, and said Luis Cabeza de Baca was, on the 13th day of June, 1815, duly placed in the possession of the premises so granted to him; which said grant has for its boundaries the following: on the east by the top of the Sierra de Jemez; on the west the Puerco river and the point of Prieta table land; on the north the table land commonly called La Ventana; and on the south by the cañon of La Querencia and the boundary of the lands of Don Antonio Armenta, which will more fully appear by reference to a copy of said grant and possession, hereby made a part of this petition, marked as Exhibit G herein. Your petitioners further state that said landmarks and boundaries are well known and easily discovered, but inasmuch as no survey of said lands has yet been made, the quantity of land included in said boundaries is not known to your petitioners. Your petitioners further state that the said Luis Cabeza de Baca in his lifetime occupied said land, lived upon it, and put valuable improvements upon it, and up to the time of his death, being in the year 1830, continued to possess said lands without any person claiming them, nor up to this time do your petitioners know of any adverse title to said land. Your petitioners further state that during the time of hostilities with the Navajo Indians the said Luis Cabeza de Baca was compelled to relinquish his occupancy there, and the hostilities of said Indians have since then prevented your petitioners from residing there, but they desire so to do as soon as their title is confirmed to them. Your petitioners further state that said lands are not now in the actual occupancy of any persons but your petitioners, who claim said land as theirs absolutely by said grant as the heirs-at-law of said Luis Cabeza de Baca. Your petitioners further state that the only legitimate

heirs-at-law of the said Luis Cabeza de Baca now living are the following: Luis Baca, Prudencio Baca, Jesus Baca 1st, Felipe Baca, Jesus Baca 2d, Domingo Baca, Manuel Baca, Rosa, Maria Josefa, and Juana Paula Baca, being children of the said Luis Cabeza de Baca. Your petitioners further state that the following children of said Luis Cabeza de Baca are dead, to wit: Juan Antonio Baca, José Baca, José Miguel Baca, Ramon Baca, Matio Baca, and Guadalupe Baca; that Juan Antonio Baca left him surviving the following children: Jesus Maria, Francisco Tomas, Incarnacion, José, Josefa, Guadalupe, Altagracia, Nicolas, Tomas, and Trinidad Baca; José Baca left him surviving the following children: Antonio, Felipe, José Maria, Francisco, Fernando, and Polonio Baca; José Miguel Baca left him surviving the following children: Diego, Quirina, Romaldo, Guadalupe, Paulina, and Martina Baca; Ramon Baca left him surviving the following heir and child: Ignacio Baca; Matio Baca left him surviving the following children: Luis Baca, Alejandro, Juan Dios, and Martin Baca; Guadalupe Baca died, leaving her surviving the following children: Ana Maria, Andres, Antonio, and Juana Trujillo. Your petitioners further state that the above list contains the names of all the living children and grandchildren of the said Luis Cabeza de Baca known to your petitioners, all of whom reside in the Territory of New Mexico, and are desirous of occupying and cultivating said lands so soon as the title can be investigated and their safety from Indian hostilities will permit. Your petitioners therefore ask that their title to said lands be investigated, and that such steps be taken in the premises as will secure to them the benefits of said grant and a legal title to the same, under the act of Congress of July 22, 1854, all of which is respectfully submitted.

JOHN S WATTS,
Attorney for Petitioners.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, N. M., December 15, 1860.

The above is a correct copy of the original on file in this office.

A. P. WILBAR,
Surveyor General.

CLAIM NO. 44.

Grant.—Heirs of Luis Maria C. de Baca—Amendment of petition, document No. 4.

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

To the Hon. A. P. Wilbar, surveyor general of the Territory of New Mexico, under the act of Congress approved July 22, 1854:

Your petitioners, the surviving heirs-at-law of one Luis Maria Cabeza de Baca, deceased, would respectfully state to you that on the 23d day of May, 1815, the said Baca presented his petition to the gover-

nor of the province of New Mexico, asking for a grant of land to himself and children, at a place called Ojo del Espiritu Santo, situate in the county of Santa Ana, Territory of New Mexico. On the 24th day of May, 1815, the said grant was duly made of said land, by the governor of said province, and on the 13th day of June, 1815, the said Baca was duly placed in possession of the lands so granted, having for their boundaries the following points: on the east the summit of the Jemez mountain; on the west the Puerco river, and the point of the Prieto table-land; on the north the table-land commonly called La Ventana; on the south the cañon of La Querencia, and the boundary of the farm of Don Antonio Arimenta; all of which facts will more fully appear by reference to a copy of said petition, grant, and possession, hereby made a part of this petition, marked as Exhibit G herein.

Your petitioners further state that the said landmarks and boundaries are well known, and easily pointed out; but inasmuch as no survey of said land has ever been made, the quantity of land included in said boundaries is not known to your petitioners. Your petitioners further state that the said Luis Maria Cabeza de Baca in his lifetime occupied, cultivated, lived upon, and put valuable improvements upon said lands, and up to the time of his death, about the year 1830, continued to possess said lands without any other person claiming them, nor up to this time do your petitioners know of any adverse title to said lands.

Your petitioners further state that the said Luis Maria Cabeza de Baca, a short time before his death, was driven away from said lands by the hostility of the Navajo Indians, and it has not been since occupied on account of its exposure to the hostility of said Indians, who have been almost constantly at war, and which has prevented its occupancy by your petitioners. Your petitioners further state that said lands are not now in the actual possession of any one, nor are they claimed by any persons but your petitioners, who claim said land as theirs absolutely, by virtue of said grant, as the heirs-at-law of the said Luis Maria Cabeza de Baca. Your petitioners further state that, at the death of the said Luis Maria Cabeza de Baca, he left him surviving, as his heirs, the following children, to wit: Luis Baca, Prudencio Baca, Jesus Baca, sr., Jesus Baca, jr., Felipe Baca, Domingo Baca, Manuel Baca, Josefa Baca y Salas, Josefa Baca y Sanchez, Juan Antonio Baca, José Baca, José Miguel Baca, Ramon Baca, Matio Baca, Guadalupe Baca, Altagracia Baca, Rosa Baca, Juana Paula Baca.

The said Juan Antonio Baca died, leaving as his heirs, him surviving, the following children and heirs: Jesus Maria Baca, Francisco Tomas Baca, Encarnacion Baca, José Baca, Josefa Baca, Altagracia Baca, Nicolas Baca, Tomas Baca, Trinidad Baca, Cesaria Baca, Domingo Baca, Guadalupe Baca.

The said José Miguel Baca died, leaving the following children and heirs him surviving: Diego Baca, Quirina Baca, Romaldo Baca, Guadalupe Baca, Paulina Baca, and Martina Baca.

The said Ramon Baca died, leaving him surviving the following child and heir: Ignacio Baca.

The said Matio Baca died, leaving him surviving the following

children and heirs: Luis Baca, Alejandro Baca, Juan de Dios Baca, Martin Baca.

The said José Baca died, leaving him surviving the following children and heirs: Antonio Baca, Felipe Baca, José Maria Baca, Francisco Baca, Fernando Baca, Polonia Baca.

Your petitioners further state that the above list contains the names of all the living children and grandchildren of the said Luis Maria Cabeza de Baca.

Your petitioners further state that Cesaria Baca, daughter of Juan Antonio Baca, is dead, and left her surviving the following children and heirs: Francisco Silva, Isabel Silva, Jesus Maria Silva, Benito Silva, Balentin Silva, and Manuel Silva.

The said Domingo Baca, son of the said Juan Antonio Baca, is dead, leaving him surviving the following children and heirs: Ysabel Baca, David Baca, Ulalia Baca, Santiago Baca, and Adaleida Baca.

The said Guadalupe Baca, daughter of said Luis Maria Cabeza de Baca, is dead, leaving her surviving the following children and heirs: Maria Trujillo, Antonio Trujillo, Andres Trujillo, Juana Trujillo, and Feliciana Trujillo.

Your petitioners further state that Rosa Baca, daughter of Luis Maria C. de Baca, died, leaving the following children and heirs: Francisco Baca, Dolores Baca, Josefa Salas.

Your petitioners further state that Juana Paula Baca, daughter of Luis Maria C. de Baca, died, leaving the following children and heirs: Antonio Garcia, Francisco Garcia, Iñez Garcia, Ana Maria Garcia, and Josefa Garcia.

Your petitioners further state that Feliciana Trujillo, daughter of Guadalupe Baca, is dead, leaving the following children and heirs her surviving: Josefa Lopez, Marto Lopez, Altagracia Lopez.

Your petitioners further state that all of said heirs are residents of the Territory of New Mexico, and desire to occupy and cultivate said land so soon as their title is confirmed, and they can do so with safety from the hostility of the Navajo Indians, now in a state of war.

Your petitioners further state that they have an absolute title in fee to said lands, and ask that the same be confirmed under the act of July 22, 1854, in order that they may obtain a legal title thereto, in conformity with the provisions of said act.

All of which is respectfully submitted.

JOHN S. WATTS,
Attorney for Petitioners.

SURVEYOR GENERAL'S OFFICE,
Santa Fe, New Mexico, December 15, 1860.

The foregoing is a correct copy from the original on file in this office.

A. P. WILBAR,,
Surveyor General.

CLAIM No. 44.

Grant.—Heirs of Luis Maria C. de Baca.—Testimony, document No. 5.

Deposition of José Francisco Sales, taken in claim 36.

THE HEIRS OF LUIS MARIA CABEZA DE BACA }
 } *vs.*
 THE UNITED STATES. }

José Francisco Sales, being first duly sworn, upon his oath states :

Question. Where do you reside? Are you in any way related to the claimants, or have you any interest in this claim?

Answer. I live in Peña Blanca. I am not related to the claimants, nor have I any interest in the claim.

Question. Did you know Luis Maria Cabeza de Baca during his lifetime?

Answer. I did.

Question. When did he die?

Answer. I saw him die and was present when he was buried, but do not recollect exactly how long ago it was, but think it was in the year 1827.

Question. Please examine the list of children, grandchildren, and great-grandchildren set forth in the petition in this case, and state who they are.

Answer. I have examined the list set forth in said petition, and it is a correct list of the names of all the children of Luis Maria Cabeza de Baca now living; also of the heirs of those that are dead.

Question. Where do said heirs reside?

Answer. In New Mexico.

Question. Are you acquainted with a grant of land made to Luis Maria Cabeza de Baca called *Ojo del Espiritu Santo*; and if so, state if it was ever occupied, cultivated, and improved by him in his lifetime; and if so, how long, and for what cause the occupancy was abandoned?

Answer. I am acquainted with said grant of land. It was occupied for about fifteen years by Luis Maria Cabeza de Baca; during which time a house and corrals were built upon it, and the lands extensively cultivated during the time he lived there. He was compelled to leave it on account of the hostility of the Navajo Indians. I remained there during about fifteen years, while Don Luis Maria C. de Baca was living on said grant, and after his death.

Question. State if it is occupied at present, or not; and if not occupied, why not?

Answer. It is still unoccupied. Its occupancy would be dangerous on account of the continued hostility of the Navajoes. Attempts were frequently made to settle there, but were unsuccessful on account of the Indians.

Question. What number of animals did he have on said grant during his residence there?

Answer. The number of mares, horses, and cattle which he had there was about eight hundred .

Question. Have you ever heard of any other person claiming said land, but the heirs of Luis Maria C. de Baca ?

Answer. It never was claimed by any person but the said heirs.

Question. When Don Luis Maria C. de Baca first went there, was there any person living upon the grant ?

Answer. It was several leagues beyond Jemez, and unoccupied up to the time he went there, with his family and hired men.

JOSÉ FRANCISCO ^{his} + SALES.
mark.

Witnesses :

J. HOWE WATTS.

THOMAS MEANS.

Sworn and subscribed before me this 23d day of October, A. D. 1860.

A. P. WILBAR,
Surveyor General of New Mexico.

Manuel Hurtado, being first duly sworn, upon his oath states :

Question. Where do you reside? Are you related to the heirs of Luis Maria C. de Baca, or interested in this claim ?

Answer. I live in the county of Santa Ana. I am not related to the heirs, nor interested in the claim.

Question. Do you know the place called Ojo del Espiritu Santo ; and if so, who owned and lived upon it ?

Answer. I know the place ; it was owned by Don Luis Maria Cabeza de Baca, and was resided upon by him until he was driven away by the Navajo Indians, about the year 1816 or 1817. I went and assisted in removing him and his family, and what remained of his stock, from that place. He remained there a considerable length of time, but what number of years I cannot state. After the death of Don Luis Maria C. de Baca, it was occupied by his heirs until they were compelled to leave it on account of the hostility of the Indians.

Question (by the surveyor general.) Did you know, personally, the heirs of Luis Maria Cabeza de Baca, who occupied it after his death ?

Answer. I did ; and my son-in-law went there with them, with their flocks and herds.

Question (by same.) Are the names mentioned in the petition by the attorney, J. S. Watts, familiar to you, and do you know them ?

Answer. I do know them, and the names mentioned in the petition are correct.

MANUEL ^{his} + HURTADO.
mark.

Witnesses :

J. HOWE WATTS.

THOMAS MEANS.

Sworn to and subscribed before me this 23d day of October, A. D. 1860.

A. P. WILBAR,
Surveyor General of New Mexico.

Questions by the attorney, John S. Watts.

Juan Bautista Vigil y Alarid sworn :

Question. Are you related to the parties interested in this claim?

Answer. I am not interested or related in any manner.

Question. Were you residing in the province of New Mexico in 1815; and if so, who was governor of the province at that time?

Answer. I was living in Santa Fé, the capital, in that year, and Don Alberto Maynez was governor.

Question. Do you know the signatures to the papers now exhibited to you, marked "Exhibit G;" and if so, are they genuine, and did the persons occupy the stations they represent?

Answer. Yes; and they are the genuine signatures of the persons whose names are written thereto; and they occupied the stations which they represent.

JUAN BAUTISTA VIGIL Y ALARID. [Rubric.]

J. HOWE WATTS.

THOMAS MEANS.

Sworn to and subscribed before me this 23d day of October, A. D. 1860.

A. P. WILBAR,
Surveyor General of New Mexico.

SURVEYOR GENERAL'S OFFICE.
Santa Fé, New Mexico, December 15, 1860.

The foregoing is a true copy from the original on file in this office.

A. P. WILBAR,
Surveyor General.

CLAIM No. 44.

Grant.—Heirs of Luis Maria C. de Baca.—Report, document No. 6.

OPINION.

This claim, filed October 17, 1856, was called up for investigation 23d of October, 1860; is called *Ojo del Espiritu Santo*, and lies in Santa Ana county, Territory of New Mexico, bounded as follows, to wit: On the north by the table-land of the *Ventana*; on the east by the summit of the Jemez mountain; on the south by the cañon of La Querencia and the lands of Don Antonio Armenta, and on the west by the Rio Puerco and the point of the Prieto table-land.

On the 24th day of May, 1815, this grant was made by Don Alberto

Maines, governor of New Mexico, according to the usages and customs of the Spanish government. On the 13th of June, 1815, said Baca was duly placed in possession of the lands so granted.

The petitioners, the heirs of Luis Maria Cabeza de Baca, pray a confirmation of this grant. The treaty of Guadalupe Hidalgo between Mexico and the United States guarantees to every Mexican citizen his rights of property, which should be inviolably respected.—(Art. 8, treaty.)

In the case of the United States *vs.* Aredondo and others (6 Peters's Reports) the Supreme Court declares that Congress "have adopted as the basis of all their acts the principle that the law of the province in which the land is situated is the law which gives efficacy to the grant, and by which it is to be tested whether it was *property* at the time the treaties took effect." Now, it is clear that these lands were public domain at the time of granting; that said lands were granted by the proper officer in due form and custom of law, as is shown by the grant itself; that these lands were occupied by the grantee for a great number of years, until forced to leave from the hostility of the savages; and that this grant was respected as property at the time of the treaty between the United States and Mexico of 1848.

The testimony heard in this case proves the authenticity of the grant itself, the occupancy of the lands by the grantee and his children, the circumstances attending their difficulty with the savages, and the identity of the present claimants.

Therefore, in view of the entire merit of this claim, this office regards it as a *perfect* claim, and recommends its final confirmation by the Congress of the United States to the heirs of said Luis Maria Cabeza de Baca, who are the present claimants.

A. P. WILBAR,
Surveyor General.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 12, 1860.

SURVEYOR GENERAL'S OFFICE,
Santa Fé, New Mexico, December 15, 1860.

The foregoing is a correct copy of the original on file in this office.
A. P. WILBAR,
Surveyor General.