

CASE No.

284

NORTHERN DISTRICT

TWO FIFTY VARA LOTS GRANT
IN THE

CITY OF SAN FRANCISCO

STEPHEN SMITH

CLAIMANT:

NOV 19 1962

824
S2N COLTON 4366
BROOKS BOND
Baltimore

604
Deep

1871

1871

1871

1871

1871

TRANSCRIPT

284 ND
PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 604.

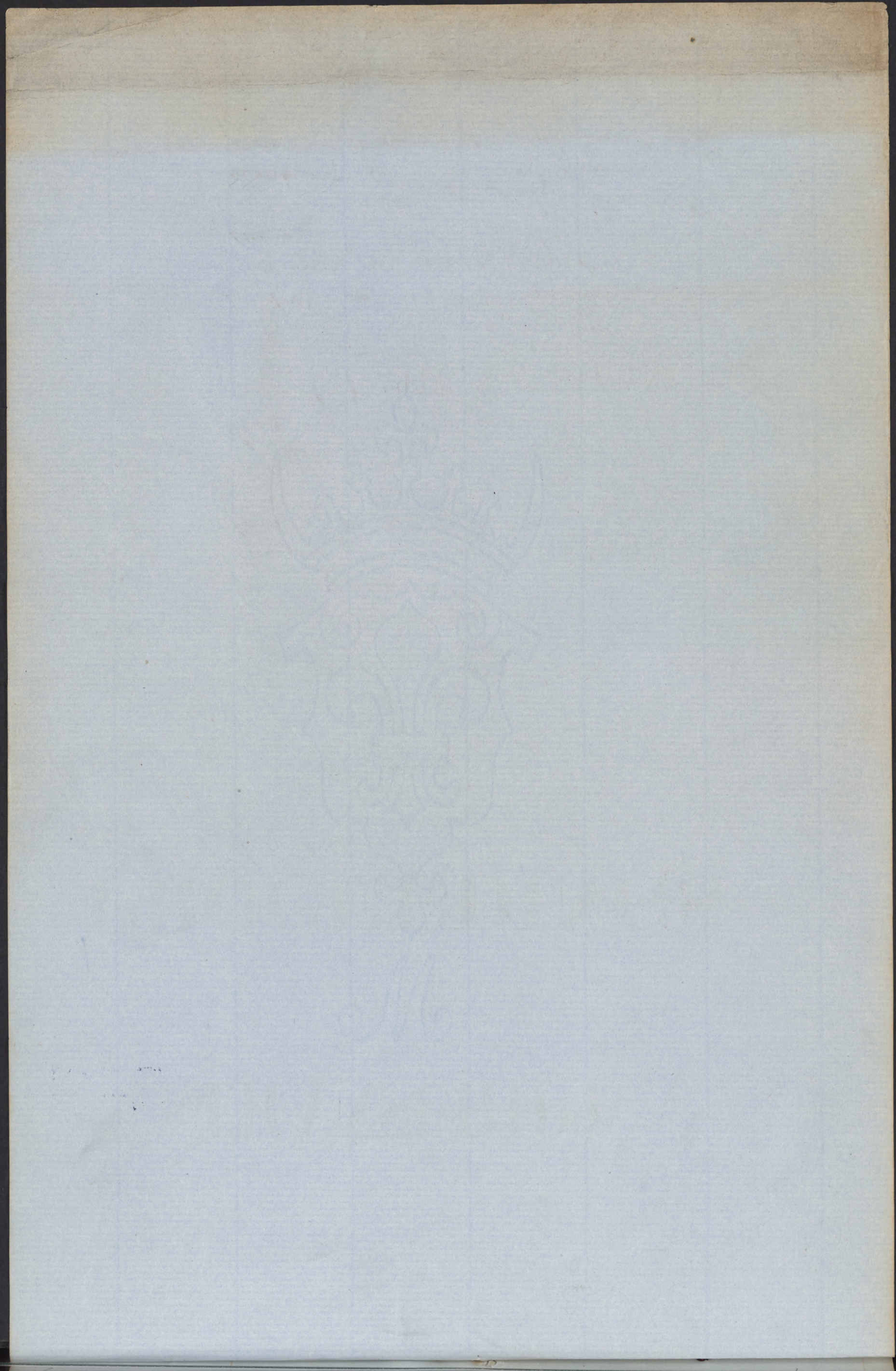
Stephen Smith CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

Two fifty vara lots in the City of San Francisco.



1840

Open

Petition

To the Board of Commissioners
for ascertaining and settling Private
land claims in the State of Califor-
-nia

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Your Petitioner Stephen
Smith of Sonoma in the State of Cal-
-ifornia respectfully represent to your
Honorable Board that he claims a cer-
-tain tract of land being two fifty vara
lots fronting 100 varas on Jackson
street and 50 varas on Montgomery
street in San Francisco more or less
situated in the County of San Francisco
in said State of California that he claims
the same in fee by virtue of a grant made
to him your said Petitioner under the
authority of the Mexican Government by
Pío Pico Governor of the Territory of Cal-
-ifornia bearing date 4th day of December
AD 1845

Your Petitioner further rep-
-resents that the said grantee on the
31st day of March AD 1846 caused
this title to be recorded in the Office
of the Sub-Precept of Verba Buena
by Francisco Guerrero - that the bounda-
-ries and location of said two fifty
vara lots are well known and estab-
-lished and that your Petitioner has
never parted with the title thereto

Your petitioner presents herewith
this original grant of said land in the
Spanish language together with a trans-
-lation of the same and will make
further

Further proof of title if required by the Board

Your Petitioner prays Your Honorable Board to take into consideration this claim to said tract of land and decree this title to be valid and confirm the same

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And your Petitioner will ever pray
(Signed)

Peter Smith
By James Wilson
His Attorney

Filed in Office July 19. 1853

(Signed) Geo. Fisher
Secy

Secy

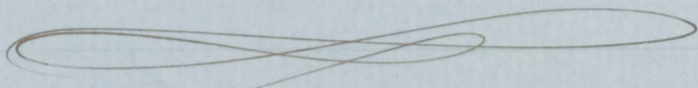
5

1526

1845

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PAGE 5

Expediente promovido por D^o Estevan
Smith en pretension de dos solares en
la Yerba buena.



B.
Expediente

487

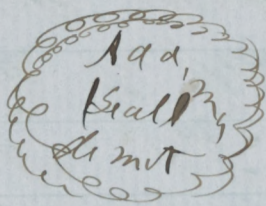
Sello Quinto Medio Real

Habilitado provisionalmente por la Aduana
maritima del puerto de Monterey, en el Depar-
tamento de las Californias, para el año de mil
ochocientos cuarenta y tres.

Micheltorona

Manuel Castañares

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PAGE 6



Señor juez de Paz
de San Francisco

Estevan Smith na-

S. Fran.º D.º

28 de 1843

No esta en las facultades de este juzgado

Conceder estos dos solares en tal concepto, y de la mira con que los solicite; ocurra

al Gobierno departamental p.º g.º de le atiende Fran.º Sanchez

tural de los Estados Unidos de Norte America, y vecindado nuevamente en este Departamento con resolucion de establecerse en este Pais = por lo cual ha corrido los primeros pasos ante el Gobierno Departamental por obtener sus cartas de Naturalizacion =

Ante V. presente y dice que habiendo traído una maquina de vapores q.º va poner en operacion en Bodega para serrar tablas y necesitado un solar

para deposito lo mismo como tiene concedido en otras partes por los interesados =

Suplico a V. g.º en uso de las facultades q.º estan concedidas le conceda dos solares en la orilla de la laguna de Yerba Buena por el lado del Norte, cada solar siendo de cinquenta varas Cuadradas = y por tanto A. V. Suplico q.º se digna

Concederme la gracia q.º pido por lo cual recibire merced y gracia = Jurando q.º no ser de malicia y lo usaranoo 88-

Yerba Buena Die. 28. 1843 Stephen Smith. An-

- Jueves Diciembre 4 de 1845 -

Premutada y admitida la an-
tecedente solicitud, se le concede por el
Gobierno Departamental al Sr. D.^o Es-
tevan Smith, los dos solares que pre-
tende en el Puerto de la Yerbabuena, li-
brele el título correspondiente y archívese
el expediente.

4 S. D. H.

Pío Pico Vocal Decano de la Man-
cha Departamental y Gobernador pro-
visional de las Californias.

Por cuanto D.^o Estevan Smith
ha pretendido para su beneficio per-
sonal y el de su familia, dos solares
de cincuenta varas en cuadro cada uno,
en la orilla de la laguna de la Yerba-
buena por el lado del Norte practicadas
previamente las averiguaciones consue-
tadas, usando de las facultades que
me son conferidas a nombre de la Na-
cion Mexicana, he venido por decreto
de este día en concederle los expresados
dos solares, declarandole la propiedad
de ellos por las presentes letras y bajo
las condiciones siguientes.

1.^a - Solicitara' del Juez respectivo le
de la posesion juridica en virtud de
este despacho, por el cual se demarcaran
los linderos - al practicar las medidas
correspondientes a los dos solares que se
le conceden.

2.^a - Los disfrutara' libre y esclusiva-
mente en su aprovechamiento, pero
dentro un año. 15 S. D. H. - fabricaral

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en ellos cara y la tendrá habitada.
En consecuencia mando, que teniendo el
presente título por firme y validero se tome
razon de él en el libro à que corresponde
y se entregue al interesado para su enques-
do y demas fines. Dado en la Ciudad
de los Angeles en este papel comun por falta
del sellado, à cuatro de Diciembre de mil
ochocientos cuarenta y cinco = Pio P. es =
Jm^a M.^a Covarrubias = Srvo

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Queda tomada razon de este título en el
libro respectivo = Angeles fha ut supra = Co-
varrubias.

El Excmo Sor. Gobernador dispone se tome
razon de este despacho en la Sub- Prefe-
tura del Partido de S.^a Francisco = Covarrubias

Queda tomada razon de este título en el
libro respectivo.

Office of the Surveyor General of the United
States for the State of California

I Samuel D. King, Surveyor Gen-
eral of the United States for the State of Cali-
fornia and as such now having in my office
and under my custody a portion of the ar-
chives of the former Spanish & Mexican
Territory or Department of Upper Califor-
nia do hereby Certify that the five preceding
and herunto annexed pages of tracing pa-
per numbered from one to five in-
clusive and each of which is verified by
my initials (S D K) exhibit true and accurate

Copies of certain documents on file and forming
part of the said archives in this office.

Filed in office
July 19 1853
Geo. Fisher
Secy.

In testimony whereof I have herunto signed
my name officially, and affixed my private seal
not having a seal of office at the City of San Fran.^{co}
Cal the twenty ninth day of January 1853

Saml. D. King Sur. Genl. Cal

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1845

"C"
Translation of
Expediente

Expediente

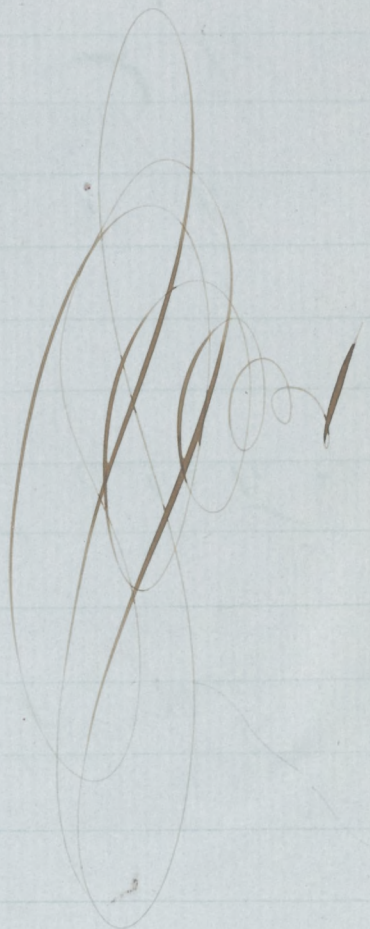
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moved by Mr. Stephen Smith
pretending to two lots in Yerba
Buena

A. S. M.

1845

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11
Fifth seal & Half a Real

Provisionally supplied by the Marine Custom House of the Port of Monterey in the Department of the California for the year One thousand eight hundred and forty three

(Signed)

Michelleona

(Signed)

Mamul Castanera

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San Francisco
Dec. 28th 1843

It not being in the power of this Court to grant two lots and in consequence of which and for the purpose for which they are solicited it is referred to the Departmental Government for their action

(Signed)

Juan Sanchez

To the Justice of the Peace of San Francisco

Stephen Smith a native of the United States of North America and a newly resident in this Department, with a resolution of establishing himself in this Country - for which purpose he has taken the first steps before the Departmental Government to obtain his letter of Naturalization

Before you presents himself and says that having brought a Steam Engine which he purposes to put in operation in Bogota to saw Boards and requiring a lot on which to deposit the same as are conceded in other places for those interested = I supplicate you in the faculties

in you vested that you will concede two lots on the banks of the Laguna of Yerba Buena on the North side each lot being fifty varas square and in as much I pray you will grant me the favor I ask for which you will receive money and grace

Swearing

Swearing that it is without malice and for
the purposes named V.C.C.

Verba Buena Dec 28th 1843

(Signed)

Stephen Smith

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Angeles December 4th 1843

The antecedent solicitation presented
and admitted, the Departmental Government
concedes unto Mr, Stephen Smith the two
lots which he pretends in The Port of Verba
Buena: grants him the corresponding title
and Archive the Expediente

D^o D^o Senior Vocal of the Depart-
 -mental Assembly and Provincial Governor
 of the Californias

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In as much as Mr. Stephen Smith
 has pretended for his personal benefit
 and that of his family, two lots of
 fifty varas square each on the banks
 of the Laguna of Yerba Buena on
 the North side the previous inquiries
 having been attended to, using the
 authority in me vested in the name
 of the Mexican Nation, I have by
 a decree of this day conceded unto
 him the two mentioned lots declaring
 him the proprietor of the same
 by these presents and under the
 following conditions

1^a That he solicits from the respective
 Judges a Judicial Possession in
 virtue of the above dispatch, marking
 the boundaries when the corresponding
 measures are taken of the two lots
 which are conceded unto him,

2^a That he enjoy the use of them freely
 and exclusively, to his own benefit
 but within one year he must cause
 a house to be built thereon, and
 have it inhabited

I consequently order that
 this title be firm and valid and
 that an entry of the same be made
 in the book to which it corresponds
 and that

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and that it be delivered unto the person interested for His Government and other uses
Given in the City de los Angeles
on this common paper for want
of sealed paper on the fourth
day of December, One Thousand
eight hundred and forty five
(signed) P. Pico

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PAGE 14

(signed) Jose Maria Covarrubias
Secy

The corresponding entry of this title is
taken in the proper book -
Angels, date as above
(signed) Covarrubias

His Excellency the Governor orders that
an entry be made of this dispatch in the
Office of the Sub. Prefect of the District
of San Francisco
Covarrubias

An entry of this title is made in its
respective book.

HWCE

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Office of the Surveyor General of the United States for the State of California

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I Samuel D. King Surveyor General of the United States for the State of California and as such now having in my Office and under my custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California Do hereby certify that the five preceding and hereunto annexed pages of tracing paper numbered from one to five inclusive and each of which is verified by my initials (S D K) exhibit true and accurate copies of certain documents on file and forming part of the said Archives in this Office



In testimony whereof I have hereunto signed my name Officially and affixed my private seal (not having a seal of Office) at the City of San Francisco Cal^a the twenty ninth day of January 1853

Sam. D. King
Sur. Genl

Filed in Office Feby. 19th 1853
Signed Geo. Fisher
Secy

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1805
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Departamento de Gobernación Provisional de la
California.

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Pío Pico, Vocal decano de la Asamblea departamental y Gobernador provisional de las Californias.

Por cuanto Don Estevan Smith ha pretendido para su beneficio personal y el de su familia, dos solares de cincuenta varas en cuadro cada uno, en la orilla de la Laguna de la Yerbabuena por el lado del Norte; practicadas previamente las averiguaciones concernientes, usando de las facultades que me son conferidas a nombre

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A.
Original Grant.

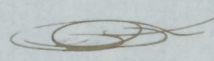
de la Nacion Mexicana, he venido por decreto de este dia en concederle los expresados dos solares, declarandole la propiedad de ellos por las presentes letras y bajo las condiciones siguientes.

1^a- Solicitara' del juez respectivo le di' la posesion juridica en virtud de este despacho, por el cual se demarcaran los linderos al practicar las mediciones correspondientes a los dos solares que se le concedan.

2^a- Los disfrutara' libre y esclusivamente en su aprovechamiento; pero dentro de un año fabricara' en ellos casa y la tendra' habitada.

En consecuencia mando, que teniendose el presente titulo por firme y valido, se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines, Dado en la ciudad de Los Angeles, en papel comun por falta del sellado, a cuatro de Diciembre de mil ochocientos Cuarenta y cinco.

Pío Pico

 Jue' M^o Covarrubias
Sno.

Qu =

18

da tomada razon de este titulo en el libro respectivo.

Angeles fecha at Supera
Covarrubias



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El Exmo Sor. Gobernador dispone
se tome razon de este despacho en la
Sub-Prefectura de S^{ta} Francisco

Covarrubias



Queda tomada razon de este
titulo en esta Sub-Prefectura del 2.^o
Distrito.

Yerbabuena Marzo 31 de 1846

Fran^{co} Guerrero.

Filed in Office July 19th 1853

Geo Fisher

Secy.

6VCE

WD

Opinion

Stephen Smith
vs
The United States

Claim for two
fifty Vara lots
in the city of
San Francisco

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In this case the Petitioner has placed
on file what purports to be an Expediente
and a grant for the land but has not
offered any evidence whatever of the genu-
-ineness of the same and his claim is
entirely without evidence to sustain it
and a decree will be entered rejecting
the same

Rejected

Filed in Office March 27. 1853

(Signed)

Geo. Fisher

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F

1892

1110

Stephen Smith
vs
Decree The United States

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In this case after hearing the proofs and allegations, it is adjudged by the Commission that the claim of the Petitioner is invalid and it is therefore decreed that this application for a confirmation thereof be rejected.

(Signed)

Stephen H. Tick
J. Aug. Thompson
S. B. Farwell
Commissioners

Filed in Office March 27th 1855

(Signed)

Geo. Fisher
Secy

Order

And it appearing to the satisfaction of this Board that the land hereby adjudicated is situated in the Northern District of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded be made out and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the United States District Court for the Northern District of California and the other be transmitted to the Attorney General of the United States

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ND
ND

Office of the Board of Commissioners,

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

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J. George Fisher Secretary to
the Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
foregoing *Twenty two* pages, numbered from
to *22*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. *114*, on the Docket of the said Board,
wherein

Stephen Smith is
the claimant, against the United States, for the place known by
the name of *Two lots in San Francisco*.

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
Twenty sixth day of *September*
A. D. *1853*, and of the Independence of the
United States of America the *seventy-eighth*

Geo: Fisher.



U. S. DISTRICT COURT,

Northern District of California.

No. 284 - **284**

THE UNITED STATES,

MD

284

Stephen Smith.

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *604*

Filed, *October 1* 185*5*

J. A. Mours,

Clerk.



United States of America
{ District Court for the Northern District
of California

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Stephen Smith Apl^t } Dis. Court Docket N^o 284
vs
The United States Apl^{EE} } Land Com^{rs} Docket N^o 604

For Two Fifty Vara Lots in San Francisco

And now comes James Wilson
the Attorney of Record in the above cause for the
claimants and suggests to the Honorable Court here
that since the filing of ^{the} transcript ^{in said cause,} in this Court by
the Secretary of the Board of United States Land
Commissioners, the said Stephen Smith the
original claimant has deceased - And it being
hereby stipulated by the said James Wilson in behalf
of the legal claimants to the lands set out in the said
original claim of the said Stephen Smith in this
cause, and the Attorney of the United States
that the said cause shall be revived and prose-
-cuted to final Decree in the names of Manuela
S. Smith (widow of the said deceased claimant) and S.
Henry Smith - Giles Smith - Eleanor Morison (wife
of S. A. Morison) - Elvira Pond (wife of G. H. Pond) -
Stephen Smith - Mannelita Smith and James
Smith the children and heirs at Law of the
said Stephen Smith deceased and James Wilson

who claims an undivided moiety of said two
fifty vara lots in the original petition, of the
said Stephen Smith deceased, mentioned, under
and by virtue of an agreement made with the
said Stephen Smith in his life time -

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Now therefore application is hereby
made to the Honorable Ogden Hoffman Jr
Judge of the said District Court for an order
reviving the said cause in the names of the
said Widow & heirs at Law of the said original
claimant deceased and the said Wilson and
that the same may be prosecuted in their
said names to final Decree according to the
stipulation aforesaid -

W. Hassell,

Asst. U.S. Dist. Atty.

James Wilson Atty for
the Claimants.

United States of America
District Court for the Northern District
of California.

N^o 284 -

It being suggested to the
Court here, by James Wilson Attorney for the claim
set out in the above cause. That Stephen Smith the
original claimant has deceased since the filing
of the transcript therein in this court - And it
having been stipulated by & between the said Wilson

and the Attorney of the United States that the said cause No. 284 on the Docket of this Court shall be revived and prosecuted to final Decree in the names of Mammela T. Smith widow - S Henry Smith Giles Smith - Eleanor Morison (wife of S A Morison) Elvira Pond (wife of G. H. Pond) Stephen Smith - Mameleta Smith - James Smith children and heirs at Law of the said Stephen Smith deceased, and James Wilson who claims an undivided moiety of the lands set out in the original petition of the said Stephen Smith deceased in this case -

Now therefore upon the suggestion aforesaid of the death of the said original Claimant and upon the stipulation aforesaid of Counsel in said cause; It is hereby ordered that the said cause No. 284 be revived in the names of the said Widow & heirs at Law of the said Stephen Smith deceased and the said James Wilson who claims ~~an~~ undivided moiety of the lands mentioned in the original petition of said Stephen Smith deceased, and in their names said cause may be prosecuted to final Decree accordingly -

Edm Hoffman Jr
U. S. Dist Judge

No 284

U. S. District Court,

The United States.

- vs -

Stephen Smith.

Stipulation, and order to
revoke suit in name of
heirs &c.

Filed March 10th. 1856,

By Cheever,
Deputy.

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District Court of the United States for
the Northern District of California

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Manuela T. Smith widow - } Claimants for two
& the heirs ^{at Law} of Stephen Smith } vara lots north
late of Bodega deceased and } the Laguna - No. 604
James Wilson claimants - } of 50 Vara lots in the
Vs } city of San Francisco
The United States } being cause No 604
the Docket of the Land Commission
and No 284 on Docket of
this Hon^{ble} Court -

Notice is hereby given that the above
named claimants intend to prosecute the appeal
taken in the above entitled cause from the
decision of the Board of Land Commissioners
for ascertaining and settling private land claims
in the State of California - The said cause
being Number (604) Six hundred and four on
the Docket of the said U States Land Commission
and Number (284) Two hundred & eighty four on
the Docket of the District Court of the United
States for the Northern District of California
in which District Court a Transcript of
the proceedings and decision of the said
Commissioners, and of the papers and evidence
on which the same was founded was filed
with the Clerk of this Hon^{ble} Court on the

first day of October
~~20th~~ day of September A.D. 1855 -

San Francisco March 20th 1856

James Wilson Counsel
For himself & the
Other Claimants

To Glapell Esq
Acting Dis. Atty. U. States for
Northern District California

District Court of U.S.
for the Northern District
of California No 284
Manuela S. Smith
& others Claimants

By

The United States

Notice of Appeal in
Case No 284, Dis Court
Docket

Filed March 25th 56
J. A. Morrison
Clerk.

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James Wilson
Counsel for Claimants

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At a *Stated* Term of the District Court of the UNITED STATES OF AMERICA, for the Northern District of California, held at the *Court Room* in the City of SAN FRANCISCO, on *Monday* the *23d* day of *February* in the year of our Lord one thousand eight hundred and fifty-*seven*.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States.
— vs —
Stephen Smith.

No 284.

On Motion of J. D. Bristol.

Esq. Counsel for Claimant. Ordered that this cause be continued for the space of two months, when said cause must be submitted for decision.

No. 284.

United States District Court, Northern
District of California.

The United States,

vs.

Stephen Smith.

Order continuing
Cause two months.

Filed February 23. 1857.

John A. Monroe,

CLERK.

S. W. H. Cheever

DEPUTY.

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UNITED STATES DISTRICT COURT,
Northern District of California.

The United States
- vs -

The Heirs of Stephen Smith San Francisco, May 7th 1857.

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ON this day, before *J. Edgar Gyles* a
Special & referee appointed by the said Court
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came *Henry F. Teschmacher*
a witness produced on behalf of the
Claimant

in Case No. 284, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 604 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by~~
~~a sworn interpreter~~

PRESENT: *J. J. Williams* for Claimant and *Wm. Blanding*
W. S. Best Attorney

QUESTION BY *J. J. Williams*

My name is Henry F. Teschmacher, 34 years old
I reside in San Francisco and have resided in California a little ~~more~~ ^{less} than 15 years

Ques— Are you acquainted ~~in~~ ^{with} the handwriting of Pio Pico and of Jose M^o. Covarrubias if you state your means of knowledge—

Ans I know Pio Pico's I have seen him write & I have received written communications from him

I have frequently seen handwriting of Covarrubias but I do not recollect to have seen him write

Ques— Look upon the document now shown to you marked "A original Grant" and this day produced from the Archives in the possession of the Surveyor General of California a copy of which is contained in the

transcript in this case and say whether or not the signatures of the said Pio Pico and Jose M^a Borravubias subser they occur in and upon said document are their true and genuine signatures.

Ans. Yes Sir to the best of my knowledge & belief that is the signature of Pio Pico. I believe it also to be the signature of Jose Maria Borravubias I have ^{not} the acquaintance of Borravubias's signature which I have of Pio Pico's but I believe it to be his signature.

Cross-Examined-

To the best of my knowledge and belief Pico had a uniform way of signing his name to his "subser" I refer more particularly-

My acquaintance with Pico's handwriting is such that I can speak with certainty with regard to it I have frequently seen him write & rec^d communications from him. The last time I was in the habit of seeing him write was in 1846 when he was Governor - I have seen him write once or twice since 1846 I was in Los Angeles and often at his house -

The last time I saw him write was in 1853 he gave me an order for some horses on one of his farms

Sworn to & subscribed before me
this 7th day May 1857

H. P. Eschschmutter
Special Commissioner

UNITED STATES DISTRICT COURT,
Northern District of California.

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The heirs of Stephen Smith

San Francisco,

May 7th 1857

The United States

ON this day, before *J. Lagan Gumes* a
Special & since appointed by the Dist Court
Commissioner of the United States for the Northern District of California, duly
authorized to administer oaths, &c., &c., came *Thomas O. Sartin*

a witness produced on behalf of the

Claimants

in Case No. 284, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 604 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his evidence being interpreted by

a sworn interpreter

PRESENT: *Wm Blauding U. S. Dist Atty and J J Williams*
for claimant

QUESTION BY *J. J. Williams*

I have resided in California over 20 years

Ques. Are you acquainted with the handwriting of
Pedro Pico & of Jose M^o. Covarrubias if you state your
means of knowledge

Ans. I am acquainted with both I am more ac-
quainted with *Jose M^o. Covarrubias*. I have been
acquainted with them for 15 years I have seen
them write and had correspondence with them.

Ques. Look upon the document now shown to
you marked "A original Grant" and this day pro-
duced from the archives in the possession of the
Surveyor General of California a copy of which is

Contained in the transcript in this case and say
whether or not the signatures of said Pio Pico
and Jose M. Corrarubias when they occur in
and upon said document are their true and
genuine signatures

Ans. I have seen the document and I think that
the signature of Corrarubias is in his own ^{hand} writing
and I think that this is the signature of Pio
Pico but I am not so well acquainted with Pico's
as Corrarubias's signature.

Does answer same questions with regard to the
signature of Juan Luis Guerrero upon same docu-
ment. —

Ans. I was acquainted with Guerrero and had
correspondence with him. I do not recollect now
his signature and cannot speak with certainty
about it without first comparing it with other
signatures in my possession.

~~Examined~~
I am to subscribe
before me May 7th 1857

Thomas O. Larkin

J. A. G. G. G. G. G.
Special Commissioner

No 284

U. S. Dist Court.

The United States

vs

The Heirs of Stephen Smith

Depositions of H. F.
Teschmacher & Thos.
O. Larkin

Filed May 9. 1857.
W. H. Chewers,
Deputy.

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Stephen Smith } Land Claim
vs } No 284
The United States }

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In District Court of the
United States for the Northern District of California

The United States District Attorney
for this District will please take notice
that I propose to take the depositions
of Wm. A. Strater, to be ~~read~~ ^{used} as evidence
~~in the above case~~, before Mr. Commis-
sioner Erymus at his Office at 10
O'clock ^{A.M.} on Thursday the 3^d Inst.
to be used as evidence for the Claimant
on the trial of this case

When and where you are invited
to attend and cross examine
San Francisco } Respectfully &c
Sep 2^d 1857 } D. D. Shattuck
To Hon. J. De Latorre } for Claimant
U. S. Dis. Atty }

U. S. Dist Court

Stephen Smith

vs

The United States

Notice to take
deposition of

W^m A. Struler

Copy rec'd

Sep 3. 1884

P. Della Torre

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~~Heirs of Stephen Smith~~ Land Claim
vs No 284.

The United States

In District Court of the United
States for the Northern Dist^t of California

It is stipulated that the
deposition of Wm A Strates be taken
on the third day of September
at 10 o'clock A.M. before

Commissioners Grogans
and be used as evidence by either
party in the trial of said case

P. Della Torre D. O. Shallenb

W. S. Atty. for Claimant

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U S Dist Court

Stephen Smith
by
The U States

Stipulation
to take depositions

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UNITED STATES DISTRICT COURT,
Northern District of California.

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Stephen Smith

vs
The United States

San Francisco, Sept 3rd 1857

ON this day, before *J. Edgar Hughes* a
Special *referee appointed by the said Court*
Commissioner of the United States for the Northern District of California, duly

authorized to administer oaths, &c., &c., came *William A. Shuter*

a witness produced on behalf of the

Claimant

in Case No. 284, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. 604 on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — his ~~evidence being interpreted by~~

a sworn interpreter

PRESENT:

J. Della Torre Esq U.S. Dist Atty
and Charles Spencer Esq for Claimant

QUESTION BY *Claimant's Counsel*

1st Ques What is your name age and place of residence

1st Ans. My name is William A Shuter, 45 years old and I reside in Santa Barbara —

2^d Ques Did you know Stephen Smith in his life time?

2^d Ans. Yes Sir

3rd Ques — Where did he reside?

3rd Ans — Before his death he resided in Bodega —

4th Ques — State what you know of any thing in relation to Stephen Smith's obtaining a grant for 2 fifty vacas lot in this

4th Ans. Town.

4th Answer.

In 1843 when we came to this place Mr Smith picked out two 50 varas lots near what is now called Clark's Point - The object of which was for a lumber yard for which he made application to Gov. Micheltorina at the same time he applied for the Rancho of Bodega - Mr Smith had the promise from Micheltorina for those lots as soon as he should become a Citizen -

5th Quest - State if you were with him in selecting the lots and state as well as you can where they are situated or located in reference to the present streets -

5th Ans. I was with Capt Smith when the selection of the lots were made - The location is at the junction of Pacific & Sansome streets bounded by the old water line - 100 varas on the water and 50 varas back on a level piece of ground that there was there -

6th Quest - State what objects, if any, were near or on the lot?

6th Ans. Mr Thompson had a small frame house there which he used as a storehouse that house was either on or very near said lot - I think it was on said lot

7th Quest. State if the lines of the lots selected ran with the present streets of the City?

7th Ans. At the time of the selection of the lots the lines were not defined further than they were bounded on the front by the water line

8th Quest. State if you ^{know,} whether Mr Smith or his agent occupied the lot at any time?

8th Ans. I do not know whether he occupied the lots as I left the Bodega

before he ~~occupied~~ ^{the aylls.} were in operation before he had any use to occupy them.

9th Ques. State if you know who was the Alcalde at that time in Cerba Buena?

9th Ques. At the time of the selection of those lots William Hinckley was Alcalde of the Primero Instancia

10th Ques. State whether ⁱⁿ the selection of those lots Mr Smith consulted the Alcalde and if so what his instructions were to Smith?

(Question objected to by the best Atty on the grounds that the Alcalde's instructions should have been in writing. No writing is now produced or its absence accounted for)

10th Ques. In the selection of those lots the Alcalde was present and told Mr Smith that he thought that was public property and that Mr Thompson had built that house there by permission from the Municipal authorities of that place.

11th Ques. State if anyone else was present in the selection of the lots?

11th Ans. That I could not be positive whether any other person was present or not?

12th Ques. State if the lines of the lot was run in your presence and what objects if any bounded them on the rear from the water.

12th Ans. There was no survey made of the lots at that time. merely a selection of location

bounded on the front by the water as it was
required for a landing place and a lumber yard.

Cross Examination

13th Ques. Did Mr Smith ever improve or put
any buildings on those lots?

13th Ans - Not to my knowledge

14th Ques - Did he ever make use of them for any
purpose?

14th Ans - Not to my certain knowledge

15th Ques - Was this selection of lots made before
or after you left the employment of Mr Smith

15th Ans - It was during my employment with
Mr Smith very soon after our arrival here in

Terba Buena

16th Ques - What was the date of your arrival in Terba
Buena?

16th Ans - It was the 2^d or 3rd of July 1843.

~~17th Ques - Do so~~

Sworn to & subscribed }
before me this 3rd day } Wm A. Street
of September A.D. 1857 }

J. Edgar Guymer

Special Commissioner

No. 284

U. S. Dist Court.

Stephen Smith

vs

The United States

Deposition of William
A. Stuter.

Filed Oct 3rd 1887

Ragucheynes
Deputy

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In the District Court of the United States,
In and for the District of California.

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Stephen Smith
— vs. —
The United States.

Case 284,
Register 1, Land Cases.

In the above entitled matter, it appearing to the Court, that on the nineteenth day of February, 1853, said Stephen Smith presented to the Board of United States Land Commissioners his claim under an alleged Mexican Grant to two Fifty-vara lots in the City of San Francisco, fronting one hundred varas on Jackson Street, and fifty varas on Montgomery Street, with a petition praying for the confirmation thereof, that such proceedings were thereafter had in said matter, that on the Twenty seventh day of March, 1855, it was adjudged and decreed by said Board, that the said claim was invalid, and rejecting said petition for confirmation; that on the first day of October, 1855, there was filed in this Court, the Transcript of the proceedings before said Board in said matter; that on the 25th day of March, 1856, an appeal

was taken to this Court from the decision and decree of said board; that such proceedings were thereafter had in said matter, that on the 16th day of June, 1862, the said appeal was duly argued and submitted on behalf of the United States, and said claimant and appellant allowed one month to close proofs and file brief; that although more than twenty one years have elapsed since such submission, no further steps or proceedings have been had, done or taken in said matter,

Now, on this the twentieth day of July, A.D. 1883, on motion of S. G. Hilborn, Esq., United States District Attorney, it is hereby ordered, that said appeal be and the same is hereby dismissed, and the judgment and decree of said Board of United States Land Commissioners, in said matter, is hereby in all things affirmed.

Done in open court, this
20th day of July, 1883.

Ogden Hoffman
District Judge

No 284

U. S. District Court,

District of California

Stephen Smith

vs.

The United States.

Secretal Order dismissing
appeal and affirming
Decree of Board of Land Commrs

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Filed July 20th: 1883.

Southard Hoffman Clerk

By R. D. Grimwood

Deputy Clerk

Entered in Book 2
of Judgments & Decrees
at page 438.

Stephen Smith
vs

Land Claim
No 284

The United States

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In District Court of
the United States for the Northern
District of California -

The United States Dis-
trict Attorney for this District will
please take notice, that I propose
to take the deposition of ^{Mr.} A. Strator
before Mr^r Commissioner Gyles at
his office at 10 O'clock A.M. on
Thursday the 3rd Inst: to be used as
evidence for the Claimant on the
trial of this case.

When and where you are in-
vited to attend and cross examine
San Francisco }
Sep 2nd 1857 }
To Hon^{ble} P. Delatorre }
U.S. Dis Atto. }
Respectfully
J. O. Shattuck
for Claimant

U.S. Dist Court

102 St.
Land Case,

Stephen Smith

vs

The United States

Notice to take
deposition of
Jm A. Struder

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U.S
vs
Stephen Smith } 2,500 vara lots in
S. Y.

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Petition for Dec. 8. 1843 to
Justice of Peace for 2,500 vara
lots en la villa de la Laguna
de Santa Buena
Sanchez answers he has
no jurisdiction - party must
apply to Governor -

Dec. 4. 1845 Concepcion at
Los Angeles assigned in hand
writing of Covarrubias -
same date assigned forma
dor of grant - order re
cord to be made in subpre
fecture of Partido of S. Y.

Grant 14th Dec. 1845 - with
Loma de Nazou - order that
it be recorded in subprefecture
with Guerrero's endorsement
that it has been recorded

Papers genuine - note of
it in Loma de Nazou -

to E. Street —
 testified that Smith picked out
 2, 50. vara lots at Clarke
 Point ~~one~~ at junction of Pacific
 and Jackson St San Jose St.
 No improvement or occupation —

Hydrius —

Grant void for uncertainty
 tho' papers are genuine —
 "la villa de la Laguna
 de San Francisco por el lado
 a del Norte —"

No survey — no marking
 of boundaries — no occupation
 Theches description wholly
 too vague.

The claim sets up title to
 one track proofs shows another.

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The United States
in
Stephen Smith
Notes of Argument

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Office of the Board of Commissioners,
To ascertain and settle the Private Land Claims in the State of California.

San Francisco, Sept. 26th 1855,

J. A. Monroe Esq.
Clerk of the U. S. District Court for the
Northern District of California.

Sir;

I herewith transmit you, pursuant
to the requirements of the Act of Congress, approved August 31st,
1852, a Transcript of the Record of the Proceedings and of the
Decision of this Board, of the Documentary Evidence and of
the Testimony of the witnesses upon which the same is founded,
in Case No. 14 on the Docket of the said Board, wherein

Stephen Smith is
the Claimant against the United States, for the place known
by the name of "Two lots in San Francisco."

and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher.