CASE NO.
293
NORTHERN DISTRICT

PART OF LAS PULGAS GRANT
MOWRY W. SMITH
CLAIMANT:

LAND CASE 293 ND PAGES 15

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 746.

Henry W. Smith CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR part of THE PLACE NAMED

"Las Pulgas."

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

Be it Remembered, that on this Second day of March Anno Domini One Thousand Eight Hundred and Fifty-three, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of Monroy W. Smith for part of the Place named "Las Pulgas,"

was presented, and ordered to be filed and docketed with No. 746 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco January 9th 1855.

Case No. 746. Monroy W. Smith for part of the place named "Las Pulgas," on motion of the Counsel for the Claimant with the consent of the U. S. Sol. Agent was ordered to be placed at the foot of the 4th Class cases on the Trial Docket.

San Francisco January 23d 1855.

Case No. 746 was submitted under the Rule of 20th of March 1854.

San Francisco Febry 20th 1855.

In the same case Commissioner Alpheus Felch delivered the opinion of the Board rejecting the claim;

(Vide page 15 of this Transcript.)

And the following order was made, to wit;

(Vide page 15 of this Transcript)

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Stream

To the Commissioners of Commissioners
for [illegible] and Sheboygan Lake Stream

3 Petition

To the Honorable the Board of Commissioners for ascertaining and settling Private Land Claims in the State of California

The petition of Morrow McSmith of the City of San Francisco respectfully shows unto your Honorable Board that your petitioner claims to be the Owner of a tract of land in the County of San Francisco bounded as follows to wit; Commencing at the lower side of the Bridge across the San Francisquito Creek and running thence North westerly along the line, known as the lower line of the County Road to a point One hundred yards from the Arroyo or creek leading to the Estuary or arm of the Bay of San Francisco on which there is a landing place known as the "Red Wood Embarcadero" thence down said Arroyo or creek with the meanders thereof at One hundred yards distance from its bank to the End of the hard ground, thence to said Estuary or arm of the Bay, thence by the line of the Bay to the Mouth of the San Francisquito Creek and thence with the meanders of said creek to the place of beginning and containing about seven thousand acres more or less, being a part of the Rancho de los Pulgas, originally granted by the Spanish Governor Fernando de Sola to Luis Arguello about the year 1830, and after the death of said Luis Arguello confirmed to his heirs under the authority of the Mexican Government by Jose Castro Governor ad interim of Upper California in the year 1835 and approved by the Departmental Assembly in the same year and subsequent possession thereof given by the proper authority to the said heirs, as more fully appears by the Documents on file with your Honorable Board in the Case numbered 2 being the Case of the Claim of Doña Soledad de Ortega de Arguello & others to the said Rancho de las Pulgas; to which said documents

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your petitioner refers as a part of his petition & notice, and which said tract of land was conveyed to your petitioner by one John B Steenberger in August 1852 by a deed a copy of which is annexed to this petition as part thereof and marked Exhibit D

Said John B Steenberger having acquired the ownership of said tract of land from the heirs of said Lee's Assignee as will appear by the contract of purchase a copy whereof is annexed to this petition as part thereof and marked Exhibit E

And your petitioner further shews that Rufus Rowe, John K Hackett Charles D Judah & Joseph E Woods pretend to be entitled to said tract of land by virtue of sundry conveyances, see one in this petition on file before your Honorable Bench in the Case No. 640. in which they claim a confirmation to themselves; here which conveyances to the said Rowe, Hackett, Judah & Woods, your petitioner charges to be fraudulent and void as against him; and a suit by your petitioner against said Rowe Hackett Judah & Woods is now pending in the State Court of this State to have the same declared void and compel them to convey said land to your petitioner

Your petitioner further states that he is not aware of any other conflicting claim to said land, and that your petitioner is in possession of said tract of land and has made valuable improvements thereon and derives his possession from said Steenberger in August 1852, when said Steenberger who was then and had been ever since his said purchase from said heirs in possession of said tract of land & had made valuable improvements thereon, and was the owner of the same. The said Delesperit, Lenhem & Drongre mentioned in the said Case No 640 holding the legal titles thereon see one many in hise

the legal titles thereon be duly made in trust

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In said Steinberger) conveyed said land to your petitioner as aforesaid

Your petitioner therefore prays your Honorable Board to confirm his claim to said tract of land and decree the same to be valid. Offering as he does to furnish such original documents & verified copies & such other proofs as your Honorable Board may require

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Moses W Smith

R A Lockwood
his Atty

Filed in Office March 2d 1853

Geo. Fisher
Secy

Recorded in Vol 2 of Petitions on pages 143 – 144

Geo. Fisher
Secy

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Exhibit "E" in the claim of Mooney W Smith for Confirmation of part of the Ran cho de las Pulgas

Memorandum of Agreement made this twentieth day of October A D One thousand Eight hundred and Fifty One between Dona Soledad de Arguello, Don Jose Ramon Arguello and Don Luis Antonio Arguello, by their Substitute Attorney in fact thereto duly authorized Herman Reincke and Felix Mezes by his Attorney in fact Herman Reincke of the first part, and the parties represented by John B Steenbergen agent of the second part Witnesseth; that the said parties of the first part agree to sell and convey by deed of Release and quit claim to the parties of the second part for the consideration and on the terms and conditions hereinafter expressed the following described tract of land lying in the County of San Francisco State of California to wit; beginning at the lower side of the Bridge across the San Francisquito creek and running thence Northerly along the line known as the lower line of the County road to a point One hundred yards from the arroyo or creek leading to the Estuary or arm of the Bay of San Francisco on which there is the landing place, known as the "Red Wood Embarcadero" thence down said arroyo or creek with the meanders thereof, at One hundred yards distant from its bank to the end of the hard ground, thence to said Estuary or arm of the Bay, thence by the line of the Bay to the mouth of the San Francisquito creek, thence by the meanders of said creek to the place of Beginning, and the said parties of the first part further agree to open and keep open for use as a public road or highway a Space of Sixty Six feet wide immediately along said second described line that is from the line of said County Road towards the Bay, the price consideration of said sale and conveyance to be as follows; the sum of Fifty thousand dollars, whereof ten Thousand in Cash and the remainder

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to wit; "Forty Thousand Dollars in Eight Equal half yearly installments of five thousand Dollars Each to be secured by the bonds of the said parties of the second part and by Mortgage of the premises sold, Conditioned for the punctual payment of said installments and Conferring Authority on said parties of the first part to sell said premises at Public Auction after advertising the same twenty days in some News paper printed in San Francisco, for the recovery of all of said installments remaining unpaid together with the Costs and Damages on the Non payment of any One of said installments when it shall fall due, that is to say, the Non payment of any One of said installments when it shall become due, shall Operate to make the whole of said installments then unpaid immediately due and payable and render Mortgaged premises liable to be sold as aforesaid for then payment of Costs and damages

And a further Condition of said sale and of the aforesaid agreement of said parties of the first part, and Especially of the agreement to Open and keep Open the before mentioned Space of sixty Six feet for the uses of a public road, is that the said parties of the second part shall not build nor Cause nor allow to be built any buildings or edifices what soever On the line nor within One hundred yards of the line second above described to wit the line running from the leaving Rock to the Bay in front of said Estuary or arm of the Bay — And the parties of the second part accept said sale for the price and on the terms and Conditions aforesaid and undertake and stipulate to pay said price, and Consideration in the Manner and times stated, to observe the foregoing Conditions and to respect the Lines hereto fore made by said parties of the first part to John Fegan and to

parties of the first part to John Fryer and to

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Davis and Collum on portions of said described premises and to fulfill a verbal agreement existing between said parties of the first part, and said Davis and Collum for a further lease of fifty acres for — years at — Dollars per acre per annum - and they further agree to pay the costs of surveying said lines, or of the two lines thereof first described; to pay the State and County taxes thereon apiece for the current year as well as all further taxes and burdens whatsoever; and that they will have no claim or reclamation on said parties of the first part for any rents heretofore collected on said premises -

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It is mutually agreed that the sale and conveyance hereby bargained for shall commence and have effect on the fifteenth day of November next, previous to which day, shall be executed the survey aforesaid, on which day said parties of the second part shall pay the said sum of Ten thousand Dollars and execute and deliver a Bond and Mortgage in the manner before stipulated, and that said parties of the first part, shall thereupon convey the said premises by a Deed of quit claim as aforesaid, with the conditions and stipulations, herein before expressed and governing said premises against all persons claiming by or under said parties of the first part, but against no other person whatsoever.

In testimony whereof the said Dona Soledad Ortega de Arguello by their substitutes Attorney in fact thereto duly authorized Truman Reenoke and John B Steinberger agent, have hereunto subscribed their names the day and year first above written -

It is understood that between the present time and said fifteenth day of

10.

November ensuing the parties of the second part shall have the right to enter said premises for the purpose of surveying land and marking the same

Soledad de Ortega Arguello
By Herman Reencke her Substituted Attorney in fact

Jose Ramon Arguello
By Herman Rencke his Substituted Attorney in fact

Luis Antonio Arguello — By
Herman Rencke his Substituted Atty in fact

J M Mezes By
Herman Rencke his Substituted Attorney in fact

John B Steenbergen
Agent for Rufus Rome.

Witness
R A Lockwood

Received of John B Steenbergen Esq. Agent the amount of Two thousand Dollars being on account of first installment of Ten Thousand Dollars being due on the 15th Inst as per above Contract, it being mutually agreed upon, that the balance of said 10.00 say Eight thousand Dollars shall become due on the Twenty fifth day of November 1851. at the payment of which sum the titles are to be delivered as per within Agreement

San Francisco 17th. Nov. 1851 for the Owners of said Rancho

Herman Reencke
their Substituted Attorney in fact

City and County of San Francisco

On this 16th day of February A.D. 1852 before me personally appeared John B Steenbergen and acknowledged that he Executed the within instrument as Agent for Rufus Rome freely and voluntarily, and for the uses and purposes therein mentioned and On this 11th day of March also appeared R A Lockwood to me known who being by me duly sworn deposed and says that he was present and saw Herman Reencke

that he was present and saw Simon Reyes

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sign and Execute the within Instrument as ally for Soledad Olega de Arguello, Jose Ramon Arguello, Luis Antonio Arguello & fell alleges that he acknowledges in his presence that he Executed the same, as such Attorney freely and voluntarily and for the uses and purposes therein mentioned, and that at his request he became a subscribing witness thereto

In testimony whereof I have hereunto set my hand and Seal this 11 thday of March A.D. 1852

John A Glynn Seal

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"The preceding is a true Copy of the Original recorded at request of E Dole part.
March 11th 1852 at 4 Oclk PM

John A Glynn
County Recorder

Office of the Recorder of Deeds
County of San Francisco

I hereby certify that the foregoing is a true Copy of the Original in my Office recorded in Libr 1 of Conveyances Page 280 &c. Witness my hand and Seal of Office this 18th day August A.D. 1852

Thos. B Ripley Co Recorder
pr. B Clemans Deputy

Paper Enclosed "Soledad Arguello et al
To
John B Steinberger
Agent"

Certified Copy - C

"Filed in Office March 2 1853

Geo. Fisher
Secy

13 Exhibit D
In the Claim of
Mary W Smith
for Confirmation
of part of the
Rancho de Los
Pulgas

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This Indenture made the Seventh day of August in the year One thousand Eight hundred and fifty two between John B Sleeper of San Francisco and State of California the party of the first part and Mary W Smith of the same place the party of the second part witnesseth, that the said party of the first part and in consideration of the sum of Twenty five thousand dollars lawful money of the United States to him in hand paid by the party of the second part at & before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged has remised released and quit claimed and by these presents does remise release and quit claim unto the said party of the second part, and unto his heirs and assigns forever all that certain tract piece or parcel of land, situated in the County of San Francisco and being a part of a certain tract of land in said County known as the Rancho de los Pulgas and bounded and described as follows to wit Beginning beginning at the lower side of the Bridge across the San Francisquito creek and running thence Northerly along the line known as the lower line of the County Road to a point One hundred yards from the Arroyo or creek leading to the Estuary or arm of the Bay of San Francisco in which there is a landing place known as the "Red Wood Embarcadero" thence down said Arroyo or Creek with the meanders thereof at One hundred yards distant from its banks to the end of the hard ground, from thence to the said Estuary or arm of the Bay; thence by the line of the Bay in the Mouth of San Francisquito creek thence with the meanderings of said creek to the place of Beginning — together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions remainder and remainders rents issues and profits thereof and all the estate right title property possession claim and demand whatsoever as well in Law as in Equity of the said party of the first

part of in or to the above ~~mentioned~~ described premises and any part and parcel thereof with the appurtenances

To have and to hold all and singular the above mentioned and described premises together with the appurtenances unto the said party of the second part his heirs and assigns forever

In witness whereof the said party of the first part has hereunto set his hand and seal the day and year first above written—

Sealed and delivered in presence of James Hall — John B Steenbergen (Seal)

State of California } ss
County of San Francisco }

On this day of August anno Domini, personally appeared before me a Notary Public in and for the said County J. B Steenberger known to me to be the person mentioned in and who executed the foregoing (within) instrument, who acknowledged to me that he executed the same freely and voluntarily and for the uses and purposes therein mentioned

Seal

James Hall
Notary Public

The preceding is a true Copy of the original filed on record at the request of A M Smith August 12th 1852 at 2½ p m

State of California } ss
County of San Francisco }

I hereby certify that the foregoing is a full true and correct Copy of the Record filed in this Office Aug. 12th 1852 In witness whereof I have hereunto subscribed my name and affixed the seal of my Office this 18th day of August 1852, Thos. B Rupum
by Recorder per Jos Clements Deputy

Filed in Office March 2nd 1853
Geo. Fisher
Secy

Geo Recorder per Jos Clements Deputy

15 Opinion

Mowry et al Smith
vs
The United States

For part of 7000 acres of place called Las Pulgas in San Francisco County

No Evidence Oral or documentary is given in this Case –

The Claim is Consequently rejected

Rejected

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Mowry et al Smith
vs
The United States

In this Case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioner is not valid, and it is therefore decreed that his application for a Confirmation thereof be denied

Alphens Felch
R Aug Thompson
S. B. Farwell
Commissioners

And it appearing to the satisfaction of the 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 decision in this Case and of the papers and Evidence upon which the same are founded be made out 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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Office of the Board of Commissioners,

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

I, George Fisher — Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing Fifteen — pages, numbered from 1 to 15, both inclusive, to contain a true, correct and full Transcript 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. 74 C. on the Docket of the said Board, wherein Henry W. Smith vs — the Claimant against the United States, for the place known by the name of "Part of Las Pulgas" —

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this Seventy first — day of August A. D. 1855, and of the Independence of the United States of America the ~~seventy~~ eighteenth

Geo. Fisher
Sec.

U. S. DISTRICT COURT,

Northern District of California.

No. 293 — 293

THE UNITED STATES,

vs. ND

Henry W. Smith

TRANSCRIPT OF THE RECORD

FROM THE

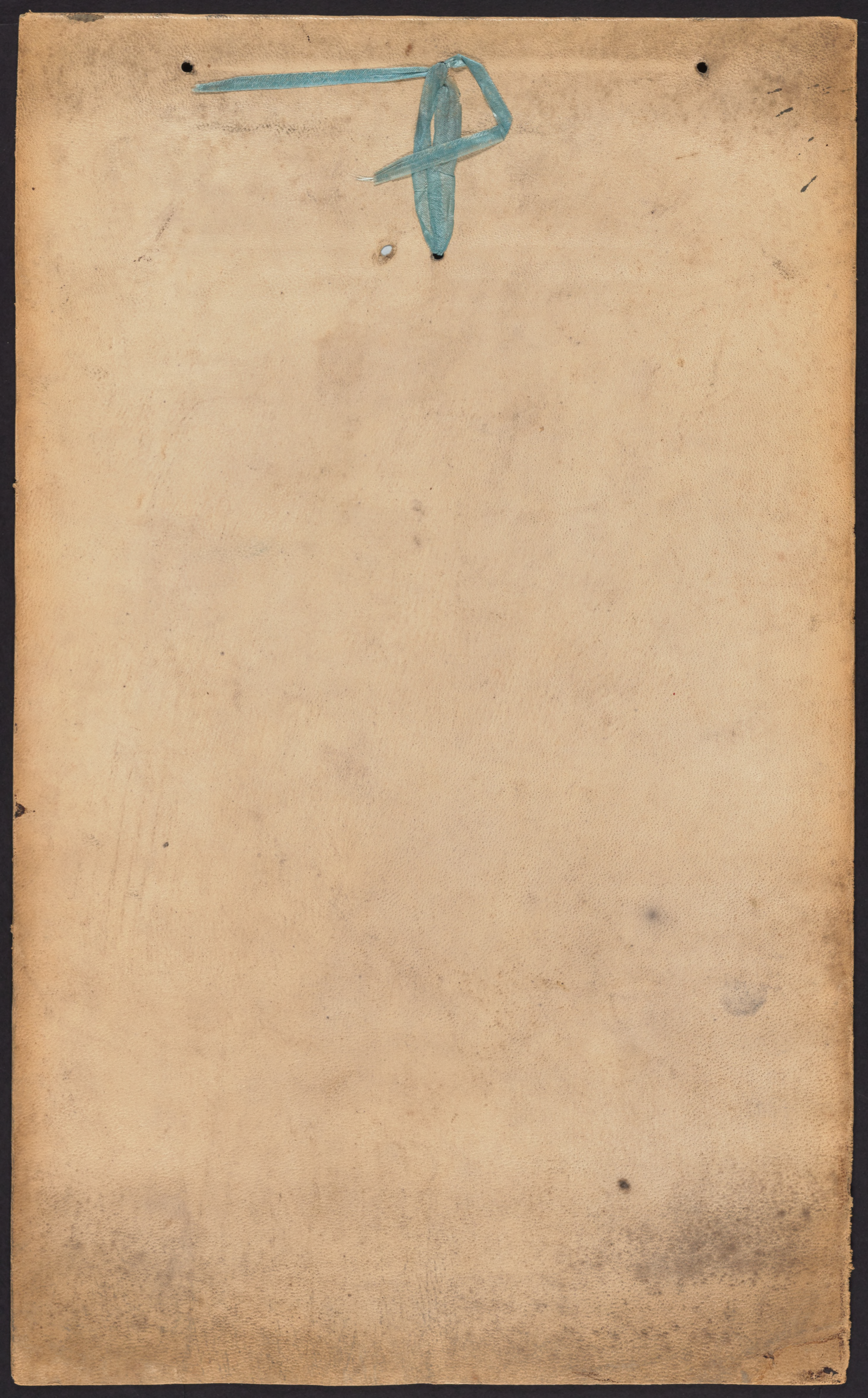
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 746.

Filed, October 1 1853

J. A. Monroe,

Clerk



Office of the Board of Commissioners,

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

San Francisco, August 21st 1855.

S. 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. 746 on the Docket of the said Board, wherein Mowry W. Smith is — the Claimant against the United States, for the place known by the name of "Part of Las Pulgas"

and request your receipt for the same.

I am, Respectfully,
Your Obt Servant,

Geo. Fisher
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