

CASE NO.

35

NORTHERN DISTRICT

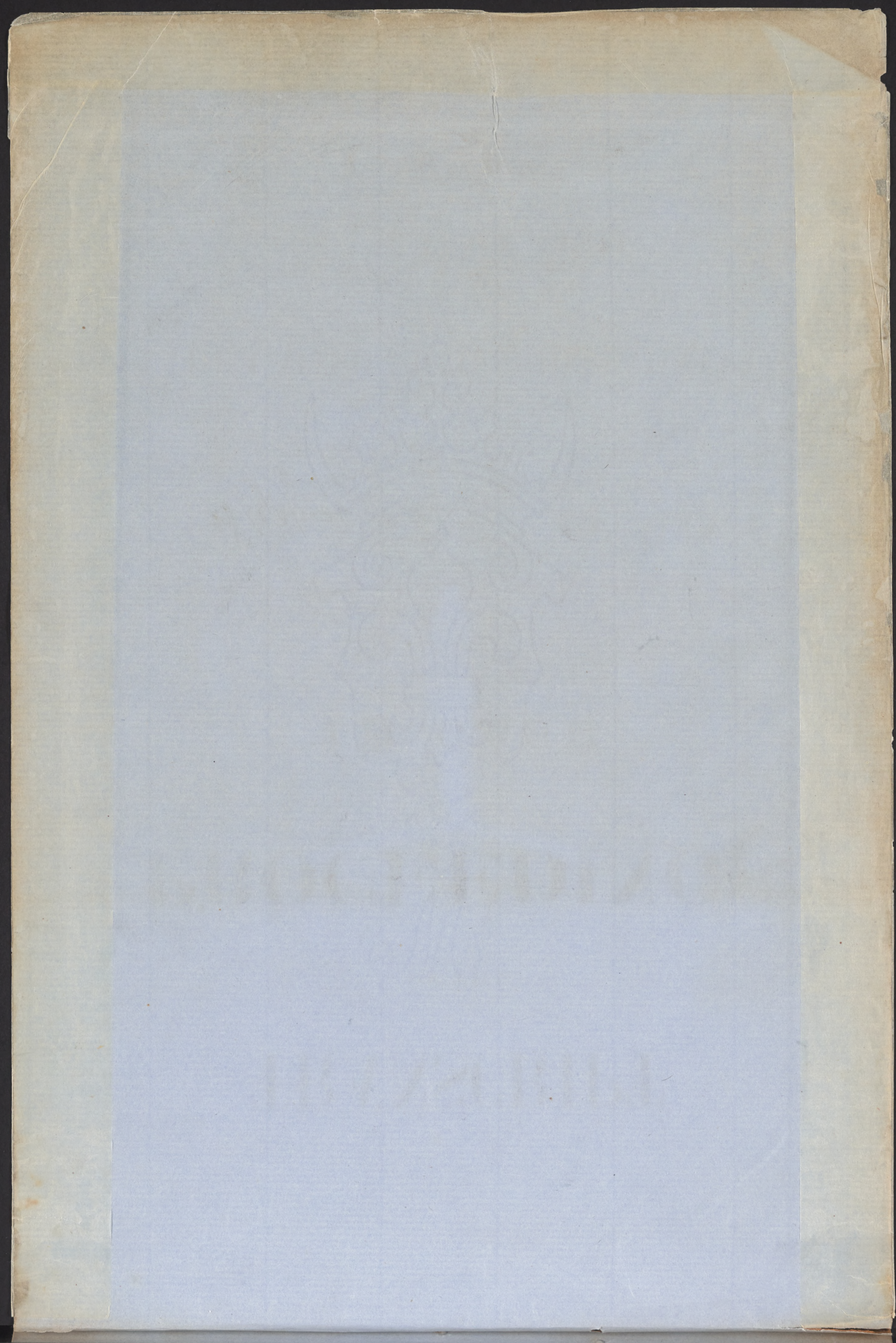
BODEGA GRANT

STEPHEN SMITH

CLAIMANT

23

23



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TRANSCRIPT
OF THE
PROCEEDINGS

IN CASE

NO. 23

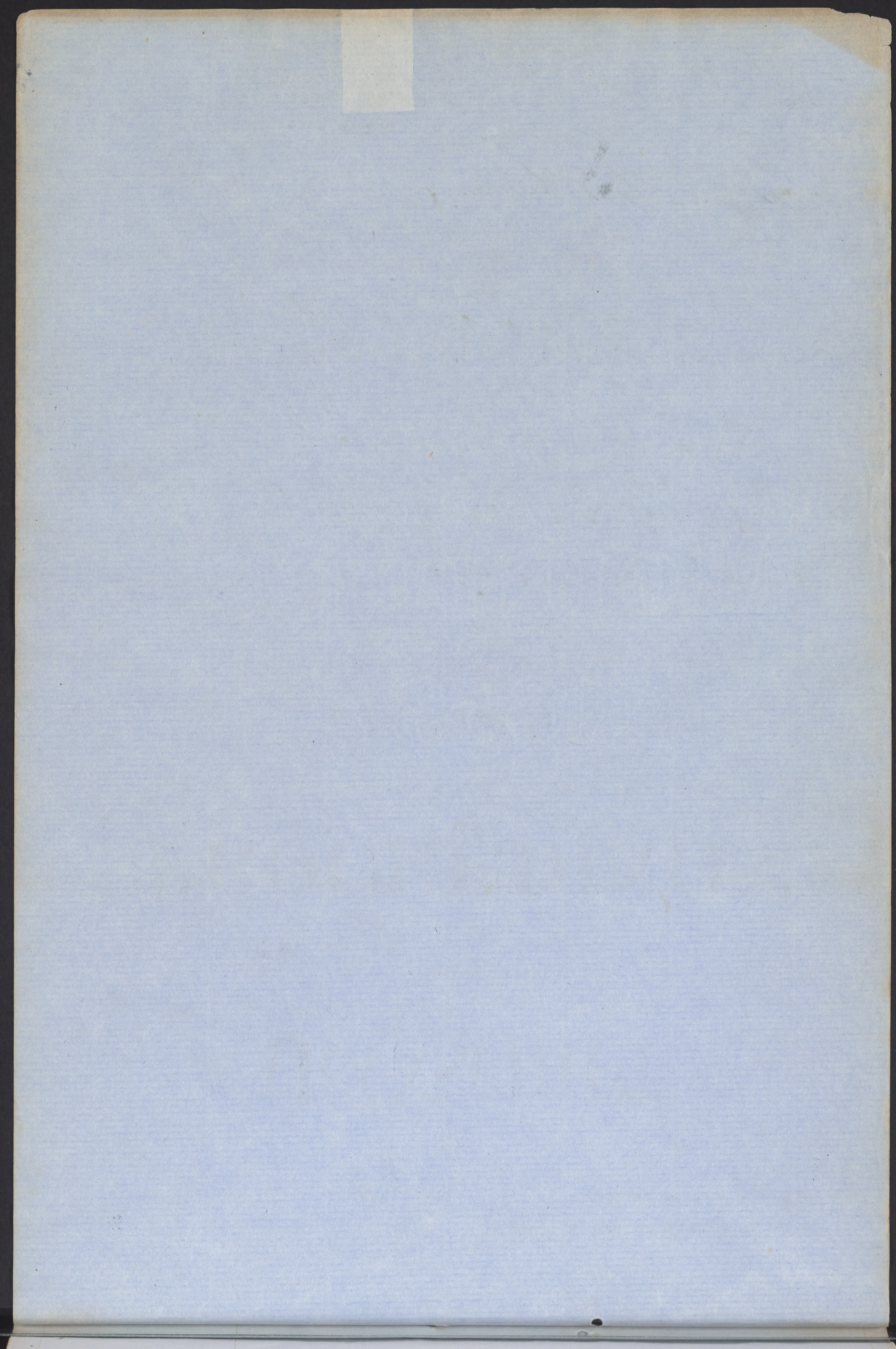
Stephen Smith CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Bodega"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this *ninth* day of *February*, Anno Domini One Thousand Eight Hundred and Fifty-*Two*, 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 *Stephen Smith*

for the Place named

Bodega

was presented, and ordered to be filed and docketed with No. *23* and is as follows, to wit;

(Vide page *5* of this Transcript.)

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

San Francisco May 12th 1852

In Case No. *23* *Stephen Smith*, the Deposition of *David Spence* a witness in behalf of the Claimant taken before Commissioner *James Wilson* was filed and is in the words and figures as follows to wit: Vide *pages of this Transcript 9*)

Tuesday July 27th 1852

In Case No. *23*, *Stephen Smith* "*Bodega*" the Deposition of *J. J. Viogot* a witness in behalf of the

Claimant, taken before Commissioner James Wilson accompanied by a map marked G. was filed, and is in the words and figures as follows to wit: (Vide pages of this Transcript, 13)

In the same case the Claimant filed three original Spanish documents as evidence in his behalf, marked J. W. No. 1, 2 & 3 and referred to in the Deposition of David Spence taken before Commissioner James Wilson, May 12th 1852 and made a part of said Deposition and are in the words and figures as follows to wit: (Vide pages of this Transcript 45)

Monday August 2^d 1852

In case No. 23 Stephen Smith, for the Rancho of "Bodega" the Secretary filed the translations of Exhibits marked J. W. 1, 2, 3 annexed to the Deposition of David Spence taken before Commissioner James Wilson May 12th 1852, which are as follows to wit: (Vide pages of this Transcript, 45)

San Francisco August 7th 1852

In case no. 23 Stephen Smith for the place named "Bodega", the deposition of Juan B. Alvarado a witness

in behalf of the Claimant taken before
Commissioner James Wilson was filed
and is in the words and figures as
follows to wit: (Vide Pages of this
Transcript 17)

San Francisco Feb 8th 1853

Case No. 23 Stephen Smith, for
the place named "Bodega" Called:
The Counsel for the Claimant, James
Wilson, read the petition and the
papers in Evidence; The associate
Law Agent of the United States
filed his Brief: Case submitted
and taken under advisement by the
Board

Monday Feb 21st 1853

In case No. 23 Stephen Smith
for the Rancho of Bodega, Com-
missioner Harry J. Thornton delivered
the opinion and the Decree of Final
Confirmation of this Board

Ordered, that the Opinion and
the Decree of Final Confirmation of this
Board, delivered this day, in this case
be recorded on the Journal

Which Opinion and Decree are in the
words and figures as follows to wit: (Vide
pages of this Transcript 53)

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To the Honorable the Board of Commissioners
to ascertain and settle Private Land Claims in the State
of California.

The undersigned Stephen Smith of
Bodega in the State of California respectfully represents
to your Honors that a certain tract of land in said State
of California was granted to him by Manuel Micheltorena
on the 14th day of September 1844, said tract of land
was then and still is known as the Bodega. That at
the time and for a long time before the said Governor of
the California Manuel Micheltorena was the acting Governor
of California under the Government of Mexico with
full and Extraordinary powers to make the grant
aforesaid. Your petitioner further represents that for a
considerable time (12) for one year before the said grant
he had been in possession of the said tract of land known
as the Bodega by the license and permission of the
said Governor Micheltorena and that said land was
surveyed in September 1843 under an order from the
said Governor and a plat of the same made, a copy
of which plat is filed with the copies herewith submitted.
The quantity of land claimed is Eight Leagues
more or less according to the survey and plat aforesaid
and as expressed in the accompanying documents and
copies - The said land has not been surveyed by the
Surveyor General of the United States, Your petitioner
is not aware of any interfering claim to said tract of
land known as the Bodega. Your petitioner would
respectfully refer your Honors to the following docu-
ments and copies of papers upon which he will rely
in support of his claim. Dec no 308 which is the first
application dated Sept 21st 1843, of your petitioner
to the Governor aforesaid for a grant of the said land
and the marginal note by Governor Micheltorena
on the same dated Sept 30th 1843. Also note of
"Estadista" Secy of State of the same last mentioned
date on same, the correspondence relating to same between
Secy of State and Col. Don Mariano Guadalupe Vallejo
the Act of grant dated Sept 14th 1844 and the final
confirmation of the same by the Departmental Assembly

of California. Certified on the 22nd of April 1846
 Copies of all which from the public archives Certified
 by Saml A King, Surveyor General, with a translation
 of the same are herewith placed on file with your
 Secretary. Your petitioner would further represent
 that from the year 1843 he has been in the quiet
 and peaceable possession of said tract of land known
 as the ~~Badaga~~ Badega. That the same was conceded to him
 by the Mexican Governor of California not as a
 matter of grace or favor, but upon a good and valu-
 able consideration viz the erecting mills and machine-
 ry at great expense for the public benefit.

Wherefore he prays your Honors to confirm his grant
 to the land aforesaid and decree that he has a valid
 title to the same tract of land, described as follows viz
 Commencing at the Mouth of Russian River So
 Called, thence running South easterly along the Coast
 of the Pacific Ocean to Badaga Point So called
 thence Easterly along said Coast to the Mouth of the
 Estero Americano, thence up said Estero Americano
 to the West line of MacKintosh's grant, which is indi-
 cated by line marked B on the plat herewith submitted
 thence Northwardly about one league to the Northwest
 Corner of MacKintosh's Survey Grant, thence Easterly
 along the Northern line of MacKintosh's grant to the
 North East Corner of MacKintosh's grant, thence South
 Ely until it intersects the line of the grant to Diego
 thence Easterly along the Northern boundary of the
 Diego's grant until it intersects the Arroyo which is
 the eastern boundary of the Rancho de Joaquin Conlto
 thence Northwardly along the said Arroyo to the Laguna
 thence North Easterly (bounding on the Rancho de Juan
 Cooper) to the Arroyo Lindero thence Northwardly down
 the Arroyo Lindero to its Junction with the Russian
 River thence down the Russian River to its Mouth
 where it discharges into the Pacific Ocean, the place begin-
 at. The aforesaid description corresponding to the
 original Survey made by Juan Diego in Sept 1843

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and the plat upon which the original grant
to your petitioner was made and which was con-
firmed by the Departmental Assembly in April
1846.

And as in duty bound will ever pray -

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Stephen Smith -
San Francisco July 9. 1852.

Filed in Office July 9th 1852.

(Signed)

Geo. Fisher Secy.

Board of Commissioners upon private
Land Claims in California. May 12th AD 1852.

Deposition
of
David Spence.

The Deposition of David Spence of
Monterey in the State of California taken at the request
of Stephen Smith to be used in the case No 23. being
the petition of the said Stephen Smith for the confir-
mation of his grant to the tract of land known as the
Bodega in said State of California.

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Interrogatory by the Petitioner -

1st. State your age, your place of residence; the
length of time of your residence in California, whether
you are acquainted with Stephen Smith the petitioner
in the above case and if you how long have you known
him?

Deponent's answer. I am fifty three (53) years
of age. My place of residence is in Monterey in Califor-
nia, and I have resided and domiciled in the
State of California for the term of twenty eight (28) years
during which time, I have constantly resided in
California. I am intimately acquainted with Stephen
Smith and have known him for ten or twelve years last
past.

Interrogatory 2nd by Petitioner -

Examine the paper now exhibited to you marked
by the Commissioner with his initials thus S. W. No 1.
and state what you know in relation to said paper
and the signatures thereto?

Deponent's Answer. Upon Examination of
said paper I state that at the time that paper purports
to be dated I was agent for Capt Stephen Smith
attending to his business with the public authorities
of California. That said Smith had made application
to the Governor for a grant of the Rancho known &
called Bodega in due form. That upon the said
Smith's application the paper now exhibited and
marked as above was issued to the said Smith
as a title for the said tract of land known as the
Bodega. That said paper was made out upon
my application as Agent for said Smith and

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Signed by the Governor Manuel Micheltorena and by the then Secretary Manuel Jimeno. I further state that I am familiarly well acquainted with the hand writing of Gov. Micheltorena and Secy. Jimeno, having seen them both write and that their signatures to the paper now shown are the genuine signatures of those Officers. That said paper being the original title issued to said Smith for the tract of land known as the Badega at the time of its date viz on the 14th day of September A.D. 1844, came into my possession as agent of said Smith and subsequently was delivered by me to Capt Smith for whose benefit it was issued.

Interrogatory 3rd by Petitioner. Examine the paper now exhibited marked by the initials of the Commissioner, J. W. No 2, and state what you know in relation to said paper and the signatures thereto?

Deponents Answer. Upon Examination of said paper marked J. W. No 2, I state that the same is the letter of ratification of Capt Stephen Smith that it is a genuine paper, and the signatures of Gov. Micheltorena and of Manl. Jimeno as Secy to said paper are genuine signatures of said Officers.

Interrogatory 4th By Petitioner. Examine the paper now exhibited marked by the Commissioner with his initials J. W. No 3, and state what you know in relation to said paper and the signatures thereto?

Deponents Answer. Upon Examination of said paper it appears to be a certificate of the approval of the Departmental Assembly. The paper is a genuine paper and the Seal the genuine Seal used at that time. I knew the hand writing of Ar. Pico having often seen him write and his signature to the paper is now exhibited to me, as has genuine signature. I can am not so familiar with the hand writing

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of Isidoro Marano who signed said paper as Secy. pro tem. But I have seen his Signature often and from what I do know of his hand writing, the Signature upon the paper now Exhibited appears to me like other Signatures of his which I believed to be genuine. I never saw Marano alive. At the time of the date of said paper viz. on the 22nd day of April AD 1846. The Sico was primer vocal or Senior Member of the Assembly and in the absence of the Governor was Ex Officio Governor.

Interrogatory 5th by the Petitioner. State what you know in relation to the said Stephen Smith's taking possession of the said tract of land known as the Bodega and of his retaining possession of the same?

Deponents Answer. The said Stephen Smith prior to the time of the grant to him of the Bodega had in possession the machinery for a Saw Mill, which he was setting a place to establish, and which the Mexican Authorities in California were very anxious to have established within said territory. Mr Smith as I understood was encouraged by the authorities to select a suitable place for the establishment of his machinery and selected and took possession of Bodega for that purpose. I understood at that time viz. in 1843 and 1844 that said Smith was in possession of said tract of land known as the Bodega and that he has been in possession of the same ever since. I was never at his place until quite lately and only know of his possession by general rumor. I have lately visited Capt Smith. I found him in possession of the Bodega with a large stock of cattle on the Rancho. The mills are still there and the manufacture of lumber still prosecuted at that place.

Interrogatories by Geo W. Cooky Esq. Late Agent of U. States to the Witnesses.

Q. Is the land of the Bodega Rancho irrigable land (de regadio) or is it dependent on the seasons

(Attemporal) orist grazing land. (de chro
badero)?

Deponents Answer.

I was at the Padega a short time and did not go
over the Rancho to examine it with much attention
from my observation of it I should say that a
part of the land might be irrigated, other parts are
covered with timber and other parts are high
hilly and mountainous fit only for grazing cattle.

I gave so little attention to the examination
of the subject that I cannot give an opinion of the
relative proportion of the several kinds of land
embraced in that Rancho.

Interrogatory 2nd by Law Agent.

Is the Rancho Padega within ten leagues of the
Sea Coast.

Deponents Answer. It is.

R. I. Spence.

May 12th 1852.

The foregoing deposition of David
Spence taken at the request of Stephen Smith to be
used in his petition for confirmation of the Padega
Geo W. Croly Law Agent of the U. States present
& did not object. On the day & year above written

Subscribed & Sworn to.

Before me.

James Wilson Comariff^r

Filed in Office May 12th 1852.

(Signed)

Geo Fisher Secy.

Board of Commissioners upon Private
Land Claims in California July 23rd 1852.

Deposition
of
J. J. Viaget

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The Deposition of J. J. Viaget taken at
the request of Stephen Smith to be used in the case No
23 being the petition of the said Smith for Confirmation
of his grant to the tract of land known as the Bodoga
Rio. Geo. W. Cooley Esq. Law Agent of the United
States was present and did not object and did
not deem it necessary to put any cross interrogatories

John J. Viaget, a Witness Examined in behalf
of Stephen Smith petitioner for Confirmation of the
Rancho called Bodoga do de pass & say that I am
fifty three years of age and have resided and been
doing business in California for and during the
period of fifteen years last past ever since the year
1837. My profession has been that of Seafaring and
Civil Engineering. I have been some of the time during
said period at Sea, but my home has been at San Fran-
cisco in California. I know the Rancho called
Bodoga granted to Capt Stephen Smith and
have known it very well for the last twelve years
I have been intimately acquainted with Capt Smith
the owner of said Rancho. In the year 1843 I made
a survey of said Rancho at the request of the said
Capt Smith and I also made a plat or plan of
the same. An original plat thereof is now shown
to me which I made and which bears the certification
by seal & signature of Manuel Serrano. The said plat
was presented by the said Smith to the Mexican
Archbishop of California at the time he petitioned
for the grant of said tract of land called Bodoga
and an accurate copy of said map or plat was
placed on file in the Archives of the Territory of
California and I now see and recognize a copy of the
same annexed to the papers filed with his petition
to the Board of Commissioners for Confirmation
of his claim to the said Rancho. The said Copy attached

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to said papers is certainly a copy of my work. The original map was made by me after an actual survey of the ground and all the lines of said Rancho called Bodega. I took the course by using a compass and the admeasurements were made by the cords and may not be strictly accurate, as part of the measures were made on horseback and part of the measures were made on foot. Where the measures could not well execute the admeasurement on horseback. The measuring was made according to the universal custom then practised in California and I have no doubt the plat or map is in the main correct. Long before 1843 I had an intimate knowledge of the Rancho called the Bodega. I knew it very well as early as the year 1840 and I had applied for it for myself of the Government of California before Capt. Stephen Smith did, but the authorities refused to grant it to me as the claim of the Russian Company who once occupied it had not been terminated when I applied for it, and the Mexican authorities then in power in California, would not grant it to me until they could hear from Mexico. Capt. Smith applied for it and it was granted to him in consideration of his establishing a saw mill, flour mill and machinery there which was of very great use to the public in the country at that time.

At the time I made the survey for Capt. S. Smith, I knew the boundaries of all the claims to land adjoining said Rancho. I had seen the papers of McIntosh's grant and I had a grant to some land which adjoined McIntosh's grant and also adjoining the Bodega. I knew also the Arroyo Lindero which was then known and recognised by all the neighbors (Calandantes) as the Western boundary of the Rancho of Don Juan Cooper. The Rancho of Joaquin Cuervo has been granted & laid out since the grant to Capt. Stephen Smith and its western boundary is the Sierrita de Sta. Rosa, that being the Eastern boundary in

part of the Bodiga. The boundaries of the said Bodiga Rancho are correctly designated on the map or plat which I made and which is now shown to me and which is correctly copied in the papers on file in this case. After getting permission to occupy the said Rancho of Bodiga, which is now mine years ago and from that time to the present, the said Capt. Stephen Smith has been in the quiet and undisturbed and undisturbed possession of the said Rancho of Bodiga. He has erected mills and houses on it has cultivated and improved it extensively and has received and pastured large herds of cattle & horses on it. He has and still does occupy it himself & with his family.

I further state that when I made the survey in 1813 as above stated, there was some doubt about the boundaries of the McIntosh grant and I called on Mr. McIntosh who was then present to show me his papers and he did so. I examined his papers very carefully and by his papers it was perfectly clear that his west line was correctly laid down and designated by the line marked B on the plat which I made. Mr. McIntosh papers called for one league west of his house and one league east of his house. I knew where his house then stood and the line B on the map was ascertained by measuring from his house to determine his western boundary. By the call of his papers. When we first called on Mr. McIntosh to show us his boundaries he pointed out a hill called on the map as Cerro Buena Vista as the center of his Rancho & said that his Rancho extended one league west and one league east of the said Cerro & half a league north & half a league south of said Cerro Buena Vista. In measuring from said Cerro one league west it gave the line A as the western boundary and measuring the half league north it cut off all Mr. McIntosh buildings & improvements. We then sent for and got his papers and from the papers we found that his correct boundaries were as by the line B on the West

And the Northern Comedany as by the line so
marked on the map.

At the time that Survey
was made in 1843. there are no claim whatever
to any of the land embraced within the Survey
It was then all of it vacant land. In the Survey
we were accompanied by one James Dawson, who
was one of the Earliest Settlers and who knew all the
Comedans of Every grant made in that neighborhood
He assisted in the Survey and pointed out the Com-
edans. He is now dead. When the Survey was made
the said Dawson was a partner & part owner with
McIntosh in that two league Rancho called
McIntosh Rancho.

John S. Gogel.

July 22^d 1852.

Subscribed & Sworn to

Before me

James Wilson Commissioner

Filed in Office July 27th 1852.

Signed

Geo. Fisher Secy.

Office of the Board of Land
Commissioners for California
San Francisco August 7. 1852.

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Resolutive
Juan B. Alvarado
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On this day before James Wilson one of the Commissioners for ascertaining and settling private Land Claims in California came Juan B. Alvarado a Witness produced on behalf of the Claimant Stephen Smith being No 23 on the Roll of said Commissioners and after being duly sworn testified as follows his Evidence being given in the Spanish Language and interpreted by Geo Fisher Secretary. The U. S. Law Agent was notified and duly attended.

I, Juan B. Alvarado of the age of forty three years and a citizen of the State of California do depose and say that towards the end of the year 1845, and during the time that Col Don Jose Castro was Commandant General of California, a mail was received in the then Territory of California from Mexico. It was the regular mail that contained the dispatches from the Central Government of Mexico to her Officers then in authority here.

That among other dispatches from the Central Government there was a dispatch which I knew and believed to be genuine & authentic from the Supreme Government of Mexico in answer to another of the same character, addressed by Genl Don Manuel Micheltorena, predecessor of Don Jose Castro in said Commandancy and by which said dispatch of the said Supreme Government it was manifested that the Supreme Government had approved of the grant to Stephen Smith of the lands known as the Podega. In and by said dispatch the said Governor Micheltorena was censured and was forbid making any more grants of that kind without obtaining the necessary authority from the Supreme Government.

The aforesaid dispatch I received & read as I was at that time Officially Engaged and Employed in opening and arranging the Official Correspondence, with the Ministers of the Supreme Government, and the Secretary's Office of said Commandant.

370 I further say that for many years before the year 1846 I was intimately acquainted with the public affairs of the Territory of California and with the correspondence between its Officers and the Ministers of the Supreme Government of Mexico. That I have not the least doubt that the approval of the Supreme Government to the said grant was a genuine and authentic dispatch.

Interrogatories by G. W. Cooley Esq.
Law Agent.

The Witness further says that the mail aforesaid, as it was coming up and Govr. Micheltorena going down crossed each other at Sea. Commandant Castro succeeded Govr Micheltorena and I was Secy in Office under Castro. It was while Sr Anna was in Authority in Mexico I believe. But the changes of the Ministers were so frequent, that I cannot now recollect what Minister signed the document above referred to. The President never signed the dispatches. They were signed by the Ministers of the proper Departments, who were responsible and their signatures were required by virtue of their respective Offices. The dispatch above referred to was received & filed in the Office of the Commandant General among other documents in his Office I do not know what has become of it since. After Micheltorena left California the duties of the Civil & Military Departments were divided. Senor Don Jose Castro was Commandant General and this particular dispatch fell into his hands and was placed upon his files by his Order.

July 7th 1852. Subscribed & Sworn. Juan D. Alvarado
Before me James Wilson Commissioner
Filed in Office August 7th 1852. (Signed) Geo Fisher Secy

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M. 20

1 S. L. K.

Expediente

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Promovido por D. Esteban Smit en
Solicitud de un terreno para publicar
una maquina en las inmediaciones de
Bodega

Nº
308

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Sello Sercero Unipesso
Habilitado provisionalmente por la Aduana
maritima del puerto de Monterey, en
el Departamento de las Californias, para
el año de mil ochocientos cuarenta y tres
Micheltorera Manuel Castanar,



Monterrey
Sept. 30 de

1843

Enfe la prefectura
del 1.º distrito, ad-
-virtiendo al Supli-
-cante no pueden
concederse propiedad
territorial a estran-
-geros; p.º q. esta
en mis facultades
naturalizarlos y
lo q. Solo necesita
pedirlo p.º escrito
Michelt.

Como Sr. Gobernador

Alban Smith natural de
los Estados Unidos de Norte
America, ante la notoria
justificacion de V.E. con
el debido respecto y como
mas haya lugar en derecho
me presento y digo. Que
Consecuente al decreto de
V.E. con fecha 21 de Julio
p.p.º que consta el adjunto
documento y ahora debida-
mente acompaña, he
formado el diseño del terreno
que solicito y pareciendome
que no es extemporanea mi
reputacion, ocurro á V.E.
con el fin propuesto en mi
anterior y al efecto

Acompaño el referido diseño que fue exactamente
medido con Cordel por un agrimensor competente
á quien firmo el diseño en garantia de su
exactitud y con escrupulosidad se ha hecho,
asegurandole al mismo tiempo q. el terreno que
pretendo no pertenece á Corporacion ni particular
alguno y para tales condiciones oro que V.E.
accedera á mi Solicitud, concediendome
la propiedad del mencionado terreno, y se
sirva expedirme el título correspondiente
Por tanto

3 SSK

V. V. E. Suplico se sirva proveer esta
mi peticion, por lo cual recibí merced
y gracia 8^a
Monte 21 de Set de 1843
Stephen Smith

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Haga saber a Don Estevan Smith el
Contenido del Supr. Decreto marginal que
antecede, y fho pase esta instancia
al Juez de Paz de Sonoma para que informe
a esta Prefectura si el terreno que se pretende
se halla baldío o si pertenece a propiedad
particular Con lo demás que crea necesario
Monterrey Sete 30 de / 843
Estrada

Hallandose actualm^{te} en esta Capital
el Sr Coronel Don Mariano Guadalupe Vallejo
que tiene un exacto conocimiento de los terrenos
inmediatos a Sonoma, a fin de evitar las
demoras que tanto perjudicaran al intrusado
Sirvase informar si el que se solicita en
esta instancia es baldío con las demás aplicaciones
necesarias establecidas, quedando sin efecto
por esto el decreto anterior de esta Prefectura
Monterrey Obre 14 de / 843
Estrada

J. A. D. K.

Sr Prefecto del 1^{er} distrito

En virtud del decreto de V. S. de hoy en
que por las razones que expresa se solicita el
informe del que suscribe al expediente de D.
Estevan Smith debo decir: que el año de
mil ochocientos cuarenta y uno fue solicitada
parte del terreno por D. Victor Trudon
a quien se le concedió provisionalmente por
el informante como encargado de la direccion
de Colonizacion en aquella parte del pais

Como lo explica el decreto que recayó en la instancia que entonces presentó el referido Sr Prudon cuyo tenor es el siguiente "Sonoma Julio 15 de 1841 = Se Concede al interesado en esta instancia los terrenos que solicita en las roacciones suyas, pero no estando aun desocupadas todas las tierras, se espurara el Solicitante a que así se verifique, sujetandose a pedir nuevamente del Gob. político los títulos de estilo = "Vallejo."

Asi mismo se le hizo presente al agente del Sr Smith, D. Gmo. Hinchy en Sonoma al manifestarme los documentos de Concesion expedidos por el Gob. Departamental en favor del Sr Smith.

Monterey 8 de 1.º de 1843
Vallejo

Exmo = S.D.R.

[Sello Cuarto dos reales
Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias, para el año de mil ochocientos cuarenta y tres

Micheltorena Manuel Castañares]



Sr Gobernador,

Impuesta esta Prefectura del Continido de este Expediente, por via de informe debe decir a V.E., que hallandose a la pda baldio el terreno que solicita en esta instancia D. Estevan Smith, apesar de que como dice el Sr Vallejo se le concedio una parte de el a D Victor Prudon en 1841, de que esta Prefa nunca ha tenido conocimiento, y que siendo tan util e interesante al Pais la maquina que el Sr Smith se ha propuesto establecer en dicho terreno, teniendo en consideracion los alegatos que espone, es de parecer que

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Sempre que el Señor adquiere la Carta de
naturalización correspondiente, se le prefiera
en la Concesión del terreno mencionado que
pretende, Si V.E. con su acostumbrado
acierto así lo hallare por conveniente
Monterrey Octubre 5 de 1843
Joa. R. Estrada

7 S.D.K

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Monterrey Oct. 5 de 1843

Al Sr. Srio del Despacho p.^a q. tenga
presente este expediente en el informe sobre
el escrito del Sr. Trudon q. versa respecto
al mismo terreno

Michelt.

S.D.K

Sello Cuarto de reales

Habilitado provisionalmente por la Aduana
Marítima del puerto de Monterrey en el
Departamento de las Californias, para el
año de mil ochocientos cuarenta y tres

Micheltorera Manuel Castanera

Exmo Sr -



El infrascrito Esteban Smith
ciudadano de los E. U. con el mas debido respeto
ante V.E. se presenta y dice. Por Segun
la permision q.^a recibí de V.E. (cuando
tenia el honor de ver á V.E. en el pueblo.)
para ir a qualquiera parte del País a escoger
un sitio a proposito para establecer la maqui-
noria que traigo, Salí de Monterrey para
la Sierra Buena a reconocer el terreno en
aquella parte, pensando q.^a en sus inmediaciones
podia encontrar con un lugar q.^a tuviera todas
las Cualidades precisas para mi objeto; pero
después de una cautelosa examinacion del
Campo, no he podido hallar con ningun
sitio q.^a seria a proposito para la susodicha
maquinoria hasta mi llegada á la Piedad

250

aquel lugar á pesar de no tener todas las ventajas q.^a podia desearse reúne mas q.^a todos los otros Sitios q.^a he visto. Después de Convencerme de sus ventajas sobre las demas partes del país, parti á Sonoma, adonde tenia el gusto de ver al Sr. Gral. Vallejo, este Sr. muy enteramente apróbo de mi designio, y con mucho cariño ofreció hacer todo q.^a estuviere en su poder p.^a ayudar en establecer la magnificencia allí, y a mas el es de parecer, q.^a estaria mas ventajosa al país q.^a sea establecida en aquella parte en preferencia de qualquier lugar mas cerca de la poblacion por raxon q.^a á causa de los muchos bosques, hay muy poca tierra q.^a sirve para Cultivo.

g. S. D. K.

Como el tiempo q.^a pare en dha parte fue muy corto, era imposible formar un diseño del Campo pero con toda la prontitud posible, después de recibir de V. E. licencia de ocuparlo mandare un apicador bastante capaz quien tengo a bordo de mi buque, para hacer un diseño exacto y verdadero y una copia de ello sera depositada con la propia autoridad á la disposicion de V. E.

Los límites del terreno q.^a Suplico, segun el Calculo q.^a podia formar por el examen q.^a hize de ello, son como sigue, á saber:

Desde la Boca del Rio Ruso, y sobre ello como ocho leguas, — la linea N. Oeste

Desde la boca de dho Rio, por la orilla del mar, hasta la punta Bodega — la linea S. Oeste.

Desde la punta Bodega y limitado por la bahia de Bodega y los ranchos de J. M.^c Potosh y J. Vioget, como ocho leguas, dha distancia medida paralela al Rio Ruso, — la linea S. Este.

Desde el ultimo mencionado limite hasta la boca del Rio Ruso — la linea Norte

Puede Ser q.^a a primera vista pareca muy extensivo el Sitio, pero Suplico decina V.E. q.^a una parte mayor de ello es muy montañoso inocupado aun para mantener ganados y q.^a tambien como tres leguas Sobre la orilla del mar, la tierra es muy estéril, casi un desierto, q.^a Seria de ningun valor p.^a mi Sino fue preciso tenerlo para asegurar un embarcadero p.^a los productores de mi establecimiento.

Por lo tanto espero q.^a el esajimiento de terreno q.^a he hecho Sera aprobado por V.E. y con el mayor respeto ruego q.^a V.E. Se Sirva tener la bondad de mandar expedirme la licencia necesaria, para q.^a desde luego pueda ocupar el terreno Suplicado Como q.^a es de mayor importancia para mis intereses ya muy perjudicados por el perdido de tiempo q.^a ha sucedido q.^a Sin mas demora proceda a establecer mi maquinaria, de modo q.^a pueda recibir reembolso por los caudales grandes que he gastado en esta empresa, q.^a va ser tan Ventajosa para el Pais.

Desde q.^a tuve el honor de Conocer a V.E. he visto muchas partes del Pais, y quedo mas y mas agradecido con su tan bello y benigno clima y la mucha fertilidad de sus tierras, por lo cual y el grande deseo q.^a tengo de estar bajo el Gov.^{to} de uno tan ilustrado y estimable como V.E. he hecho el animo quedar permanentemente aqui, y hacirme Ciudadano de la Republica, los pasos necesarios p.^a lo cual tomare tan pronto q.^a llegue a Monterey adonde ire con mi buque tan pronto q.^a pueda desembarcar mi maquinaria y para no demorar en la obra con el mas grande respeto, me rogar que V.E. Sirvase haarme el favor de mandar con el portador del presente la licencia para ocupar el terreno q.^a he Suplicado, o una

10 S.L.K

Contestacion terminante sobre la materia como que
mi buque esta parado a mucho gasto, solo
por no poder desembarcar mi maquinaria

Confiado en la proteccion q.^a V. E.
me hizo el honor de ofrecermela, y Suplicando
respetuosamente que V. E. Sirvase emplear
en mi favor Su tan bien conocida caracter
p.^a generosidad y justicia tengo el honor de ser
con el mayor respeto

El mas humilde servidor
de Su Excel.^a

L. S. M. B.

Santa Barbara Julio 19 de 1843
pp. Esteban Smith
Juan S. Larned

Gob.^o del Departam.^{to}
de California

San Buenaventura Julio

21 de 1843

Este Gob.^o en obsequio de la empresa
tan benéfica al Pais y protegiendola debidamente
asi como considerando los graves gastos y perjuicios
q.^a resultarian en las demoras de los tramites,
y usando de las amplias facultades con q.^a porso-
nalmente lo ha imbolido el Supremo nacional,
concede el terreno en propiedad al S. Smith,
con las condiciones de Sujitarse a presentar
el diseño, p.^a q.^a entonces corra los tramites
legales en el termino de dos meses, y
entendiendose la Consecion Siempre q.^a no
sea propiedad de otro, ni con perjuicio de
tercera persona, Sirviendole el presente de
titulo provisional interim, se le espide en
toda forma el Correspondiente
Michelt^a

13 S. DK

Monterrey Septie 12 de 1844
Espidare el titulo
Michelt^a

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Monterey Ste 14 de 1844
Vista la peticion con que da principio

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Here follows a map

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PAGE 27

El Ciudadano Manuel Michetorena
General de Brigada del Ejército Mexicano
Ayudante General de la Plana Mayor
del mismo Gobernador Comandte. General
e Inspector del Departamento de las
Californias

Sr. Cuanto D. Estevan Smit Mexicano
por naturalizacion ha pretendido p.^a su beneficio
personal y el de su familia el terreno conocido
con el nombre de Bodega siendo los limites
desde la Voca del Rio Tuso hasta Colindar
con el rancho de D. Juan Coopers por la
parte del N. Oeste, desde esta misma voca
del Rio hasta Bodega que es el lugar donde
se tomara una linea y rumbo cierto de
los linderos del S. Macintosh y el Sr. Viaget;
practicadas previam.^t las diligencias y averigua-
ciones correspondientes Seg.ⁿ No dispuesto por
ley y reglamentos, a nombre de la Nacion
Mexicana he venido en concederle el terreno
mencionado sujetandose a la aprobacion de la
tama Asamblea Departamental y a las Condiciones

15 S. D. K.

Siguientes:

1.^a Dejara libre el Puerto de Ros, lo mismo
que mil varas p.^a lo interior distante de toda
la orilla del mar, tanto p.^a el trafico del Comercio
como p.^a el Servicio publico, y demas usos que a
la Nacion le combenga

2.^a No podra venderlo, enagenarlo ni
donarlo; imponer Sento, vinculo, hipoteca
ni otro gravamen alguno.

3.^a Podra cercarlo sin perjudicar los caminos,
caminos y servidumbres: lo disfrutara libre
y esclusivam.^t destinando al uso o cultivo q.^{ta} mas
le acomode, pero dentro de un año fabricara
casa y estara habitada.

4.^a Cuando se conforme la propiedad de el
Solicitará del Juez respectivo que le de posesion

juridica en virtud de este despacho por el cual
se demarcaran los linderos en cuyos limites
pondra á mas de las mejoras algunos arboles
frutales o silvestres de alguna utilidad

5.^a El terreno de quese hace donacion
es de ocho sitios de ganado mayor segun
explica el diseño respectivo. El Dueño
que diere la posesion lo hará medir conforme
a ordenanza, quedando el Sobrante que resulte
á la Nacion p.^a los usos convenientes.

16 S. D. K

6.^a Si contraviniera á estas condiciones
perderá su derecho al terreno y sera denunciado
por otro.

En consecuencia mando que teniendo
por firme y valdiero este título se tome razon de
el en el libro respectivo y se entregue al interesado
p.^a su resguardo y demas fines. Dado en
Monterrey en 14 de Septiembre de 1844
Man.^{te} Micheltorena = Man.^{te} Jimeno
Srio = Se torno razon

Angelis Marzo 16 de 1846

Dado cuenta en sesion de hoy á la
Honorable Asamblea con este expediente se
mando pasar á la Comision de terrenos valdies

Pio Pico

Presid.^{te}

Agustin Olvera
Srio

Dr

17 S. D. K

La Comision de terrenos valdies a
examinado el presente Exped.^{te} promovido p.^a
D. Estevan Smit, mejicano p.^a naturalizacion
relativo al paraje de la Bodega q.^a se fue
Concedido por el Gob.^o Departam.^l con fecha 14
de 7^o de 1844, y estando conforme á los

leyes de la materia, pone á la deliberación de V.
E. la proposición siguiente.

Se aprueba la Concesion hecha
al indiano por naturalización D. Esteban
Serrit del paraje de la Bodega en estension
de posesion de ganado Mayor segun título
librado con fecha 14 de Feb de 1844 de entera
conformidad con la ley de 18 de Agosto de 1824
y el art. 3.º del reglamento de 21 de Gbre
de 1828.

Sala de Comisiones de la H. Asamblea
Departam. en la Ciudad de los Ang. a
13 de Abril de 1846. S. Agüillo

Angeles Abril 22 de 1846

En Sesion de hoy se aprobo por la
H. Asamblea Departamental la proposicion
del dictamen precedente.

Jos Pico
Agustin Olvera
D.S.

En la fha queda librado
a la parte el Comprobante
respectivo (Rubrica)

Office of the Surveyor General of the
United States for California

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 charge and custody, a portion
of the Archives of the former Spanish and
Mexican Territory or Department of Upper

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California, do hereby certify that the Seventeen
preceding and hereto annexed pages of tracing
paper, numbered from one to seventeen
inclusive, and each of which is verified
by my initials (S. D. K.) exhibit true
and accurate copies of certain documents,
now on file and forming part of the said
archives, in my office.

In testimony whereof I have
hereto signed my name, officially,
and affixed my private seal (not having
a seal of office) at the City of San Francisco,
Cal, this 26th day of November A.D.
1851

Sam. D. King
Sur. Gen. Cal

Filed in office 9th Feby 1852
Geo. Fisher
Clerk

112

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"C"

No 3083

Monterey
Sept 30th 1843.

The Prefecture
of the United States
will inform
the petitioner
that that
property has
not been granted
to foreigners
but that having
it in my
power to make
them citizens
the only
necessary step
for him to be
admitted, will
be to apply
for it in
writing -
Micheltoune.

Proceedings in the instance of Don
Estrean Smith who solicits a parcel of
land in the vicinity of Badaga for the pur-
pose of working a machine at that place.
To His Excel^{ty} the Governor.

Estrean Smith a native of the U. S. of high
America before your Excel^{ty}. Notorious Justice
with all due respect and as it may be most
acceptable in law, present myself and say:
That according to your Excel^{ty} decree of
the 21st July last past, which is herewith
annexed, I have made the plat of the parcel
of land I solicited and in the belief that my
petition of the same may have been out of time
I now apply to your Excel^{ty} to obtain that
which I asked in my previous petition.
To said plat there is a Certificate of the
Surveyor who measured the land with a
line (cordel) guaranteeing the strict accu-
racy with which it was done. I would
assure you at the same time that the land
I petition for does not belong to any Corpo-
ration or private individual. Under such
circumstances I trust that your Excel^{ty} will
accede to my petition, and that you will
grant me the same as my property and be
pleased to issue the corresponding title.

Wherefore I request that your Excel^{ty} will please provide
for my petition which favor I shall receive.

Monterey September 21st 1843.

Stephen Smith.

Inform Don Estrean Smith of the substance of the
Superior Decree on the preceding margin, after which
these proceedings shall be transmitted to the Justice
of the Peace of Sonora, that he may report to this
Prefecture whether the land petitioned for is public
(baldio) or if it is the property of any individual
with all the other facts that may be deemed necessary

Monterey September 30th 1843.
"Estrada."

320
Col Don Mariano Guadalupe Vallejo, who has an exact knowledge of the lands in the vicinity of Sonoma, finding himself here at this Capitol, will please in order to avoid delays inform us to the petitioners report whether the land petitioned for is public (salida) and make all other required explanations, annulling by this decree the previous one issued from this Prefecture.

Monterey Oct 4. 1843.
Estrada.

Senior Prefect of the 1st District.

By virtue of your Honors decree of today with the reasons therein expressed and asking the undersigned to report upon the proceeding (Expediente) at the instance of Don Estevan Smith I have to say, That in the year 1841, a part of said land was solicited by Don Victor Pruden, to whom it was conceded provisionally by the informant, he then being in charge of the Colonization of that portion of the Country as is evidenced by the decree issued in the petition, which the said Pruden then presented the tenor of which is the following Expediente.

Sonoma July 15th 1841.

The lands which the petitioner asks in this instance in the Russian possession are granted to him, but as they are not yet vacated in the whole extent the petitioner shall have to await until they be so and he will have to solicit the Political Governor anew for the usual titles in such cases.

Vallejo.

Thus it was made known to Dr. Guillermo Amichy Agent of Senior Smith in Sonoma when he exhibited to me the document relative to the grant issued by the Departmental Government in favor of Mr. Smith.

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Monterey Oct 4th 1843.
Valleyo.

Senor Governor.

The Prefect being informed of the contents of these proceedings would by way of report state to Your Excellency that up to this date the land petitioned for by Don Esteban Smith remains unappropriated (valdior) notwithstanding the fact that Senor Valleyo says that a part of it was granted to Don Victor Pruden in 1841 of which this Prefecture has never had any knowledge. The machinery which Mr Smith proposes to establish on that land, according to his declaration to do so being so useful and important to the Country, it would seem that if that gentleman were to take his naturalization papers, he should be preferred in regard to the grant he petitions for of said land, if Your Excellency with your usual discernment would deem it thus convenient.

Monterey, Oct 5th 1843.

Jose H. Estrada.

Monterey Oct 5th 1843.

The Secretary will bear in mind this dispatch in the report on the application of Senor Pruden which relates to the same land.

Micheltorina.

Excellent Sir.

The undersigned Esteban Smith a citizen of the U. States with all due respect before Your Excellency appears and says, That agreeably to your Excellency's permission (which I received when I had the pleasure of seeing you at the Pueblo) to go to any part of the Country to select a suitable place to establish the machinery I have in my possession, I proceeded from Monterey to Yerba Buena in order to examine that portion of the Country believing that I would be able to find in that vicinity a spot which might answer my object. But after a careful examination of the

Country. I did not succeed in finding a suitable place until I visited Bodega.

That place though not embracing all the advantages I might desire is nevertheless better suited than any other I have seen.

Convinced of its advantages I proceeded to Sonoma where I had the pleasure of meeting Genl. Vallejo. This gentleman approved of my selection and with much kindness offered to do all in his power to help me in establishing my machinery there. He is also of the opinion that it would be more beneficial to the Country to have it there than in any other place nearer to a settlement for the reason that as it consists of much forest, there is but little land fit for cultivation. At the time I spent there was very short. I could not make a survey of it, but with all possible speed after I receive Genl. Beech's permission to occupy it I shall send there a competent surveyor (who is now on board my vessel) to make a true and correct plat, a copy of which shall be deposited with the proper Certificate at Genl. Excellency's disposal.

The Commodore's of the land that I ask according to the Calculation I was able to make after my examination are as follows viz: —

From the mouth of the Russian River & along its course about eight leagues in a North westerly course. From the mouth of the said River along the Sea shore as far as point Bodega in a S. W. course. From Bodega Point around by the Bay of Bodega & the Ranches of J. Mcintosh & J. Pigot a distance of about eight leagues, said distance measured on a parallel line to the Russian River in a S. E. course. From the last mentioned point to the Entrance of the Russian River in a N. E. course.

The place may appear at first sight to be very extensive, but he would observe to Genl. Beech that a great portion of it is very mountainous not even fit for cultivated in & that also about three leagues near the Sea shore is very barren.

Almost a desert, which would be of no service to me, were it not to secure a landing place for the products of my Establishment. Wherefore I hope that the Selection I have made will be approved of by Your Excellency, and I would most respectfully request that Your Excellency will be pleased to command that the proper license may be issued to enable me to occupy the place at once, as it is highly important to my interests which have suffered considerably by reason of the time I have lost, and to enable me without further delay to place my machinery & reimburse myself of the large amount I have spent in an undertaking so advantageous to the Country.

Since I had the honor of making Your Excellency's acquaintance, I have seen many portions of this Country of which I am more & more pleased for its fine general climate & the great fertility of its lands for which reason the great desire of being under the Government of so illustrious and estimable a person as Your Excellency, I have made up my mind to remain permanently here & become a citizen of the Republic, the necessary steps for which I shall take as soon as I arrive in Monterey, where I shall go with my vessel as soon as I can land my machinery. And with a view of no longer delaying the arrival again with the utmost respect request that Your Excellency will do me the favor to send by the Caesar the required license to occupy the land I have petitioned for or some conclusive answer as my vessel is now detained at a great expense, all in account of not being allowed to land my machinery.

Trusting in the protection that Your Excellency did me the honor to confer on me & requesting Your Excellency to favor me with your generosity & Justice, I have the honor to be with great respect
Your Excellency's Most humble Servant.

J. P. Estevan Smith

Juan S. Larned

Santa Barbara, July 19. 1843.

Govt of the Depart^t of the Californias.

San Buena Ventura July 21st 1843.

This Gov^t in consideration of the Conspicuous undertaking of the petitioner, wishing duly to protect such works and in view of the heavy Expenses and Damages which would accrue from a delay in the regular proceedings, using the ample prerogative with which the Supreme Govt has personally vested him, grants the land as the property of Senor Smith with the condition that he will present a plat to be used in the necessary legal proceedings within the space of two months, with the understanding that the concession is made provided the property does not belong to any individual & is not of detriment to a third party. This to serve as a provisional title until another one be issued with all the required forms.
Micheltorona.

Monterey Sept 12th 1844.

Let the title be issued.

Micheltorona C.

Monterey Sept 14th 1844

Having examined the petition signed by Citizen Manuel Micheltorona Brigadier General of the Mexican Army, Adjutant General of the Staff of the same Governor, Commandant General & Inspector of the Department of the Californias.

Whereas Don Estevan Smith a naturalized Mexican Citizen has petitioned for his own benefit & that of his Family the parcel of land known by the name of Bodega the Comandancia of which are the following viz - From the mouth of the Russian River to the Comandancia of R^o Juan Crespo Rancho on the North west, from said mouth of the River as far as Bodega, which is the point whence a line and true course shall be drawn to the Comandancia of Mr. Mcintosh and to those of Vizet, and whereas he has complied with the requirements and investigations in the matter in conformance with the laws and regulations. I have thought proper

to grant him in the name of the Mexican Nation the said parcel of land, he to submit the same to the approval of the Departmental Assembly and to the following conditions.

1st. He shall keep free Report, as also one third of the land inland from the Sea Shore for the traffic of Commerce as well as public Service and any other use that may be deemed by the Nation convenient.

2nd. He shall not sell alienate nor give it, nor subject it to rent, entail or mortgage nor to any incumbrance whatsoever.

3rd. He may fence it without obstructing paths roads and servitudes & things of public use. He shall enjoy it freely and exclusively in the use or cultivation which he may think fit, but within a year he shall place a house thereon and cause it to be inhabited.

4th. When the property shall be confirmed he will apply to the proper Judge to give him lawful possession by virtue of this Patent by whom the Confinement shall be marked to the limits of which he is to take the land. Marks he will cause to be planted some fruit trees, or else wild ones of some usefulness.

5. The land of which donation is made is of Eight (Ocho de ganados Mayor) Square leagues as the respective plan explains. The Judge who shall give possession will cause the same to be measured agreeably to the ordinances, keeping the excess (Sobranito) which may result to the Nation for its such purposes as may be deemed convenient.

6th. If he should contravene to these conditions he shall lose his right to the land which may be denounced by any one.

Therefore I Command that holding this to be a good and valid title it shall be entered in the proper Book, after which it shall be returned to the interested party for his own security, and every other purpose.

Given in Monterey on the 14th of September 1844. Manuel Micheltorena - Manuel Simoes Secy.
The same was Entered.

300

Angels. March 16th 1846.

This dispatch having been communicated to the Sen Assembly in their Session of today they ordered it to be referred to the Committee on public lands (terrenos baldios)

Pio Pico. President.

Augustin Olvera Secretary.

Sir -

The Committee on public lands have examined these proceedings at the instance of Don Estevan Smith a Naturalized Mexican Citizen relative to the place of Bodiga granted to him by the Departmental Government on the 14th day of September 1844. In coming in conformity with the laws on the subject, they submit to your Excellency's deliberation the following opinion (proposition)

They approve of the grant made in favor of the naturalized Mexican Citizen, Don Estevan Smith of the place at Bodiga of the extent of Eight square leagues (Sietes de Ganado Mayor) according to the title issued on the 14th of September 1844. Entirely in conformity with the laws of the 18th of August 1824, & with the 5th Article of the Regulations of the 21st November 1828.

Head of the Committee of the Hon^{ble} Departmental Assembly in the City of Los Angeles.

April 13th 1846.

S. Arguilla.

Angels April 22nd 1846.

In their Session of today the Excellent Departmental Assembly approved of the proceeding proposition of their opinion -

Pio Pico.

Augustin Olvera.

On this date was delivered to the interested party a certified Copy.

Filed in Office Feb^y 9th 1852.

(Signed) Geo. Fisher Secy.

Government
of the
Department
of California

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Translation
of
Approval.

Pio Pico Constitutional Governor of the
Department of California.

The Board of the Departmental Assembly in their session of today have decided as follows.

They approve the grant made to the Mexican by naturalization Don Esteban Smith of the tract of land called La Badiga, to the extent of Eight Square leagues (Sitios de granada mayor) according to the title issued on the 14th of September 1844 in conformity with the law August 18. 1824 and the article 5th of the Regulation November 21st 1825.

And for security of the party Don Esteban Smith I make it known.

Given in the City of Los Angeles on this common paper for want of stamped one on the 22nd of April 1846.

(Signed) Pio Pico.

José Matías Moreno }
Secy ad interim }

Office of the Board of
Commissioners of California
Land Claims.

I Certify the foregoing to be a true translation from the Spanish original annexed to the deposition of David Spencer and filed in this Office.

San Francisco August 2nd 1853.

(Signed) Geo. Fisher Secy.

Filed in Office August 2nd 1853.

(Signed) Geo. Fisher Secy.

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I hereby certify on my word of honor that towards the end of the year 1845 when Colonel Don Jose Castro was Commandant General of California, a mail was received in this port from Mexico, in which I saw and read an official communication from the Supreme Government, in answer to another of the same character, addressed by General

D. Manuel Michelorena, predecessor of Don Castro in said Commandancy, in which it was manifested that the Supreme Gov^t had approved the grant made to Mr. Joseph E. Smith of the lands situated in the port of Bodega, ordering at the same time that no more grants of that kind should be made without obtaining the necessary authority from the Supreme Government.

This I certify because at that time I was employed in opening and arranging the official correspondence with the Ministries in the Secretary's office of said Commander.

In testimony

Por el presente Certifico bajo de mi palabra de honor que a fines del año de 1845 hallandose de Comandante General de California el Sr. Coronel D^o Jose Castro, se recibió en este Puerto un correo de Méjico en el que vi y leí una comunicación oficial del Sup^{mo} Gob^{no} en contestación á otra del mismo carácter dirigida por el Sr. Gral D^o Manuel Michelorena antecesor del Sr. Castro en dicha Comandancia en la que constaba haber el Sup^{mo} Gob^{no} aprobado la concesion hecha á D. Jose E. Smith de los terrenos confinados en el Puerto de Bodega previniendo al mismo tiempo que no se volvieran á hacer concesiones de igual naturaleza antes de obtener de la Superioridad la autorisacion correspondiente; esto Certifico

Whereof I give the present in Monterey the twenty first of August one thousand eight hundred and forty seven
 Juan B. Alvarado
 por que en esave fui empleado en abrir y arreglar la correspondencia oficial de los Ministérios en la Secretaría de dicho Pepe. Y para que conste doy el presente en Monterey a veinte y uno de Agosto de mil ochocientos cuarenta y siete
 Juan B. Alvarado

2 S. D. K.
 Monterey Cal.^a 21 Aug. 1847
 Juan B. Alvarado

On the Subject of instructions from Mexico touching the grant of land to Smith at Bodega & forbidding others to be made of similar character

Rec^d Aug. 23. 1847

[Note by Surveyor General]

[The above is the endorsement on the back of the original, of which the preceding page is a copy]

S. D. King

S^r Genl

Office of the Surveyor General of the
 United States for California

I, Samuel A. 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, I do hereby Certify

that the two preceding and herunto annexed pages of tracing paper numbered from one to two 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.

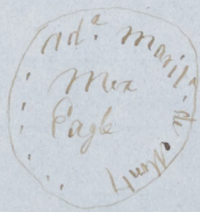
In testimony whereof I have herunto signed my name officially, and affixed my private seal (not having a seal of office) at the City of San Francisco Cal the twenty second day of November A.D. 1852

Sam. D. King
Surv. Genl Cal

Filed in office Jany 21. 1853
Geo Fisher
Secy

J. W. No 1

Sello primero ocho pesos.
Habilitado provisionalmente por la Aduana Maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ocho cientos cuarenta y cuatro y mil ocho cientos cuarenta y cinco
Micheltorona Pablo de la Guerra



A Ciudadano Manuel Micheltorona General de Brigada del Ejercito Mexicano. Ayudante Gral de la Flota Mayor del mismo, Gobernador, Comandte Gral e Inspector del Departamento de Californias

Por Cuanto Don Estevan Smith Mexicano por naturalizacion ha pretendido para

Subvencio personal y el de su familia el terreno conocido con el nombre de la Bodega, siendo los limites desde la boca del rio Ruso hasta Colindar con el rancho de D. Juan Cooper, por la parte del N. oeste, desde esta misma boca del Rio hasta Bodega, que es el lugar donde se tomara una linea y rumbo cierto de los linderos del Sr. MacKintosh y el Sr. Viaget: practicados previam^{te} las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas a nombre de la Nacion Mexicana, he venido en conceder el terreno mencionado sujetandose a la aprobacion de la E. Asamblea Departamental y a las condiciones siguientes.

- 1.^a Dejara libre el Puerto de Ros lo mismo que mil varas p.^{to} interior distante toda la orilla del mar, tanto para el trafico del Comercio y demas Servicio publico, como para los demas usos que a la Nacion le convengan.
- 2.^a No podra venderlo, hipotecarlo ni donarlo, imponer de su vinculo ni otro gravamen alguno.
- 3.^a Podra cercarlo, sin perjudicar las traversias, caminos ni servidumbres, lo disfrutara libre y exclusivamente, destinandolo al uso y cultivo que mas le acomode, pero dentro de un año fabricara casa y estara habitada.
- 4.^a Cuando se confirme la propiedad del terreno, Solicitara del Puex respectivo la posesion juridica en virtud de este despacho, demarcandole los linderos en cuyos limites pondra a mas de las mechenas algunos arboles frutales o silvestres de alguna utilidad.
- 5.^a El terreno de que se hace donacion es de ocho sitios de ganado mayor segun explica el diseño respectivo.

El Puex que tiene la posesion lo hara medir conforme la ordenanza quedando el sobrante que resulte a la Nacion p.^{to} los usos

47

6^a Convenir

Si contraviniese a estas Condiciones
perdiera su derecho al terreno y sera denunciado
por otro.

CASE 35 ND

PAGE 44

En consecuencia mando que teniéndose
por firme y valido el presente se otorgaron
de el en el libro respectivo y se entregue al intere-
sado p.^a el uso que mas le convenga.

Dado en Monterey de la Alta California
a catorce de Setiembre de mil ochocientos
cuarenta y cuatro.

Man^{te} Michelt^aMan^{te} Jimeno
Crio del Despacho

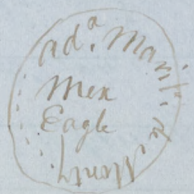
Queda tomada razon de este despacho
en el libro respectivo a fojas 9^{ta}
Jimeno

Filed in office July 27. 1852
Geo Fisher
Secy

Recorded in Record of Evidence Vol. 1
pages 359 & 360
Geo Fisher
Secy

S.W. no. 2

El Ciudadano Manuel Michelt^aorna
General de Brigada del Ejercito Mexicano
Ayudante General de la Plaza Mayor
del mismo, Gobernador, Comand^{te} General
e Inspector del Departamento de las Californias



Habiendo Don Esteban Smit
originario de los Estados Unidos cumplido

con las condiciones y requisitos que previene la
Ley respectiva, que arregla el modo con que
debe concederse carta de naturalización a los
Estrangeros, y acompañando los documentos
que lo acreditan, declaro al referido Dr.
Esteban Smit naturalizado en la Republica
Mexicana, en virtud de la autoridad que
por aquella ley se me confiere.
Dado en Monterey a 1.º de Setiembre
de 1844

Man. Micheltorena
Man. Jimeno
Srio

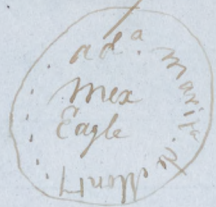
Carta de Naturalización a
favor de Don Esteban Smit

Filed in office July 27. 1852
Geo Fisher
Secy

Recorded in Record of Evidence Vol. 1
page 362
Geo. Fisher
Secy

I. W. n. 3

Pio Pico, Gobernador Constitucional
del Departamento de las Californias



La misma Asamblea Departamental
en sesión de hoy ha decretado lo
siguiente.

" Se aprueba la Concesion hecha al Mexicano
por naturalización Don Esteban Smit del
paraje de la Jodega, en estension de ocho
sitios de ganado mayor segun titulo librado

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CASE 35 ND

PAGE 46

11
no 23
Con fecha 14 de Setiembre de 1844 de entera conformidad con la ley de 18 de Agosto de 1824 y el artículo 5.º del reglamento de 21 de Noviembre de 1828 "

Y para resguardo de la parte de Don Estevan Smit lo hago así saber. Dado en la Ciudad de los Angeles en este hapul Comunal por falta de Sello, a veinte y dos de Abril de mil ocho cientos cuarenta y seis.

J. Pico

José Matías Moreno
Srio int.

Filed in office July 27. 1852
Geo Fisher
Secy

Recorded in Record of Evidence Vol. 1
page 363
Geo Fisher
Secy

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Government
of the
Department
of California.

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Translation
of
Letters of
Naturalization

Citizen Manuel Micheltorena, General
of Brigade of the Mexican Army, Adjutant
General of the Staff of the same, Governor, Com-
mandant General and Inspector of the Depart-
ment of California.

Don Esteban Smith a native of the U. S.
having complied with the conditions and requirements
provided for by the respective law which regulates
the proceedings to grant Naturalization papers to
foreigners and having produced the document
in evidence of it. I declare the aforesaid Don
Esteban Smith a Naturalized Mexican Citizen
of this Republic, in virtue of the authority vested
in me by said law.

Given in Monterey the 1st of September
1844.

(Signed) Manuel Micheltorena
Manuel Amiano Secy.

Naturalization papers in favor of Don
Esteban Smith.

Office of the Board of
Commissioners of California
Land Claims.

I certify the foregoing to be a true translation
from the Spanish original annexed to the
disposition of David Spence and filed in this
Office.

San Francisco August 2nd 1852.
Geo. Fisher Secy.

Filed in Office August 2nd 1852.

(Signed) Geo. Fisher Secy.

First Camp. Eight Dollars.

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Maritime
Custom House
of
Monterey

830

Translation
of
Grant

Provisionally authorized by the Maritime
Custom of the Port of Monterey in the Department
of the Californias for the years 1844, & 1845.
Micheltorena (Signed) Pablo de la Guerra

Citizen Manuel Micheltorena, Brigadier General
of the Mexican Army, Adjutant General of the Staff
of the same, Governor Commandant General and
Inspector of the Department of Californias -

Manuel Antonio Smith Naturalized
Mexican Citizen has petitioned for his own benefit
and that of his Family, the tract of land known
by the name of La Badega the boundaries of which
are from the mouth of the Russian River to the
boundaries of Don Juan Cooper's Rancho on the
North West, from said mouth of the River to Badega
which is the place whence a line and sure course
shall be drawn to the limits of Mr. McIntosh and
to shore of Viçget, having previously with the re-
quirements and investigations in the subject as prescribed
by laws and regulations. By virtue of the powers
vested in me in the name of the Mexican Nation, I
have deemed proper to grant him the aforesaid
land, subject to the approval of the Exec. Departmen-
tal Assembly and to the following conditions

- 1st. He shall keep free Pass Port and Li Ricoise
all the Sea Shore to the extent of one thousand bars
inland as well for the traffic of commerce and public
service as for the uses which the Nation may deem
convenient.

- 2nd. He shall not sell alienate or donate it, nor
impose on it any rent, entail, or any other incum-
brance.

- 3rd. He may fence it without detriment to the
crossings, roads and servitudes, he will enjoy it
freely and exclusively, appropriating it to the

use or cultivation, which may best suit him
but within one year he shall build a house and
it shall be inhabited.

4th. When the property shall be confirmed he
shall petition the proper Judge to give him
judicial possession in virtue of this title. By whom
the boundaries shall be marked out at the limit of which
besides the land marks, he shall plant some fruit
trees or add ones of some usefulness.

5th. The land of which donation is made consists
of eight square leagues (sitios de ganado mayor)
as shown in the respective map. The Judge who
may give the possession shall have it measured
according to ordinance, the surplus which may
result reverting to the Nation for convenient pur-
pose.

6th. If he should contravene to these conditions
he shall forfeit his right to the land and it shall
be denounceable by another person.

Consequently I command that this
title being held as firm and valid, be entered
in the respective book and delivered to the party
concerned for his security.

Given in Monterey of Upper California
on the 11th of September 1844.

(Signed) Manuel Micheltouna
Manuel Imino, Secy of State.

This title has been entered in the respective book
on folio 900.

Imino.
Officer of the Board of Commissions
of California Land Claims

I certify the foregoing to be a true translation
from the Spanish original annexed to the deposition
of David Spence and filed in this Office.

San Francisco August 2nd 1852.

(Signed) Geo. Fisher Secy.

Filed in Office August 2nd 1852.

(Signed) Geo. Fisher Secy.

U. S. Land Commission for California
 Stephen Smith Claimant } Reside at
 as. } San Francisco
 The United States } No. 23. Battery.

CASE 35 ND
 PAGE 50

Opinion by Commissioner }
 D. Minton.

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Opinion

The claim presented in this case is founded upon a grant made by Manuel Micheltorrea to the Claimant on the 14th of September 1844. The grant is for Eight Guard leagues of land a's titias de ganada Mayor menor and by virtue of the decree of the 15th of August 1824 and the Ordinance of the 21st of November 1828 of the Mexican Government. The approval of the Departmental Assembly was procured by the Governor on the 22nd of April 1846. There was no Judicial measurement and delivery of possession subsequent to the grant. But the map or decree accompanying the petition in this case is made with great care and the land has been constantly possessed by the Claimant at least from the date of the grant if not before, who erected expensive buildings upon it not only for residences but for purposes of manufacture and engineers machinery which seems to have constituted in part at least the motive or consideration of the grant. The genuineness of the grant and the authority of the Governor who made it, are not controverted. The evidence introduced from the Archives & of witnesses on file in the case, prove the facts as above stated. With regard to the objection founded on the 12th Section of the decree of the 15th of August 1824 of the Mexican Government, raised upon an agreed statement of facts which is contended to affect the validity of the grant, because it shows an excessive ownership above the quantity of Eleven leagues allowed to any one individual. We have only to say, that whatever may have been the intention of that Section (whether it that the word Propiedad contemplated an interest of a different character from that which was in the grant at the date of his grant. The evidence is of a

possession under a contract to purchase six leagues of land from one Perry. Now possession of itself in the Spanish law does not constitute a proprietor and the contract to purchase under which this possession was held would not carry the case even if it were assumed, which the statement does not warrant, that Perry was himself the owner of the property in the land which he had so contracted to buy. There is a peculiar feature in this case which although it does not affect the decision yet deserves some consideration. It has been considered to affect the question of the ten littoral leagues. I allude to the application to the Federal Government for its approval of this grant and the prohibition contained in the favorable response of that Government, of future grants in like cases. There is no explicit object disclosed in the expediente for this application nor any certainty of the point to which the prohibition was directed. It is true that a decree of Santa Anna in 1842 grants to all foreigners, without the approbation of the Federal Government, repealing to that extent the Decree of the 15th of August 1824. But the grantee, Smith, with the view of obtaining the preference given by the 11th section of the said Decree of August 1824 over the other persons who were then seeking the same place, under the suggestion made by the Superintendant in his report to the Governor had become a citizen prior to the grant so that the approval was not needed on account of the Alienage of the grantee. It could not relate to the locality of the land within the ten littoral leagues because Micheltoune Cook before and after made grants within them without any such application, and Alvarado upon whose testimony alone this matter rests as Governor made many grants within the ten littoral leagues as did all the Governors of California, without in a single instance any reference to the Federal Government so far as the Mexican Archives having ever been made. If there were not in the grant an express exclusion of the Port of Hops and its environs the supposition

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would be very reasonable that this document spoken of by Alvarado referred to that Grant and it is possible that such was the aim and object of the dispatch. But there is one fact in this case which it is apparent would not warrant if it did not cause the application for the approval of the Federal Government as well as the inhibition of any more grants of the like kind at the date of this instrument.

Bodega was a Russian Settlement made under a Contract between the former Government and the Russian Company or its Government and upon that account grants should not have been made of lands thus situated until an adjustment by the Government of the unsettled claim of that Company. This view is strongly corroborated by the testimony of a very intelligent witness in this case John D. Vieget who testifies that his application for this identical place was made before that of Smith, that his pretention was not rejected, but postponed as he was informed by the Public Authorities until they could hear from Mexico since the claim of the Russian Company to the land had not been terminated. According to the principles laid down for our decision in the 15th Section of the Act of 3rd March 1851 the claim is valid and ought to be confirmed. Commissioner Hall concurs in the Result.
Henry J. Thornton.

Decree

This Board having come to the conclusion that this claim is valid now proceeds to make and does hereby make the following decree in proof of final Confirmation viz - It is decreed that the said claim be confirmed to the Claimant to the extent and quantity of Eight Square leagues or 8 sitios de Canada Mayor and for no more, being the same land described in the grant and Expediente to which the grant refers and of which possession was long had and enjoyed under the said Grant. Provided

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that the said quantity of land granted and now here confirmed be contained within the Comedians called for in the said Grant and Map to which the Grant refers, and if there be less than the said above named quantity within the said bounds, then We confirm to the Claimant that less quantity it being apparent that said quantity exceeds the minimum of two hundred acres as prescribed by the Ordinance of 21st of November 1828.

Given under our hands this 21. day of May 1853.

Wilford Hall 3
Henry J. Thornton 3

Commissioner

Filed in Office May 21st 1852.

(Signed)

Geo. Fisher Secy.

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CASE 35ND
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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 *fifty eight* pages, numbered from
1 to *58*, 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. *23* 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 "*Bodega*"



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 first day of *June*
A. D. *1854*, and of the Independence of the
United States of America the seventy=*eighth*

Geo. Fisher

[Signature]

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35 ND
"Bodega"

35

35

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CASE 35 ND
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Office of the Attorney General of the United States,

Washington, 11th September 1854.

Stephen Smith

vs.

The United States.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 10th day of June 1854 the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 35
U. S. Dist. Court.

The United States
— vs —
Stephen Smith.

Notice to prosecute
Appeal,

Filed Oct: 21, 1854,
John A. Monroe,
Clerk.

CASE 35 ND

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To the Honorable District Court of
the United States in and for the
Northern District of California.

The United States
Appellants
vs
Stephen Smith } No 35.

The petition of the United States by their
Attorney represents: that this Cause is an
application for a review of the decision of
the Board of Commissioners whereby the
Claim of the said Appellee was Confirmed
as appears by reference to the records in
the Case: That a transcript of the said
Records was filed in this Court on the
day of : that a notice of
Appeal was filed on the day
of and that the land claimed
lies in the said District.

That the said Claim is invalid.
Wherefore Appellants pray that the said
decision of the Board be reversed and
that this Court decree the said title to
be invalid. Respectfully
Attest
Asst U.S. Atty.

U.S. Dist Court
No 35

The U. States
vs
Stephen Smith
Petitioner

Filed June 27, 1855.
by Chever
Deputy

CASE 35 ND

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Massell

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

The United States of America, Appellants } No 35.
vs. } Rancho de Bodega
Stephen Smith, Appellee }

In answer to the Petition of the
said Appellants filed in the above cause the said
Stephen Smith Appl^{ee} denies to be true the allegation
made in said petition that the claim of the said
Appellee "is invalid" and that the said Appellee
averts and represents that his (Appellee's) title
to the Rancho de Bodega as claimed by him
in his original petition to the Board of Land
Commissioners of the United States to ascertain &
settle private Land claims in the state of California
is a good and valid claim.

And the ^{said} Stephen Smith, Appellee, further
averts and represents that the original grant
to him of the said Rancho de Bodega by Don
Manuel Micheltorrena, Governor of California,
upon which his, the Appellee's, claim is founded
is for the "Rancho de Bodega" by designation, and
by the metes & boundaries thereof are defined
and set out in said grant as well as in the
expediente, diseño & documents from the Archives
of the former Government copies and transcripts
of which are on file in this cause and referred
to in the Appellee's petition to the said Board of
Land Commissioners -

And the said Stephen Smith, Appellee, further represents and avers that the grant aforesaid of the said Rancho de Bodega was made to him on a good & valid consideration and that the quantity of land granted and designated by the boundaries nominated in said grant and Censo exceeds somewhat in quantity Eight Leagues -

Wherefore the said Stephen Smith App^l prays that the decision of the said Board of Land Commissioners confirming the validity of his title upon which his said claim is founded may be affirmed - And the said Claimant Appellee further prays the Honble Court here to examine his (App^l's) original petition to said Board of Land Commissioners - The Expediente Censo, Original grant, Documents & Evidence on file and which appear on the transcript filed in this cause and thereupon Decree the title of said Claimant App^l to be good & valid to the lands composing the Rancho de Bodega and confirm to him his claim to all the lands to the full extent called for by the terms of his (App^l's) original grant and the metes and boundaries designated therein - And as in duty bound will ever pray -

James Wilson
Counsel for Claimant Appellee

No 35
District Court U States
in & for the Northern District
of California

United States App't.

vs

Stephen Smith App't.

Appellee's Answer

Filed July 6th 1855
L. H. Moore
clerk.

CASE 35 ND

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James Wilson
Counsel for Plaintiff
Appellee

United States of America

District Court for the Northern District
of California

United States	Appl ^t	}	Dis. Court Docket No 35
Ads			
Stephen Smith	Appl ^{ee}	}	Com ^{rs} Docket No 23

Rancho Bodega-

And now the Attorney for the United States, Appl^t, comes and suggests to Hon^{ble} Court, that since the filing of the Transcript in the above cause in this Court by the Secretary of the Board of United States Land Commissioners, the said Stephen Smith claimant has deceased - And it being stipulated by the said Attorney for the United States, and James Wilson, the Attorney of Record for said claim, that the said cause shall be revived and prosecuted to final Decree in the names of Manuela S. Smith - widow of the said deceased - S. Henry Smith - Giles Smith Eleanor Morrison (wife of S. A. Morrison) Elvira Pond (wife of G. H. Pond) - Stephen Smith - Manuela Smith and James Smith the children and heirs at Law of the said Stephen Smith the original claimant deceased

Now therefore application is

made to His Honor C. Hoffman Jr Judge of
the Said District Court here for an Order
reviving the said cause in the names of the
said Widow and heirs at law of said deceased
claimant and that the same may be prosecuted
in their names to final Decree according to the
stipulation aforesaid.

A. Russell,
Asst. U.S. Dist. Atty.
James Wilson Atty
for the Claimants -

United States District Court for the Northern
District of California

Upon the foregoing
suggestion of the Attorney for the United States, of the
decease of Stephen Smith the original claimant in
said cause No 35 on the Docket of this Court. and
upon the filing of the foregoing stipulation between
the said Attorney for the United States and the Attorney
of record for the claimant. It is hereby
Ordered That the said cause No 35 on the Docket
of this Court be revived in the names of the said
Widow and heirs at law of the said Stephen Smith,
original claimant, deceased, and in their names,
prosecuted to final Decree accordingly

Cyden Hoffman Jr
H. J. Dist Judge

No. 35

U. S. District Court,

The United States.

— vs —
Stephen Smith,

Stipulation & order to
Revoke suit in name
of heirs.

Filed March 10th. 1856,

By W. H. Cheever,
Deputy

CASE 35 ND

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

The United States	} In claim No 23 before the said Commissioner
The Widow and heirs of Stephen Smith Deceased	

I hereby consent to and
authorize the substitution of Messrs Bristol
& Spencer as attorneys of Record in
the above entitled cause - San Francisco
28th March 1837

Atty for Claimants

In the above cause I have withdrawn
and have no further connexion with it &
do not represent any parties connected therewith -

James Wilson who
was of Council for Stephen
Smith deceased late
Claimant for the Rancho
Bodega

In the U.S.
Dist Court No 35=

The United States

vs
The Widow & heirs
of S. Smith deced

Stipulation to
substitute attys

Filed April 6, 1857.
W. H. Cheever,
Deputy.

CASE 35 ND

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

The United States } In Claim No 23
as } in Land Commission, for
Manuella J Smith } the place called "Bodega"
and others }

State of California }
County of San Francisco } ss

Manuella

J Curtis being duly sworn, on her oath
says: That she was the wife of Stephen Smith,
deceased, in his life time - That by the last
Will and Testament of said Stephen Smith
she was appointed executrix of his estate -
That the ~~Will~~ last Will of said Smith, a
certified copy of which is annexed hereto,
was admitted to Probate in the County
of Sonoma in said State of California - That
by the terms of said Will of said Stephen
Smith, the Bodega Rancho, the confirmation
of which is sought in this Court, was devised
to this affiant and her three children, ^{of said Stephen Smith}
Stephen Smith, Manuella Smith and
James Smith - That said last mentioned
children are now living - That recently this
affiant has intermarried with Tyler Curtis.

That after the claim for the aforesaid
Rancho was filed in the name of said
Stephen Smith, and that since the
death of said Stephen Smith this suit
was revived in the names of Manuella
J. Smith (this affiant) S. Henry Smith
Giles Smith, Ellen Morrison Ellen

Elvira Pond, Mannella Smith, Stephen Smith, and James Smith - That said S. Henry Smith, Giles Smith, Ellen Morrison and Elvira Pond, are children of the said Stephen Smith by a former wife - That this claim or suit now stands, by revival, in the names of the persons above stated - That if a decree of confirmation issues to ~~the~~ all the persons whose names now appear as parties that this affiant and her said children will be subjected to great inconvenience and expense unnecessarily - That no persons save this affiant and said three children, Mannella, Stephen and James Smith, have any interest in or claim to or upon said Bodega Rancho - Wherefore affiant asks that this cause may be continued in the name of this affiant and of Stephen Smith, Mannella Smith and James Smith, and that the names of S. Henry Smith, Giles Smith, Ellen Morrison and Elvira Pond may be stricken from the record in this cause as parties to ~~claiming~~ this suit, and that such other relief may be granted in the premises as pertains to justice &c. Mannella S. Curtis, Subscribed & sworn to before me this 19th day of March A.D. 1837

Wm. H. Smith
Notary Public
L B

U. S. Dist. Court

No 35

The United States

^{vs}
The Widow and Heirs at
Law of Stephen Smith dec^d

Affid^t of M. L. Curtis on
motion to rescind.
&c,

Filed April 6, 1857,
M. H. Church,
Deputy,

CASE 35 ND

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

The United States - Appellant.

vs

The Widow and heirs at law of
Stephen Smith deceased - Appellee

No. 35 - Dist. Court Docket

No 23. Com^{rs}

Docket

Rancho Bodiga

Now on this 6th day of April A.D. 1837 come
Manuella J. Curtis. (formerly Manuella J. Smith Widow of
Stephen Smith deceased) Stephen Smith, Manuella Smith
and James Smith, by their attorneys Bristol & Spencer,
and move this Honorable Court that the order of court
heretofore made in this cause on the 10th day of March
A.D. 1836. reviving this cause in the names of the Widow
and heirs at law of Stephen Smith deceased, be rescinded,
and that the above cause be revived in the names of
said Manuella J. Curtis, Stephen Smith, Manuella Smith,
and James Smith, and the same prosecuted to final
verdict in their said names -

Bristol & Spencer - Attys

for Manuella J. Curtis, Stephen, Manuella
and James Smith

United States District Court for the Northern District
of California - Upon the motion of the

above named attorneys, and upon the filing of the
affidavit of the said Manuella T. Curtis, made in
this cause - the attorney for the United States being
present in this court and consenting thereto - And
it appearing to this court that there is good reason for
the issuance of this order - It is hereby ordered
that the order made by this court on the 10th day
of March A.D. 1836, reviving this cause, No 35. on the
Docket of this court, in the names of the Widow and
heirs at law of Stephen Smith deceased, be and
the same is hereby rescinded, and that this said
cause be revived ~~in the name~~ and prosecuted to
final Decree in the names of Manuella T.
Curtis, Stephen Smith, Manuella Smith and
James Smith

Alvan Hoffman
U. S. Dist Judge

United States Dist.
Court Northern Dist. of California

N^o 35—

The United States—app^{ts}

Ads

The widow and heirs at law
of Stephen Smith deced^t

Motion and order to
rescind former order

Filed April 6, 1857.
W. H. Chenier,
Deputy.

I hereby waive notice of
time of making the within
motion, and consent that
the said motion may be
entertained to day
San Francisco 6th April 1857

CASE 35 ND

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CASE 35 ND

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California Land Claim.

Attorney General's Office

2 January 1857

Sir:

In the case of the claim of Stephen Smith, Confirmed to the claimant by the Commissioner, case no. twenty-three, (23), appeal will not be prosecuted by the United States.

I am

Respectfully,

Cushing

Wm. Blanding Esq.

U.S. Attorney,

San Francisco.

In the District Court of the U. S.
for the Northern Dist of Cal

The United States

v

Manuella J. Curtis

Stephen Smith

Manuella Smith and

James Smith

}
2

D. C. 35: L. C. 23.

In pursuance of a notice
from the U. S. Attorney General herewith annexed
it is hereby stipulated and agreed that no
further appeal be taken in this case on the
part of the United States, and that claimants
have leave to proceed under the decree of
this court heretofore rendered in their favor
as under Final Decree

San Francisco May 1, 1857.

Wm Blanning
Dist atty.

R. D. Bristol
for Appellus

35

U. S. Dist Court

The United States

v

Stephen Smith et al

Stipulation

Filed May 1st, 1857.

W. A. Cheever,
Deputy.

CASE 35 ND
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CASE 35 ND

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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 *Friday* the *first* day of
May in the year of our Lord one thousand
eight hundred and fifty-seven.

Present:

The Honorable OGDEN HOFFMAN, District Judge.

The United States

Manuella J. Curtis
Stephen Smith
Manuella Smith and
James Smith —

D. C. 35: L. C. 23.

The Attorney General
of the United States having given notice
that appeal will not be prosecuted in
this case, and a stipulation to that effect
having been entered into by the U. S.

Attorney:

On motion of the Dist Attorney
it is Ordered Adjudged and decreed that
claimants have leave to proceed under
the decree of this Court heretofore rendered
in their favor, as under final decree.

Ogden Hoffman
U. S. Dist Judge

35
United States District Court, Northern
District of California.

The United States

vs.

Stephen Smith et al

ORDER.

Vacating appeal

Filed

May 1st 1857
John. A. Monroe,

CLERK.

By

W. A. Cheever

DEPUTY.

CASE 35 ND

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

The United States, appellant,	}	Transcript No 23 Rancho "Bodega" & Juan Segues in Sonoma County
vs		
Manuela T. Curtis	}	Appellees
Stephen Smith		
Manuela Smith ad		
James Smith -		

May 1st
State Term, ~~April 1st~~, A.D. 1857

On appeal from the final decision of the
Board of Commissioners to ascertain and settle
Private land claims in the State of California
Decree

This cause came on to be heard at a state Term of
the court, on appeal from the final decision of the
Board of Commissioners to ascertain and settle the
Private land claims in the State of California, under
the Act of Congress approved on the 3^d of March A.D.
1851, upon the Transcript of the proceedings and
decision of the said Board of Commissioners, and the
papers and evidence on which the said decision was
founded; And it appearing to the court that the
said Transcript has been duly filed according to
law; and this cause No 35 on the Docket of this
court having been duly revived in the names of

Mammella I. Curtis, Stephen Smith, Mammella
 I. Smith and James Smith, and Counsel for
 the respective parties having been heard - It is
 by the Court hereby ordered adjudged and decreed
 that the said decision of the said Board of Commissioners
 be and the same hereby is in all things affirmed;
 and it is likewise further ordered adjudged and
 decreed that the claim of the Appellants is a good
 and valid claim, and that the said claim be and
 the same is hereby confirmed to the extent of
 eight square leagues, by the same land described
 in the Grant to Stephen Smith (now deceased) and
 of which the possession was proved to have been long
 enjoyed - Provided that the said quantity of eight square
 leagues now confirmed to the said claimants be
 contained within the boundaries called for in the
 said Grant, and the Map to which the Grant refers;
 and if the be less than that quantity within the
 boundaries then we confirm to the claimants
 that less quantity

Ogden Hoffman
 U. S. Dist Judge

This decree is correct.

Wm Blanding
 Dist Atty

35.

U. S. Dist. Court.

The United States.

~~vs~~

Stephen Smiths,
et al.

Decree.

Filed May 1. 1857.
W. H. Cheever,
Deputy.

CASE 35 ND

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CASE 35 ND

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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, June 23 1854

John S. 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. 23 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

Bodega
and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher.
By