

SPECIAL PROCEEDING FOR CONDEMNATION OF LAND UNDER CHAPTER 48PUBLIC LAWS OF 1927

NORTH CAROLINA

IN THE SUPERIOR COURT

SWAIN COUNTY

STATE OF NORTH CAROLINA, Petitioner

against

: FINAL
: JUDGMENT
:

FRANK MARCUS and wife VELMA MARCUS, JAMES NATIONS and wife, BESSIE NATIONS, LAURA NATIONS widow, H.N. CONNER & wife, FANNIE CONNER, W.C. CALDWELL and wife GASY CALDWELL, RUFUS H. BECK and wife, LIZZIE BECK, J.E. FREEMAN, J.S. CONNER, MARK ROWLAND, W.T. REAGAN and wife BERTHA REAGAN, THE J.A. BAKER PACKING COMPANY, R.O. MARTIN, MRS. BELLE MANEY widow, JESS MANEY and wife, TILLIE MANEY, DILLARD MANEY and wife FRANKIE MANEY, FRANK MANEY, OLIVER MANEY, HOMER MANEY and wife, LAURA, MCALLIE MANEY, WALTER MANEY, minor, E. E. Teague, ADMINISTRATOR, BADGETT & LATHAM LUMBER COMPANY, ELIZABETH C. WINCHESTER widow, MARK W. WINCHESTER, ROYDEN WINCHESTER, MRS. JOHN MITCHELL, widow, HWIRS AT LAW OF JOHN MCCAMPBELL AND JOSEPH EASTERBROOK AND ISAAC A. MCCAMPBELL, deceased, names and residences unknown, MAY BECK, widow, LILLIAN BECK, minor, BERNARD BECK, minor, BERNITA BECK, minor, EVELYN BECK, minor, INEZ BECK, minor, WILBURN BECK, minor,

Respondents

This cause coming on to be heard before the undersigned Clerk of the Superior Court of Swain County, North Carolina on this the 17th day of September, 1930, and upon the motion of counsel for the petitioner for a final judgment in said proceeding, and being heard and the Court having found, and hereby finding, the facts as follows, to-wit:

-1-

That this proceeding is duly constituted in this Court;

That summons was issued therein on the 10th day of June, 1930, and that the duly verified petition of the State of North Carolina, was on said day duly filed in this court and that the duly verified petition was on said date duly filed in this court together with copies thereof as provided by law and that the said summons has been duly served upon the several respondents herein and every of them in all respects as required by law and that the notice required by Chapter 48, Section 19 of the Public Laws of North Carolina of the Session of 1927, has been duly published in all respects as therein required, whereby all persons whom it may concern and all persons having or claiming to have any estate or interest in the lands sought to be condemned in this proceeding have been duly notified and required to appear therein at the time and place therein mentioned and to make such answer, defense or plea as they may be advised; and that thereafter, to-wit on the 10th day of June, 1930, an order of publication was duly made by this Court for the purpose of serving said summons on such of said respondents or defendants as are non residents of the State of North Carolina whose names are contained and fully set out in said order of publication and that said order of publication was duly published for the time required by law in the Bryson City Times, a newspaper published in Swain County, North Carolina, and it further appearing that said notice of publication required by Chapter 48 of the Public Laws of North Carolina was also published in said Bryson City Times, a secular newspaper published in Swain County, North Carolina, for the time required by laws; and that the affidavits of the printer of said newspaper showing the publication of said notices as required by law has been duly filed and is of record in this proceeding and that thereafter, to-wit: on July 15, 1930, the undersigned clerk

of the Superior Court issued an order making Sladen Fakes & Company of Bryson City, Swain County, North Carolina, a party to this proceeding, and that on July 21, 1930, Mrs. John Mitchell, one of the respondents, filed an answer in this proceeding and that on July 14, 1930, Sladen Fakes & Company, a respondent in this proceeding filed an answer and on July 17, 1930, James Nations and wife, Bessie Nations, H.N. Conner and wife, Fannie Conner and Laura Nations, widow, some of the respondents, filed an answer in this proceeding; and on August 13, 1930, Mrs. Lena McCampbell Comstick, a respondent in this cause filed an answer in this proceeding; and that due and proper notice of said proceedings have been given to said respondents and the Court hereby finds as a fact that no other person firm or corporation has appeared herein or in any manner asserted any interest in the subject matter of this action and proceeding, other than those whose names are set out in said summons and petition, and those who have subsequently made themselves parties hereto as herein above set out, all of which will more fully appear by the records.

-2-

That the right of eminent domain appertains to and resides in the petitioner as a sovereign state and petitioner has thus other and further rights and powers to condemn and appropriate the lands described in the petition for the purpose mentioned therein under and by virtue of Chapter 48 Public Laws of North Carolina, Session 1927.

-3-

That the lands described in said petition and all of them lie wholly within the boundaries of the proposed Great Smoky Mountains National Park as defined and set out in the Act of the General Assembly of North Carolina entitled "An act to provide for the acquisition of park of park and recreational facilities in the Great Smoky Mountains of North Carolina", ratified on the 25th day of February, 1927 and being Chapter 48 of the public laws of North Carolina, Session 19 27, and particularly in section 4 of said act and that all of said lands are embraced within the area of 214,000 acres of land situate in the State of North Carolina designated by the Secretary of the Interior of the United States under authority of the act of Congress mentioned in the statute aforesaid, viz: Chapter 48, Public Laws of North Carolina, Session 1927, as properly constituting a portion of the Great Smoky Mountains National Park, all of which will more particularly appear by reference to said Act of Congress and to said Chapter 48 of the Public Laws of North Carolina, Session 1927.

-4-

That it is both lawful and necessary for the petitioner to condemn the lands described in the petition for the purposes therein expressed and declared and that the petitioner is entitled to the relief demanded in this petition.

-5-

That the respondents hereinbefore named are solely seized and possessed and are the owners in fee simple of the several tracts of land described in said petition, the persons owning or claiming to own each of said tracts being fully named and set out in the petition herein and the Court finds that they are the owners of all right, title property, interest and estate vested or contingent, legal or equitable in or to the lands described in the petition; and it further appearing to the court, and the court having found as a fact, that no person, firm or corporation other than the respondents above named have or claim any right, title, property, interest or estate in the lands and premises described in the petition and condemned herein and appropriated to the petitioner for the uses set out in said petition.

-6-

That heretofore, to wit: On the 2nd day of August, 1930, the undersigned clerk

of the Superior Court of Swain County, North Carolina, duly made and entered in interlocutory judgment and order in this cause wherein it was ordered, considered and adjudged among other things that C.R. Browning, R.P. Abbott and Samuel G. Shuler be and they were duly appointed Commissioners of the Court and required fairly and impartially to appraise the lands described in the petition and to ascertain and determine the compensation which ought justly to be made by the petitioner to the parties owning or interested in the several tracts of land described insaid petition and appraised by them and to make a report thereof to the Court according to law and said commissioners were duly required before entering upon their duties to take and subscribe an oath in form of law that they would fairly and impartially ascertain and award the compensation aforesaid, all of which will more fully appear by reference to said order as same appears of record herein and said commissioners proceeded, conformable to the provisions and requirements of said order to appraise said lands as required by said order and thereafter, towit: On the 27th day of August, 1930, said Commissioners having gone upon said lands and viewed the same and having heard the evidence of such said respondents as desired to present evidence to said commissioners, made a written report of their said proceeding and returned the same into this court, together with the testimony produced by them and reduced to writing and together with all exhibits and documents introduced in evidenced at said hearing, and said reports and evidences were duly filed in this court, all of which will more fully appear by the record of the proceedings herein which are hereby more particularly referred to.

-7-

That the Commissioners and appraisers by their report, appraised, ascertained and determined the compensation which ought justly to be made by the petitioner to the party or parties owning or interested in the lands described in the petition and appraised by them as follows:

TRACT NO. 1: Described in said petition claimed and owned by Frank Marcus and wife, Velma Marcus, being tract No. 67 as shown by the survey made by the North Carolina Park Commission at the sum of Eleven Hundred Fifty Dollars (\$1150.00) .

TRACT NO. 2: Described in said petition, claimed and owned by James Nations and wife, Bessie Nations, and Laura Nations, widow, and being tract No. 62 as shown by the survey made by the North Carolina Park commission at the sum of Six Hundred Dollars (\$600.00).

TRACT NO. 3: Described in said petition claimed and owned by H.M. Conner and wife, Fannie Conner and Laura Nations, widow, composed of two tracts, being tract No. 60 and tract No. 63 as shown by the survey made by the North Carolina park commission, Tract No. 60 being appraised at \$600.00 and tract No. 63 at \$800.00, making a total sum of Fourteen Hundred Dollars (\$1400.00).

TRACT NO. 4: Described in said petition being owned and claimed by W. C. Caldwell and wife Gasy Caldwell, and being tract No. 61 as shown by the survey made by the North Carolina, Park Commission at the sum of Seven Hundred Twenty Dollars & (\$720.00).

TRACT NO. 6: Described in said petition being owned and claimed by Rufus Beck and being Tract No. 34 as shown by the survey made by the North Carolina Park Commission at the sum of Four Hundred and Fifty Dollars (\$450.00).

TRACT NO 7: Being tract No. 102 as shown by survey made by the North Carolina Park Commission, described in said petition, and a five acre tract, being a part

of tract No. 32, and a small part of Tract No. 1-d as shown by survey made by the North Carolina Park Commission and being all the land of which Walter Beck died seized, said land being owned and claimed by the heirs at law of Walter Beck deceased, to wit: May Beck, widow, Lillian Beck, minor, Bernard Beck, minor, Bernita Beck, Minor, Evelyn Beck, minor, Inez Beck, minor, and Wilburn Beck, Minor, at the sum of Seventeen Hundred Fifty Dollars (\$1750.00).

TRACT NO. 8: Described in said petition, being the land owned by Mrs. John Mitchell, being Tracts Nos. 191 and 191-a as shown by the survey made by the North Carolina Park Commission at Two Thousand Four Hundred Twenty-one Dollars and Sixty Cents (\$2421.60).

TRACT NO. 9: Described in said petition and being the lands owned and claimed by W.T. Reagan and wife, Bertha Reagan, and being Tract No. 104 as shown by the Survey made by the North Carolina Park Commission at the sum of Fourteen Hundred Dollars (\$1400.00).

TRACT NO. 10: Being described in said petition and being the lands owned and claimed by Mrs. M.L. Maney et al and being Tract No. 16 as shown by the survey made by the North Carolina Park Commission at the sum of Fourteen Hundred Dollars (\$1400.00)

The mineral interest of Mrs. Elizabeth C. Winchester and others in that portion of the land described in the petition and known as the J. E. Coburn lands in the head of Haw Gap Creek in Swain County, North Carolina and being part of Grant No. 1832 at the sum of Ten Dollars (\$10.00).

That said report of said Commissioners and appraisers has been on file in this Court since the 27th day of August, 1930, and no objection or exception whatsoever has been filed to said report by any parties to this cause or any other person whomsoever.

NOW THEREFORE, in the premises aforesaid and upon motion of counsel of the petitioner it is considered, ordered and adjudged by the court as follows:

-1-

That the judgment and order appointing Commissioners in this cause hereinbefore referred to and the same is hereby in all respects approved, ratified and confirmed.

-2-

That the report of said Commissioners and appraisers as the same appears in the records of this cause, be, and the same ^{is} hereby approved, ratified and confirmed.

-3-

That the petitioner shall forthwith pay into the registry of this court in full of the compensation which ought justly to be made by the petitioner to the party or parties owning or interested in the lands described in the petition and so appraised by said Commissioners and conformable to the report of the Commissioners, that is to say for:

TRACT NO. 1 described in said petition, sum of \$1150.00

TRACT NO. 2 described in said petition, sum of \$600.00

TRACT NO. 3 described in said petition, sum of \$1400.00

TRACT NO. 4 described in said petition, sum of \$720.00

TRACT NO. 6 described in said petition, sum of \$450.00

TRACT NO. 7 described in said petition, sum of 1750.00

TRACT NO. 8 described in said petition, sum of 2421.60

TRACT NO. 9 described in said petition, sum of 1400.00

TRACT NO. 10 described in said petition, sum of 1400.00

TRACT NO. 11 described in said petition, sum of \$10.00

The amounts hereinbefore set out represent the amounts for which such of several tracts were appraised by said Commissioners, the said amounts of money to be paid out and disposed under the orders of this court to the party or parties, person or persons entitled thereto as their interest or interests severally may be made to appear.

-4-

That upon the payment into Court by the petitioner of the said several sums of money for the several tracts hereinbefore referred to and as herein required the title to all and singular the lands premises and real estate described in the petition and hereinafter more particularly described, shall immediately pass to and vest in the petitioner, the State of North Carolina in fee simple for the uses and purposes expressed and declared in said petition and in Chapter 48 of the public Laws of North Carolina, Session 1927, free and discharged of and from all adverse claims, liens and encumbrances whatsoever, and the respondents and all other persons whomever as well such person or persons not parties to this action, if any, as the parties hereto, are forever barred from claiming or asserting any manner of estate or interest in said lands either legal or equitable, the person or parties hereto having or claiming to have, if any being hereby remitted solely to the right of recourse upon the money so paid into court by the petitioner as provided by law.

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That the lands described in the petition, the title to which, through and by virtue of the proceedings had in this cause herein became vested in the petitioner, State of North Carolina, are more fully described as follows:

Tract No. 1 being Tract No. 67

as shown by survey by North Carolina

Park Commission and described as follows.

NOTE: All the bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the Northwest side of Ravens Fork of Ocona Luffy River about onehalf mile above its mouth.

BEGINNING at corner 1, which is corner 11 of the Dan Parker Tract (65), a point in the river, corner 4 of the W. C. Holloway Tract (66a), bears North 75-14 E. 2.15 chains distant; thence with three lines of the Dan Parker Tract (65) North 26-20 West 3.83 chains, corner 2, a stake; South 59-40 West 1.21 chains, corner 3, a stake; South 26-20 East 3.48 chains, corner 4, a point in the river; thence North 75-14 East 1.23 chains, the place of beginning, containing .46 acres.

Tract No. 2 being Tract No. 62 as shown by North

Carolina Park Commission and described as follows:

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the lower end of Hughes Ridge, and on the watershed of a small tributary of Ravens'fork of Ocona Luffy River.

BEGINNING at corner 1, which is corner 4 of the W. C. Caldwell Tract No. 61, a point with a chestnut oak witness on ridge top set a post scribed N-C-Q; thence South 70-00 East with a line of the W. C. Caldwell Tract 61 8.70 chains, corner 2, a white oak stump on bank of branch, a corner common to the John Smith Heirs, H.N. Conner and W.C. Caldwell tracts; thence down the branch with its meanders South 26-20 West 7.82

chains; South 10-40 East 2.10 chains, corner 3, a point at the mouth of small stream, set a locust post scribed N-C; thence up the small stream, with its meanders North 80-34 West 1.88 chains; North 64-05 West 1.63 chains corner 4, a post on bank of branch; thence North 56-40 West leaving the branch 10-85 chains, corner 5, a chestnut oak stump with a dogwood witness on ridge top; thence up the ridge with its meanders North 60-25 East 4.32 chains; North 48-03 East 3.18 chains: North 52-23 East 1.28 chains, the place of beginning, containing 9.69 acres.

TRACT No 5 being Tracts Nos 60 and 63 as shown by survey by North Carolina Park Commission and described as follows:

Tract No. 60 NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the head of a small tributary of Raven's Fork of Oona Luffy River, near the lower end of Hughes Ridge.

BEGINNING at corner 1, which is corner 4 of the M.B. Enloe tract No. 57, a point at corner of Enloe's fence; thence with five lines of the M.B. Enloe Tract 57 South 54-14 East 7.19 chains, corner 2, a 24" chestnut scribed E. South 15-18 West .76 chains, corner 3, a 30" white oak scribed E: south 12-23 West 4.97 chains, corner 4, a large walnut in B.M. Enloe's yard, shown as corner by Mrs. Enloe; South 46-29 West 4.06 chains corner 5, set a post scribed E. a 14" chestnut blazed and scribed B.T.E., bears South 70-00 West .10 chain distant; South 7-21 East 5.27 chains, corner 6, which is corner 15 of the John Smith heirs tract (64), a point shown by Hillard Enloe as site of old dogwood corner, set a locust post scribed E; thence South 47-42 West with the line of the John Smith Heirs Tract (64) 2.21 chains, corner 7, a point on a bank of stream, and at corner of garden; thence North 41-20 West with a line of the W. C. Caldwell tract (61) 8.20 chains, corner 8, a black oak stump on ridge top, set a sassafras post scribed Q-C-C; thence with five lines of the W. H. Queen Tract 56 along the ridge top North 26-08 East 1.78 chains, corner 9, a chestnut with old marks; north 4-33 East 3.25 chains, corner 10, a hickory with witnesses, on ridge top; North 28-46 East 3.49 chains; North 56-12 East 2.91 chains; North 3.32 West 3.64 chains, the place of beginning, containing 10-73 acres..

TRACT No. 63: Lying on the lower end of Hughes Ridge and on the watershed of a small tributary of Ravens Fork of Oona Luffy River.

BEGINNING at corner 1, which is common to the W.H. Queen tract 56, and the F.F. Floyd tract 91, a black oak stump with witnesses, at corner of wire fence on top of Hughes Ridge, and at sharp turn in ridge; thence North 70-49 East along the ridge top 4.15 chains, corner 2, which is corner 8 of the J. Nations tract 62, a chestnut oak stump with a dogwood witness, on ridge top; thence South 56-40 East with a line of the J. Nations Tract 62 10-85 chains, corner 3, a post on bank of small stream; thence down the branch with its meanders South 64-05 East 1.63 chains; South 80-34 East 1.88 chains corner 4 a point at mouth of small stream set a locust post scribed N-C; thence up the main Branch, with its meanders North 10-40 West 2.10 chains, North 26-20 East 7.82 chains, Corner 5 a white oak stump on bank of branch, a corner common to the J. Nations, John Smith Heirs and W. C. Caldwell tracts; thence with three lines of the John Smith heirs tract 64 South 16-05 East 10.00, chains, corner 6, a point at corner of rail fence, set a post scribed C-S South 5 1-20 West 3.33 chains, corner 7, a point on bank of road, near stream; set a post scribed S-C; South 45-35 East 1.64 chains, corner 8, a point on East bank of stream, and beside wire fence, set a post scribed

P-S; thence with three lines of the Dan Parker Tract 65 South 81-25 West 3.98 chains, corner 9, a point at corner of wire fence, set a post scribed P-C; South 20-30 West 4.77 chains, corner 10, a point on top of a spur ridge, set a post scribed P-C; South 87-29 West 3.15 chains, corner 11, a point with chestnut witnesses, on ridge top, set a post scribed P-C-F.; thence up the ridge with its meanders, a line of the F.F. Floyd Tract 91 North 44-04 West 8.47 chains; North 75-55 West .55 chains; North 36-48 West 3.10 chains; North 41-36 West 3.55 chains; North 30-43 West 1.47 chains; North 17-56 West 1.92 chains, the place of beginning, containing 17.97 acres.

Tract No. 4 being tract No. 61 as shown by survey by North Carolina
Park Commission and described as follows:

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the lower end of Hughee Ridge, near the head of a small tributary of Raven's Fork of Ocona Lufly River.

BEGINNING at corner 1, which is corner 8 of the H. N. Conner and J. Nations Tract (60) a black oak stump, on a ridge top, set a sassafras post scribed Q-C-C-1; thence South 41-20 East with a line of the Conner and Nations Tract 8.20 chains, corner 2, which is corner 14 of the John Smith heirs tract (63), a point on bank of stream and at corner of garden; thence South 40-12 West 2.90 chains, corner 3, a white oak stump, on bank of branch, a corner common to the John Smith Heirs, J. Nations and H. N. Conner tracts; thence North 70-00 West 8.70 chains, corner 4, a point with a chestnut oak witness on ridge top, set a post scribed N-C-Q; thence North 34-30 East 5.11 chains, corner 5, a red oak stump, on ridge top; thence North 55-25 East 2.35 chains, the place of beginning, containing 4.45 acres.

Tract No. 6 being Tract No. 34 as shown by Survey of North
Carolina Park Commission and described as follows:

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the east side of Ocona Lufly River, a short distance below smokemont.

BEGINNING at corner 1, which is corner 4, of the L.A.W. Maney tract 33, a marked ash on bank of branch; thence North 14-30 West with a line of the L.A.W. Maney tract 33, 3.78 chains, corner 2, a marked sourwood on top of ridge; thence up the ridge with its meanders North 66-51 East 4.47 chains; North 74-27 East 3.40 chains; North 71-02 East 3.55 chains; North 60-28 East 2.66 chains; North 57-29 East 1.68 chains; North 78-47 East 2.44 chains; North 53-15 East 1.89 chains; North 86-05 East 2.38 chains, corner 3, a small red oak with corner marks, on top of the ridge, and in the old mandy line; thence South 37-02 West 8.00 chains, corner 4, a maple, marked as a corner beside a small branch; thence down the branch with its meanders North 30-45 West .58 chains; North 72-06 West 2.82 chains; South 52-55 West 2.78 chains; South 71-35 West 3.45 chains, corner 5 a small beadwood, with corner marks at forks of branch; thence still with meanders of branch South 68-15 West 2.80 chains; South 58-45 West 4.85 chains, the place of beginning, containing 6.42 acres.

Tract No. 7 being tract No. 102 as shown by survey of North Carolina
Park Commission and described as follows:

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the West bank of Ocona Lufly River, a short distance below Smokemont.

BEGINNING at corner 1, a stone in Ocona Lufly River; thence South 79-30 West 3.45 chains,

corner 2, an 18" sycamore, scribed W.B., Cor. II; thence North 8-56 East .65 chains, corner 3, a stake scribed W.B. Cor. III; thence North 69-15 West 6.21 chains, corner 4, a planted stone in Peter Mathis line; thence North 2-10 East 6.81 chains, corner 5, which is corner 2 of the mark Rowland tract 106, a stake; thence South 82-40 East 2.58 chains, corner 6, a point in the branch; thence down the branch with its meanders, a line of the George Bacek Tract (39-a) South 66-53 East 1.89 chains; North 63-00 East 1.31 chains; South 84-04 East 2.26 chains, corner 7, a point in Ocona Luffy River, a mouth of branch; thence down the river, with its meanders, South 39-38 East 1.60 chains; South 0-55 East 7.13 chains the place of beginning, containing 7-05 acres.

Tract No. 8 being Tracts Nos. 191 and 191a, as shown by survey of North Carolina park Commission and described as follows:

TRACT No. 191-2: Lying on the watershed of Eagle Creek, just south of the Great Smoky Divide; BEGINNING at corner 1, a point on the North Carolina Tennessee State line about 22 chains northwest of the corner 6 of the Samuel W. Richey Tract (183); thence with the meanders of the Great Smoky Divide and the North Carolina-Tennessee State line South 82-28 West 11.10 chains; North 36-07 West 2.19 chains; North 42-46 West .80 chains, corner 2, a point at intersection with the North boundary of Grant 462; thence leaving the State line North 86-00 West 27.60 chains, corner 3, a northwest corner of grant 462 and a point on the state line; thence again leaving the State line South 4-00 West 22.50 chains, corner 4, a point, the southwest corner of grant 462 South 86-00 East 40.50 chains, corner 5, a point, the southeast corner of Grant 462; North 4-00 East 22.50 chains, the place of beginning, containing 89.72 acres.

TRACT No. 191: Lying on the watershed of Eagle Creek near its head waters and on the southern slope of the Great Smoky Divide:

BEGINNING at corner-1, a point on the Great Smoky Mountain Divide, the North Carolina Tennessee State line and corner 2 of the Samuel W. Richey Tract (183); thence with the meanders of the Great Smoky Divide and the North Carolina-Tennessee State line South 26-38 West 3.43 chains, a point Rocky Top Mountain South 78-48 West 5.31 chains; North 81-28 West 7.89 chains, a point North 87-07 West 2.80 chains; North 88-24 West 2.65 chains; South 72-19 West 17.69 chains; South 30-22 West 6.10 chains; North 81-03 West 1.26 chains; North 77-12 West 4.40 chains, corner 2, the Northwest corner of Grant 441, corner 5 of the Samuel W. Richey Tract (183); thence leaving the Great Smoky Divide and with Grant 441; South 4-00 West 26.18 chains, corner 3, a point the southwest corner of Grant 441; South 86-00 East 44.50 chains, corner 4, a point the Southeast corner of Grant 441; North 4-00 East 41.50 chains, the place of beginning, containing 152.44 acres.

Tract No. 9 being tract No. 104 as shown by survey of North Carolina Park Commission and described as follows:

NOTE: All bearings in this description were turned from the true meridian and all distances are expressed in chains of 66 feet.

Lying on the S.W. Bank of the West fork of Ocona Luffy River, a short distance above Smokemont.

BEGINNING at corner 1, a point on the S.W. Bank of the river and in the old Reagan line, 1.07 chains from Corner 5 of the John C. Reagan Tract (24); thence North 62-50 West 2.82 chains, corner 2, a stake and stone on the river bank; thence South 27-13 West 5.61 chains, corner 3, a stake; thence South 62-50 East 2.80 chains; corner 4, a stake

Thence North 27-26 East 5.61 chains, the place of beginning, containing 1.58 acres.

Tract No. 10 being Tract No. 16 as shown by survey of North
Carolina Park Commission and described as follows:

Lying on the West Fork of Ocona Luffy River

BEGINNING at corner 1, a planted stone on bank of the river, a corner common to the D.F. Conner tract; thence up the river with its meanders North 21-29 West 5.85 chains; North 5-05 East 5.01 chains; North 31-45 West 6.38 chains; North 14-41 West 2.22 chains; North 26-42 West .92 chains; North 19-52 West with the line of the J. L. Williamson Tract (14-2) 5.70 chains; North 25-19 West 1.90 chains; South 89-30 West 5.38 chains; South 73-03 West 1.40 chains; South 77-54 West 4.54 chains; North 57-43 West 6.46 chains; North 87-46 West .28 chains; North 59-51 West 1.82 chains, corner a which is corner 22 of the Champion Fibre Company Tract (1), a point on the south bank of river, a 12" white walnut, scribed B.T.M2, cor. 2, bears S. 30-00 West .24 chain distant, a 12" sycamore scribed B.T.M2 Cor. 2, bears N. 52-00 West .22 chain distant; thence with two lines of the Champion Fibre Co. Tract (1) South 12-55 East 13.38 chains, corner 3 a planted stone with witnesses, a 10" chestnut, scribed B.T.M2, Cor. 1, bears South 50-00 West .20 chain distant South 22-33 E. East 17.95 chains, corner 4, a post in a mound of stones, beside a large hemlock stump; thence North 87-05 East with a line of the D. F. Conner Tract 17-76 chains, the place of beginning, containing 49-93 acres.

Tract No. 11 being The mineral interest in Tract No. 100-d as shown
by survey of North Carolina Park Commission and described as follows:

BEING that part of Grant 1832 lying on the watershed of Haw Gap Creek.

BEGINNING on top of Block House Mountain and runs down the foster or Deep Gap ridge, with its meanders to the southeast boundary line of Grant 1832; then leaving the ridge top and running with the line of said Grant South 50 West to the S. W. Corner of said Grant 1832; then with the west boundary line of said Grant North 40 West to the top of Jenkins Trail Ridge; then with the meanders of said ridge to the place of beginning, containing about 200 acres.

IT IS FURTHER CONSIDERED, ORDERED and ADJUDGED by the court that all of the costs of this proceeding properly incurred by both the petitioner and respondents up to and including the cost of this judgment to be taxed by the Clerk, shall be paid by the petitioner.

This shall be deemed the final judgment in this cause in respect to the rights, claims and obligations of the petitioner, the State of North Carolina and in all respects to the title in and to the lands and premises above described, but this cause is retained for the purpose of adjudication of any and all claims that may be asserted in, to or against the money to be paid into the Court by the petitioner, pursuant to the provisions of this judgment, and for no other purposes, whatsoever.

This the 18 day of September, 1930.

V. A. Browning
Clerk Superior Court
Swain County

NORTH CAROLINA

IN the Superior Court

SWAIN COUNTY

I, V. A. Browning, Clerk Superior Court, of Swain County, North Carolina that the foregoing is a true and perfect copy of the final judgment in the case of STATE OF NORTH CAROLINA, petitioner, versus FRANK MARCUS, ET AL, respondents, as the same appeared on file and is recorded in Minute Docket Special Proceedings No. 4, page _____,

in my said office.

Witness my hand and official seal, this the 18th day of September, 1930.

(L.S.)

V. A. Browning
Clerk Superior Court
Swain County, North Carolina

Filed for Registration at 9:40 o'clock A.M., October 14, 1930, and registered in the Office of the Register of Deeds for Swain County, North Carolina, in Book 58, page 337 etc. October 16th, 1930.

Ellis Burnett
Register of Deeds

THIS INDENTURE, made the 20th day of September, 1930, between John T. Welch of Needmore in the County of Swain and State of North Carolina and his wife, parties of the first part and Frank I. Murray, party of the second part.

WITNESSETH: That the parties of the first part, in consideration of the sum of one dollar, and other good and valuable considerations, to them in hand paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, do hereby covenant and agree with the said party of the second part, his heirs, representatives and assigns, that upon payment, or tender, to the parties of the first part, or either of them, of the additional sum of \$500.00 by, or on behalf of the party of the second part, to be paid six months from the date hereof, they the said parties of the first part, will execute and deliver to the party of the second part, his heirs, representatives or assigns, a good and sufficient deed with covenants of warranty, to vest in him, or them in fee simple to Frank I. Murray, the following (Mineral Interest) tract, piece or parcel of land, situated and lying in Swain County, and described as follows:

All my mineral interest in the John Truett lands lying and being on Tabor's mill creek, in Nantahala Township, Swain County, North Carolina;

Should a boni-fide contract for the sale of the foregoing described lands or property be made by the said Frank I. Murray or his agents before the expiration of this option, or agreement, which contract it has been possible to consummate, owing to lack of time to examine titles, or other unavoidable cause, we hereby agree that this option or agreement shall remain in force for a time sufficient to enable the said Frank I. Murray to conclude the sale, not however exceeding six months from this date.

And the said parties of the first part hereby further agrees that the party of the second part, his heirs, representatives or assigns, shall have the exclusive right to prospect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, the day and year first above written.

John T. Welch (SEAL)

STATE OF NORTH CAROLINA,
SWAIN COUNTY.

I, V. A. Browning, C. S. C. of the aforesaid County and State, hereby certify that John T. Welch appeared before me this day and acknowledged the due execution of the annexed option or agreement; Let the same with this certificate be registered.

WITNESS, my hand and official seal, this 20 day of Sept., 1930.

V. A. Browning
Clerk Superior Court.