

NORTH CAROLINA PARK COMMISSION

ASHEVILLE N.C.

REPORT ON THE WES WIGGINS TRACT NO. 153-----53.25 ACRES.

Location: This tract is located on the waters of Deep Creek near the southern edge of the park line and adjoins the lands of other farm purchases in this area.

Description: It is a small home tract largely steep land. The lower edge borders on Deep Creek. About half of the tract is cleared and partially under cultivation.

Improvements: Improvements are a three room frame house in bad repair and an old barn, also a few bearing apple trees.

Valuation:

Three room frame house	\$200.00
Barn	25.00
Twenty-five acres cleared land @ \$15	375.00
Twneyy-eight acres woodland	300.00
Total	<u>\$900.00</u>

An option has been taken on this property for \$900.00.

Gene Rhoads

S. F. Chapman

W. H. Mendenhall
Appraisers.

APPROVED BY THE EXECUTIVE COMMITTEE

NORTH CAROLINA PARK COMMISSION

P. W. Ebb

Markings

NORTH CAROLINA

SWAIN COUNTY

IN RE: TRACT NO. 153

Wesley Wiggins first being duly sworn deposes and says that he is a son of David N. Wiggins late of Swain County North Carolina that the said David N. Wiggins is now dead and left surviving the following named persons as his heirs at law and who are capable of inheriting his real estate to-wit:

Fidile Wiggins (wife Rossetta)
Lee Wiggins (wife Mary)
Andrew Wiggins (wife Sarah)
Laura Wiggins (married Andy Wooten)
Eda Wiggins (married Joe Wooten)
Fisia Wiggins (married James Wooten)
Nancy Wiggins (married Howard Jones)
John Wiggins (wife Etta)
Wesley Wiggins (wife Bessie)

And this deponent further states that Eda Wooten is now dead and left surviving her nine children some of whom are minors, and this deponent further states that his mother widow of David N.

Wiggins
Wiggins to-wit: Marth Ann Lollis is now dead and further this deponent sayeth not.

signed

Wesley Wiggins
Affiant

Sworn and subscribed before me this 25 day of July 1929.

Wesley Wiggins
Notary Public

My commission expires Dec. 19, 1930.

Analysis of Title

Tract No. 153

Wes Wiggins - 53.25 Acres.

This tract is covered or embraced within the boundary lines of the following grants:

Grant No.	46
"	495
"	323
"	342
"	3255

The title under these grants will be considered separately.

1. Grant No. 46 was issued to E. Everett on November 23, 1876, for a tract of four acres lying north of grant 3255, east of grant 3256 and west of 495. This grant covers a portion of tract 153 and is recorded in Swain County. Page 589 of this Abstract.

2. E. Everett died seized and possessed of this tract of land leaving as his only child and heir at law, J. H. Everett, in whom the title to this tract became vested.

3. J. H. Everett, by deed dated January 9, 1919, conveyed this tract of four acres to Howard Jones. In this deed the name of J. H. Everett is not mentioned as a grantor, but his name appears in the warranty clause and he properly executed and acknowledged the deed. It is recorded in Swain County. Page 590 of Abstract.

4. Howard Jones and wife, Nancy Jones, then conveyed to D. N. Wiggins, the lands covered by grant 46 by deed dated October 3, 1904. This deed is recorded in Swain County. Page 591 of this Abstract.

5. D. N. Wiggins died seized and possess of this tract of land and it descended to his children as his heirs at law, to wit:

Martha Anne Wiggins,
Fidel Wiggins,
Lee Wiggins,
Vica Wooten, husband, James Wooten,
Andrew Wiggins,
Nancy Jones, husband, Howard Jones,
Laura Wooten, husband, Andy Wooten,
Edna Wooten, husband, Joe Wooten,

6. By deed dated August 9, 1918, Martha Anne Wiggins, widow, Fidel Wiggins and wife, Rossetta Wiggins, Lee Wiggins and wife, Mary Wiggins, Visa Wooten and husband James Wooten, Andrew Wiggins and wife, Sarah Wiggins, Nancy Jones and husband, Howard Jones, Laura Wooten and husband Andy Wooten, Edna Wooten and husband, Joe Wooten, conveyed to Wesley Wiggins a tract of four acres covered by grant 46. In this deed a grant is referred to as grant 64, but this evidently is an error as a specific description covers the lands embraced within 46. This deed contains the following provisions. This deed is not to be enforced until after the death of Martha Anne Wiggins and is conditioned that Wes Wiggins shall care for Martha Anne Wiggins until her death. Martha Anne Wiggins, who was the widow of D. N. Wiggins, is dead as will appear by affidavit of Wes Wiggins set out on page 596 of this abstract.

G R A N T S 3 2 3 and 3 4 2.

7. Grant 323 was issued to James H. Wiggins on November 25, 1856, containing eighty-four acres. This grant which covers the southern portion of tract 153 laps upon grant 3255 and 342. This lappage will be discussed hereafter. This grant is recorded in Jackson County and is set out on page 593 of this abstract.

8. Grant 3255 was issued to James H. Wiggins on November 27, 1871, conveying a tract of fifty acres. It laps upon grant 323 and grant 342. It is registered in Swain County and is fully set out in abstract of title to tract 151.

9. Grant 342 was issued to Elbert Newton on February 4, 1857 containing a tract of fifty acres. As shown by the map, this grant laps upon grant 3255 and 323, which were owned as above shown by James H. Wiggins. This grant is recorded in Swain County. Page 574 of this Abstract.

10. Elbert S. Newton by deed dated November 12, 1866, conveyed to Elizabeth Lollis, Martha Anne Lollis, Sarah Lollis and Louisa A. Lollis the lands covered by grant 342. The last three named were children of Elizabeth Lollis. This deed is recorded in Swain County. Page 575 of this Abstract.

11. While grants 3255 and 323 were claimed by James H. Wiggins and the title to grant 342 was vested in Elizabeth Lollis and three children above named, the latter began an action in the Superior Court of Swain County against James H. Wiggins claiming title to the lappage of 342 upon 3255 and 323. In this action a judgment was rendered in which it was held that James H. Wiggins was the owner of the lands covered by grant 3235, but that the title of Elizabeth Lollis and her children under grant 342 was superior to the title under the other grant claimed by James H. Wiggins, which appears to have been grant 323, however, the number of the grant is not given in the judgment but reference is otherwise made to it sufficient for identification. The affect of this decree was to vest in Elizabeth Lollis and her children that portion of grant 342, lying east and south of grant 3255. This judgment is fully set out in the abstract of title to 151. Page 553 of abstract.

12. Elizabeth Lollis, Sarah Lollis and L. A. Wiggins and husband, John Wiggins by deed dated December 1, 1884, then conveyed to David N. Wiggins a tract of twenty-three and one-half acres, which is a part of grant 342 and includes that portion of tract 153 lying within the grant 342 and east of grant 3255. This deed is recorded in Swain County. Page of Abstract.

13. The title to this portion of tract 153 became vested in David N. Wiggins. He died leaving the following children and heirs at law, to wit:

Martha Ann Wiggins,
Fidile Wiggins and wife, Rosetta Wiggins
Lee Wiggins and wife, Mary Wiggins
Vasa Wootanard husband, James Wooten
Andrew Wiggins and wife, Sarah Wiggins
Nancy Jones and husband, Howard Jones
Laura Wooten and husband, Andy Wooten
Eda Wooten and husband, Joe Wooten
John Wiggins
Wesley Wiggins

to whom these lands descended. These heirs are set out in the affidavit of Wesley Wiggins. Page 596 of this abstract.

14. This title will be continued in this analysis in connection with the title to other portions of 153, which became vested in D. N. Wiggins.

GRANT NO. 495.

15. Grant 495 for Section 4387 containing fifty acres, was apparently issued to Solomon Newton, sometime about the year 1855. The grant has not been found. However, this is a very old tract known as the poplar cove tract as will appear by the affidavit of Fate Wiggins and there has been possession for a period of more than fifty years.

16. The first conveyance found is from Solomon Newton to John A. Millsaps dated April 24, 1855. It described the poplar cove tract and refers to it as 495, Section 4387. This deed is recorded in Jackson County. Page 597 of this Abstract.

17. John A. Millsaps died sometime prior to October 21, 1905, having made a will dated October 21, 1872, in which he made a number of specific devises none of which, however, include the lands under investigation. The will provides that "all of my other estate both real and personal or mixed, I direct that my executor hereinafter named, sell and dispose of according to law". The will then names E. Everett as the executor thereof. This will is recorded in Book 1, page 14 in the Office of the Clerk of the Superior Court of Swain County and is set out in the Abstract of tract 167 at page 93.

18. E. Everett, Executor of John A. Millsaps by deed dated March 24, 1879, conveyed to W. P. Hyde a tract of land containing thirty-nine acres granted by the state to Solomon Newton by grant No. 1699. This deed also describes the lands by notes and bounds and covers 4950 shown on the map. This tract is recorded in Swain County. Page 598 of Abstract.

19. W. P. Hyde then conveyed to David Wiggins by deed dated April 6, 1888, a tract of fifteen acres, being a portion of grant No. 495. This covers a portion of tract 153, lying east of grant 46, north of grants 3255 and 342. This deed is recorded in Swain County. Page 599 of abstract.

20. W.P. Hyde and wife, Susannah E. Hyde by deed dated April 20, 1879, also conveyed to W. L. Kitchens a tract of thirty acres, being a part of grant 495 known as the poplar cove tract; this deed including all of grant 495 except the fifteen acre tract described in the above deed from W. P. Hyde to D. N. Wiggins, and also the extreme northwestern portion of grant 495 now embraced within tract 154. This deed runs with the eastern line of tract 495 and then with a ridge which crosses 495 and intersects its western line at about the northeast corner of 46, from there goes north to the dug road and around the lower boundary line of 154 until it strikes the north line of Grant 495. This deed is recorded in Swain County and is set out on page _____ of the abstract of title to tract 145-a.

21. W. L. Kitchen and wife, Jane Kitchen by deed dated December 1, 1882, conveyed to W.H. Clark a tract of forty acres which covers a portion of the land included in the last named deed and covering the extreme north portion of tract 153. This deed is recorded in Swain County and is set out on page 103 of the Abstract of tract 167.

22. W. H. Clark and M. A. Clark, his wife, then conveyed to D. N. Wiggins by deed dated September 14, 1886 a tract which covers the extreme northern portion of tract 153 and being a part of grant 495. This deed is registered in Swain County. Page of this Abstract.

GRANT NO. 3255.

23. It will be observed from the foregoing abstract that tract 3255 was vested in James H. Wiggins. A portion of tract 153 is covered by the northeastern corner of grant 3255. So far we have not found any deed from James H. Wiggins covering this part of tract 153. The next deed we find is the following:

24. J. U. Wiggins and wife, Leylla, conveyed to David Wiggins by deed dated November 18, 1886 a tract of eleven and one-half acres which covers this portion of tract 153. We do not find any conveyance to J. U. Wiggins and have not so far been able to determine just how the title passed from James Wiggins to him. This deed is recorded in Swain County. Page 600 of Abstract.

25. As hereinbefore set out, D. N. Wiggins died, leaving a number of children and heirs at law whose names are fully set out in the affidavit of S. J. L. appearing in this abstract.

26. On July 23, 1919, John Wiggins and wife, Ella Wiggins, Laura Wooten and husband, Andy Wooten, conveyed to Wesley Wiggins a two-ninths interest in the lands of which David N. Wiggins died seized. This deed describes the land by reference to the several deeds to David N. Wiggins, which are set out in this Abstract. This deed is registered in Swain County. Page 601 of this Abstract.

27. J. R. Wooten and wife, Vica Wooten conveyed to F. I. Wiggins, the one-ninth interest of said Vica Wooten as an heir at law of David N. Wiggins, by deed dated February 26, 1921. This deed is registered in Swain County. Page of this Abstract.

28. Fidel Wiggins and wife, Rosetta, then by deed dated August 19, 1922, conveyed a two-ninths interest in the lands of which the said David N. Wiggins died seized and possessed. The deed further described the lands by reference to the several deeds referred to above and the two-ninths interest conveyed by this deed includes the interest which had been conveyed by J. R. Wooten and wife to F. I. Wiggins and also the interest of said Fidel Wiggins as the heir at law of said David N. Wiggins.

29. The effect of these conveyances is to vest in Wesley Wiggins, by deeds from the heirs at law of David N. Wiggins, a four-ninths undivided interest. Wesley Wiggins himself was an heir at law of David N. Wiggins so that apparently he is now seized of a five-ninths undivided interest in tract 153.

N O T E: There is a very small triangle of perhaps one-half acre included within the lines of tract 153 and lying in the angle formed by the northern line of tract 46 and the western line of 495 for which we do not find any conveyance to Wes Wiggins, the present claimant.

J U D G M E N T S

There appears of record in Judgment Book 10, page 2, a judgment in favor of A. J. Sutton against Wesley Wiggins for \$19.20 and \$3.10 costs with interest from August 4, 1921.