

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GREGORY RINGENBERG,

Plaintiff,

v.

UNITED STATES OF AMERICA; GARY REEVES; ROBIN REEVES; GARY L. FIELDS; MARTHA D. FIELDS; MERVIN OWNBY; JACOB SAMUEL-JAMESON SLACK; GREGORY SCOTT COOK; PATRICK L. WHITE; JOAN M. MOWERY; DWIGHT A. COFFEY; VICKIE S. COFFEY; THEODORE RANDOLF HAMILTON; MICKEY ROSS MORGAN; OLIVIA MORGAN; MARY MORGAN; THOMAS F. KENNY, IV; LAUREN M. KENNY; TIMOTHY ZITZMAN; KATHLEEN ZITZMAN; KMT PARTNERS, GP; and ALL OTHERS CLAIMING ANY RIGHT, TITLE, OR INTEREST IN LANDS KNOWN AS MONROE COUNTY, TENNESSEE TAX PARCEL 139-006.00,

Defendants.

No. 3:23-cv-00295-DCLC-DCP

**PLAINTIFF’S REPLY IN SUPPORT OF MOTION FOR PARTIAL SUMMARY
JUDGMENT AGAINST DEFENDANT UNITED STATES OF AMERICA**

Introduction

Plaintiff Gregory Ringenberg and Defendant United States agree that their dispute ultimately boils down to whether the government has an easement over Ringenberg’s property. Yet the government claims that it is Ringenberg who unnecessarily “complicates” and “obfuscates” the lawsuit. Doc. 191 at 8, 14. The criticism is ironic because it is the government’s litigation conduct which has converted a straightforward case of a void deed into a needlessly convoluted

legal contest. It is not Ringenberg but rather the government which has confused the naming conventions by referring to the alleged easement area as “Miller Ridge Road,” Doc. 191 at 1 n.1—no map or other document produced by either Ringenberg or the government ever puts that label on any portion of Ringenberg’s property. Decl. of James P. Rife ¶ 6(vi), Doc. 183. The government’s lead argument in its opposition brief is that Ringenberg’s Quiet Title Act claims are time-barred. Doc. 191 at 8–13. Yet the government doesn’t even acknowledge that its own counterclaims, which are not subject to any time-bar objection, raise the very same issues as Ringenberg’s claims, *see* Counterclaims ¶¶ 21–35, Doc. 105, and thus will be adjudicated by this Court regardless. *See* Fed. R. Civ. P. 13(i) (recognizing a district court’s authority to enter judgment on a counterclaim “even if the opposing party’s claims have been dismissed or otherwise resolved”). Neither does the government acknowledge that prevailing on its statute of limitations defense will, of its own, do absolutely nothing to resolve the underlying legal dispute between it and Ringenberg. *See Knapp v. United States*, 636 F.2d 279, 283 (10th Cir. 1980). And as if these unnecessary complications were not enough, the government raises in its opposition brief a plea— not found in its pleadings and not addressed by its experts—to have its deed “reformed” to reflect the easement it wanted from the Tedfords but never actually got. *See* Doc. 191 at 19 & n.8.

This last request is a tell: even the government is not convinced by its arguments for an easement. Indeed, as set forth below, nothing in its opposition brief or in its response to Ringenberg’s statement of undisputed material facts refutes Ringenberg’s basic positions that (i) the government’s easement deed from the Tedfords is a nullity, (ii) the government has not produced sufficient evidence to allow a reasonable trier of fact to conclude that the government has met its heavy burden to establish prescriptive use of Ringenberg’s property, either by government actors themselves or by the general public, and (iii) Ringenberg is a bona fide

purchaser without notice of any encumbrance on his property and therefore takes his property clear of any easement, whatever the government's strained theories therefor.

I. Ringenberg's Quiet Title Act claims are timely

The Quiet Title Act requires a plaintiff to bring suit within 12 years of when he knew or should have known of the government's claimed adverse interest in his property. *See* 28 U.S.C. § 2409a(g). Here, Ringenberg first learned of the government's claimed easement after he purchased the property in 2019, *see* Decl. of Gregory Ringenberg ¶ 36, Doc. 181, well within the statute of limitations period. The government, however, contends that Ringenberg's Quiet Title Act claims are untimely because Ringenberg's predecessors in interest either knew or ought to have known of the government's alleged easement much earlier.

First, the government points, Doc. 191 at 11, to a Forest Service district ranger's verbal denial of an application submitted by local property owners, including Ringenberg's predecessor in interest Paul Tedford, to put up a gate. Gov. Exh. 14 (Depo. of Paul Cleveland Tedford (Defendant) 29:9–31:4).¹ *Cf.* Gov. Exh. 18 (Depo. of Ford J. Baker 185:5–23) (government expert acknowledging that there are no written documents pertaining to the gate application). But as the government itself acknowledges, the proposed gate would not have been on Ringenberg's property. *See* Plaintiff's Statement of Undisputed Material Facts (SUMF) ¶ 16, Doc. 180; United States' Response to Plaintiff's Statement of Undisputed Material Facts (RSUMF) ¶ 16, Doc. 192. Indeed, as Tedford detailed in his deposition, the gate would have gone up at "Shaw Mountain Road," Plaintiff's Record Appendix (App.) 56–57 (Tedford Depo. (Plaintiff) 68:14–69:3), Doc. 178-1, which is well southwest of where the government today claims its supposed easement lies, between

¹ Citations to "Gov. Exh." are to the exhibits appended to the government's response to Ringenberg's statement of undisputed material facts, Doc. 192-1 and following.

Lovin and Rafter Roads, *see* Doc. 191 at 1 n.1. *Cf.* Rife Decl. Exh. A (Expert Rep. 33 (internal pagination)) (USGS map showing, from west to east, Shaw Mountain Road, Lovin Road, and Rafter Road). To trigger the limitations period, the property owner must have “reasonable awareness” of the government’s claim. *Knapp*, 636 F.2d at 283. A statement that a portion of a road some distance from one’s property is “public,” Gov. Exh. 14 (Tedford Depo. (Defendant) 31:1–3), can hardly be construed to create a reasonable awareness that the United States claims any interest in one’s own property. *See generally Mills v. United States*, 742 F.3d 400, 405 (9th Cir. 2014) (Quiet Title Act requires that the government “have adopted a position in conflict with a third party regarding that title,” which does not arise when “the government had not expressly asserted a claim with respect to that real property”). That is especially so where, as here, the alleged limitations-period trigger is founded upon a single Forest Service employee’s verbal articulation. *See id.* at 406 (“A federal employee’s decision to deny Mills access to the route is not evidence that the United States has taken a contrary position” that would authorize a Quiet Title Act suit.).

Second, the government cites the land exchange negotiations between the Tedfords and the Forest Service, which included a proposed easement over a portion of what is today Ringenberg’s property. Doc. 191 at 11. The government’s argument puts the cart before the horse: negotiations about a *potential* easement do not equate to a claim by the government that it *currently* asserts an adverse or otherwise disputed interest in the property. *Cf. Alaska v. United States*, 201 F.3d 1154, 1165 (9th Cir. 2000) (“The United States reserves the right to start a dispute, and has not disclaimed any interest. There may well be a dispute at some time But whatever dispute there may be, it has not yet occurred. . . . A title cannot be said to be ‘disputed’ by the United States if it has never disputed it.”). Moreover, any knowledge that the Tedfords had about the government’s claimed easement *after* the execution of the 2001 deed cannot be held against Ringenberg. By that point,

the Tedfords were no longer Ringenberg's predecessors in interest because they had already conveyed what today is Ringenberg's property to Shirley Grainger. *See* SUMF ¶ 6; RSUMF ¶ 6. Indeed, even after the government obtained its putative deeded easement, it failed to include the supposed right-of-way in any of its subsequent travel management documents made available to the public. *See* Doc. 179 at 6–7.

Third, the government contends that the Tedfords told Grainger that the alleged road running along the property's boundary line was "public." Doc. 191 at 11–12. This argument for triggering the limitations period is faulty for several reasons. As noted above, conjecture about a road being "public" is not the same thing as stating that the *United States* claims an interest therein. *Cf.* 28 U.S.C. § 2409a(g). Further, there is no evidence that the Tedfords were acting as agents of the United States, or that Grainger should have presumed that whatever the Tedfords communicated to her directly or through intermediaries represented the position of the United States. More to the point, Paul Tedford's deposition testimony, given several months after execution of his declaration (upon which the government relies), makes clear that Tedford did not discuss anything with Grainger other than the scenic beauty of the property. Gov. Exh. 15 (Tedford Depo. (Plaintiff) 69:4–72:12). When Tedford's declaration states that he informed Grainger about the "road" bordering the property being "public," Gov. Exh. 22 (Tedford Decl. ¶ 15), Tedford was referring to what he anticipated his realtor Nancy Davila to communicate on his behalf to Grainger. This interpretation of his declaration is confirmed by Tedford's later deposition testimony, in which he stated that he expected Davila to provide all relevant information to Grainger. Gov. Exh. 15 (Tedford Depo. (Plaintiff) 69:24–71:14). The declaration of Davila, however, makes clear that she never discussed with Grainger the current or intended legal status of the "road" or of the property generally. App. 95 (Davila Decl. ¶¶ 10-12). Hence, whatever the Tedfords' intent, there is simply

no evidence to substantiate the government's contention that the Tedfords put Grainger on notice of the government's claimed easement.

Fourth, the government relies on Davila's communications with Grainger. Doc. 191 at 12. But as just explained, Davila's sworn testimony denies having discussed anything about the legal status of any road or of any other part of the now-disputed property. App. 95 (Davila Decl. ¶¶ 10-12). The government wants to cast doubt on that testimony by citing emails from Davila, but these should be disregarded as they were not made under oath and are, without further showing from the government, inadmissible hearsay. *See, e.g., Bruce v. Levy Premium Foodservice Limited P'ship*, No. 3:16 C 2734, 2020 WL 8410462, at *3 (M.D. Tenn. Jan. 21, 2020) (email is hearsay as "an out-of-court statement" when "offered to back up the claims contained within the email). And in any event, the emails actually cut against the government's position, as Davila states therein that the "road" was not even on the property Grainger was to purchase, but instead that "the subject property ran along the western (left) edge of that road." Gov. Exh. 16. *Accord* App. 95 (Davila Decl. ¶ 11).

Last, the government cites the public notice of the proposed land exchange between the Tedfords and the Forest Service. Doc. 191 at 12–13. But as the government itself recognizes, this notice simply discussed the proposed exchange of Tract K-1190; it said nothing about any proposed easement or other right-of-way of any sort, much less about any neighboring properties like Grainger's. SUMF ¶ 17; RSUMF ¶ 17. Thus, a reasonable landowner owning neighboring property would have had no occasion to make inquiries about any unmentioned easement or other encumbrance.

II. The government has failed to meet its evidentiary burden on summary judgment to show a prescriptive or other easement over Ringenberg's property

To establish a prescriptive easement, the government must present clear and convincing evidence that it has used Ringenberg's property adversely, under claim of right, continuously, uninterruptedly, openly, visibly, exclusively, and with knowledge and acquiescence of Ringenberg's predecessors in interest for twenty years. *See Cumulus Broad., Inc. v. Shim*, 226 S.W.3d 366, 379 (Tenn. 2007). The government contends that it has adduced sufficient evidence under this standard to withstand summary judgment. *See* Doc. 191 at 14.

Preliminarily, the government protests that Ringenberg unfairly seeks to deny the government the right to use a public easement. Doc. 191 at 14. Not so. Ringenberg acknowledges that, *if* a public easement exists, then Forest Service personnel can use it like anyone else. But what Ringenberg contests is the proposition that the United States can claim *an ownership interest*, within the meaning of the Quiet Title Act, in an easement supposedly created merely by the general public's prescriptive use. Such piggybacking would fail the exclusiveness component of prescription. *See* Doc. 179 at 12–13. In defense of the contrary proposition, the government cites *Wonder Ranch, LLC v. United States*, No. CV 14-57-BU-SEH, 2016 WL 6237196 (D. Mont. Oct. 24, 2016), *aff'd*, 740 F. App'x 519 (9th Cir. 2018). But *Wonder Ranch* does not support the principle that the United States can assert the general public's alleged property interest as if it were its own. Although the district court in *Wonder Ranch* did take into account public use of the alleged easement, it specifically found that the "USFS continues, without interruption, to use and maintain the Trail in the same manner and for the same purposes it has for many years." *Id.* at *6. Moreover, the public's use of the trail at issue occurred under the express superintendence of the Forest Service. *See id.* at *8 (noting that the earliest evidence of prescriptive use was "a 1940 map designating the Trail as USFS Trail #328"). In contrast, here there is no historic evidence of Forest

Service maintenance of the alleged easement area, Gov. Exh. 11 (30(b)(6) Depo. of U.S. 73:11–74:5), the only Forest Service official with supposed direct knowledge of Forest Service use has clarified that such use occurred only *outside* of the alleged easement area, App. 83, 85 (Declaration of former District Ranger Wallace Graham highlighting Belcher Loop Road, not the alleged easement area), and the Forest Service has never publicly declared the alleged easement area to be a Forest Service accessway, SUMF ¶ 12; RSUMF ¶ 12. Moreover, it was only when Ringenberg challenged the validity of the Forest Service’s easement deed from the Tedfords that the government articulated its back-up theory of prescription. App. 122–123 (December 2022 letter from Forest Supervisor to Ringenberg). Prior to that, the Forest Service’s position was that the government itself was subject to the public’s alleged prescriptive rights. *See* Supplemental Record Appendix (Suppl. App.) at 3 (noting that a proposal to improve a portion of the alleged easement area north of Ringenberg’s property would “require the purchase of [a] right-of-way” and that, because “the public has prescriptive right-of-way over this road, continuous access will be permitted”). Indeed, the government has even retreated somewhat during this litigation from its position articulated in its 2022 letter to Ringenberg: one of the government’s experts, a Forest Service official, conceded in his summary of findings that the government’s interest in the alleged easement area is simply a stop-gap function of Monroe County’s not having taken jurisdiction. Gov. Exh. 27 at 4 (“The Forest Service has effectively assumed management of the road by default, as it is the sole government entity involved, with the county having not accepted the road as a county road.”).

Second, the government cites a collection of evidence that allegedly tends to show that the public has created a prescriptive easement over Ringenberg’s property. Doc. 191 at 16. But on closer analysis, none of this evidence holds up. To begin with, the government states that “Miller

Ridge Road” on Ringenberg’s property appears in Forest Service records as early as 1938, citing a government expert’s deposition discussion of an exhibit depicting Tracts 187 and 187a and a road thereon. *See* Gov. Exh. 25 (Shelton Depo. 62:14–63:2) (citing deposition exhibit 15). But the referenced deed and survey of Tracts 187 and 187a and a road, Suppl. App. at 11–18, are *not* on Ringenberg’s property, but instead well to the north, *see* App. 24 (government survey map depicting, inter alia, Ringenberg’s property and Tracts 187 and 187a). The government next cites an expert report that discusses a Forest Service environmental assessment document. This latter document asserts the existence of a public road along Miller Ridge that has been used continuously since 1913. *See* Gov. Exh. 5 at 4.² But the assessment contains no foundation as to that allegation.³ *See* Suppl. App. at 1–10. It is also plainly incorrect: it contends that the alleged road runs the length of Miller Ridge to Mount Isabella Church, yet the latter “is located well to the southwest of Miller Ridge,” Rife Decl. Exh. B (Rebuttal Rep. at 9) (internal pagination). Rather than the legendary “Miller Ridge Road,” the road referenced in the environmental assessment is undoubtedly Rafter Road, which lies north of Ringenberg’s property but which, even to this day, directly connects Rafter to Mount Isabella Church. Rife Decl. Exh. B (Rebuttal Rep. at 10) (internal pagination). Finally, the government cites several declarations from area residents, but the government fails to

² Here and elsewhere in its opposition materials, the government cites the reports of its experts. These reports are unsworn, and the government has not submitted any declarations from its experts affirming their contents. Hence, the government’s substantive reliance on these reports’ hearsay testimony to defeat Ringeneberg’s summary judgment motion is impermissible unless and until the government can establish that the reports’ contents could be made admissible at trial. *See Derrick v. Friar*, No. 2:17-cv-2741-SHL-cgc, 2022 WL 20746520, at *2–*4 (W.D. Tenn. Feb. 9, 2022).

³ The government did produce old notes of interviews with local residents. Gov. Exh. 20 at 3–4, These notes might have informed the conclusions made in the environmental assessment. But they appear to indicate that the information recorded pertained to an alleged road on Tracts K-187a and K-187. *See id.* at 4. As explained in the text, those tracts are north of Ringenberg’s property and thus are not determinative of what if anything was historically on Ringenberg’s property.

respond to Ringenberg’s argument that this evidence of prescription is consistent with permissive use and thus incapable of establishing a prescriptive easement.⁴ *See* Doc. 179 at 13–14. Indeed, the government fails to offer any evidence to contradict Ringenberg’s position that there existed in Tellico Plains a custom of permissive neighborly accommodation of such use. *Compare* SUMF ¶ 8 *with* RSUMF ¶ 8.

The government quibbles that the alleged use was not always “reasonable and respectful,” but its above-noted declarations—which discuss use of the alleged easement area for bear and deer hunting and other recreational purposes—are fully consistent with such characterization. It is true that one of the declarants recalls an undated incident in which a property owner pulled a gun on him. Gov. Exh. 8 (Decl. of Greg Colvin ¶ 7). But this altercation was the result not simply of using the alleged easement area, but of attempting to hunt on neighboring property. *See id.* (The declarant “drove out to catch [his] dog” and was told that the property owner “was upset [he] was hunting in the area as she had previously told [him] she didn’t want [him] hunting on her property.”). Not only is this testimony consistent with the regional custom of allowing the alleged easement area to be used for recreational transit, it is consistent as well with the custom of requesting landowner permission to actively hunt on neighboring private property. *See* App. 67 (Decl. of Steve Moore ¶ 9) (recounting having requested permission to hunt on Grainger’s property).

⁴ Ringenberg’s principal contention is that these declarations are not probative of the use of his property because they merely affirm use of “Miller Ridge Road” and, as noted above, there is no cartographic or similar documentary evidence of anything called “Miller Ridge Road” ever appearing on Ringenberg’s property. *See* Rife Decl. ¶ 6(vi) & Exh. C (Suppl. Rep. 2–9) (internal pagination). But even construing these declarations most favorably to the government, Ringenberg should still be entitled to summary judgment because the alleged use was, as explained in the text, permissive.

Relatedly, the government contends, in its response to Ringenberg’s statement of undisputed material facts, that federal officials themselves have used “Miller Ridge Road” prescriptively. RSUMF ¶ 7. That, however, is not directly responsive to Ringenberg’s contention that the government has no evidence of its own prescriptive use of *Ringenberg’s property*, SUMF ¶ 7, which comprises just one portion of the area traversed by what the government terms “Miller Ridge Road.” See Doc. 191 at 1 n.1. Indeed, the material cited by the government pertains to use of Forest Service Road 442402, see, e.g., Gov. Exh. 20 at 1 (letter from District Ranger with “442402” written in margin), which does lie within the alleged easement area but which does *not* extend to Ringenberg’s property, SUMF ¶ 15; RSUMF ¶ 15.

Finally, the government falls back on the theory that its alleged easement can be justified through a theory of implied dedication. Doc. 191 at 15. Although the government cites the legal standard for implied dedication, its brief discusses no evidence of any intent to dedicate, and the government even concedes that Monroe County has not accepted any offer to dedicate. SUMF ¶ 13; RSUMF ¶ 13. To be sure, the government’s response to Ringenberg’s statement of undisputed material facts cites the Tedfords’ plans to convey an easement to the Forest Service as evidence of an intent to dedicate. RSUMF ¶¶ 1–2. But the government thereby has conflated two distinct concepts: the Tedfords’ supposed intent to expressly convey by deed an easement over their property to the United States, and their supposed intent (or that of any other predecessor in interest of Ringenberg) to *impliedly* dedicate an easement, without any express conveyance. Cf. *Pevear v. Hunt*, 924 S.W.2d 114, 115–16 (Tenn. Ct. App. 1996) (observing that easements can be created by, inter alia, “express grant” and “implication”). Nothing in the government’s citations concerning the Tedfords’ intent to convey an easement to the United States as part of the land exchange agreement undercuts Ringenberg’s position that there is no evidence showing an implied intent to

dedicate an easement by any of Ringenberg's predecessors in interest. The absence of such evidence is fatal to the government's Sixth Counterclaim of "Implied Dedication and Acceptance." *See* Doc. 191 at 15 ("In this case, the dedication is implied."). Indeed, the Tedfords' own affidavit, executed as part of their land exchange agreement with the government, directly contradicts any such implied intent. *See* App. 29–30 (Affidavit of Paul and Elizabeth Tedford ¶ 4) ("The undersigned have allowed no easements, right of way, . . . or other rights of passage to others over the premises above described and have no knowledge of such adverse rights, except those of public record.").

III. Ringenberg is entitled to summary judgment on his bona fide purchaser defense to the government's easement counterclaims

Ringenberg contends that, because he acquired his property without actual or other notice of any alleged easement, he takes his property free of any such encumbrance as a bona fide purchaser. Doc. 179 at 14–16. The government does not appear to contest the concept of bona fide purchaser. Instead, it contends that Ringenberg did have notice of the government's claimed easement and thus cannot qualify as a bona fide purchaser without notice.

First, the government argues that Ringenberg's reliance on Tennessee's "race notice" statute to make out his bona fide purchaser defense is misplaced. Doc. 191 at 17. The government's objection is itself misplaced because race notice has nothing to do with Ringenberg's bona fide purchaser defense. Race notice is potentially relevant only in circumstances where a later-executed deed is recorded prior to an earlier-executed deed purporting to convey a conflicting interest. *See Milledgeville United Methodist Church v. Melton*, 388 S.W.3d 280, 289 (Tenn. Ct. App. 2012) (observing that, "under Tennessee's race notice statute, a first-filed instrument has preference over a later-filed document, even one that was executed first," except "where the party claiming under the subsequent instrument had 'full notice' of the prior unrecorded one"). Here, however,

Ringenberg's predecessor deed (the conveyance from the Tedfords to Grainger) was both recorded *and* executed before the Forest Service's competing deed. SUMF ¶ 9. *See* RSUMF ¶ 9 (admitting that Grainger acquired her property and recorded her deed two years before the Tedfords' exchange with the Forest Service). Because one can't convey what one doesn't own, *Mitchell v. Hawley*, 83 U.S. (16 Wall.) 544, 550 (1872), it follows that Ringenberg's chain of title must prevail over the government's, regardless of race notice.

Second, the government argues that Ringenberg had constructive notice of the alleged easement because the recorded Grainger deed describes the property as having a shared boundary with the Forest Service and incorporates a survey map that defines part of the shared boundary with the Forest Service as the "center of road." Doc. 191 at 18–19 & n.7. None of this material provides any notice of the government's claimed easement. To begin with, it's hard to understand how documents that were drafted, executed, and recorded more than two years prior to the Tedfords' attempted easement conveyance could provide notice of an *existing* interest, the conveyance of which had not yet been attempted. Regardless, the documents themselves do not even mention a potential right-of-way in the alleged easement area: the deed itself is silent, *see* App. 104–105, and the Slack survey map simply identifies a "road," Gov. Exh. 1. And according to customary surveying practice, "mere reference to a 'road' in a survey description or map is not intended to convey notice of or a legal judgment about any rights of use to the road." Decl. of J. Scott Stanley ¶ 8, Doc. 184. Further, the fact that the Grainger deed and Slack survey map do not mention an easement in that portion of the property where the government now claims a right-of-way is particularly noteworthy given that these documents *do* mention an easement, but one in an entirely different portion of the property. *See* Gov. Exh. 1 (Slack map noting a "15' easement along center of exist[ing] road" on the northwestern edge of the property, opposite the alleged easement

area); App. 104–105 (Grainger deed description noting the same). Hence, no reasonable landowner would be expected to infer from such materials the easement claim that the government now makes against Ringenberg.

Third, the government contends that Ringenberg must have had actual notice of an easement because, just a few months after Ringenberg purchased the property, he contacted the Forest Service about his concerns over the use of the alleged easement area and Forest Service personnel in response traveled by truck to visit the alleged easement area.⁵ Doc. 191 at 20. This argument founders because the government has flubbed the relevant timeline. As Ringenberg’s declaration makes clear, when he purchased the property in May 2019, there was no evidence of any road in the alleged easement area on the property. G. Ringenberg Decl. ¶¶ 8, 14. *Accord* Decl. of Alan Ringenberg ¶ 9, Doc. 182. Shortly after purchase, Ringenberg and his contractors began installing driveways in portions of the alleged easement area. G. Ringenberg Decl. ¶¶ 19, 25, 27; A. Ringenberg Decl. ¶¶ 11, 13. Around this time, one of Ringenberg’s neighbors installed a road, without his permission, in another segment of the alleged easement area. G. Ringenberg Decl. ¶ 21; A. Ringenberg Decl. ¶ 12. Also around this time, Ringenberg’s neighbor to the southwest, Eric Fredrickson, was installing his own driveway within yet another portion of the alleged easement area. Suppl. App. at 20–21 (Decl. of Eric Fredrickson ¶ 8). Thus, the road observed by the government in the summer and fall of 2019 was the one put in by Ringenberg or his neighbors; Ringenberg’s testimony that, at purchase, there was no evidence of any road, is entirely consistent with these later-in-time developments.

⁵ When Ringenberg met the Forest Service personnel in the alleged easement area on his property, he informed them that they were trespassing. In response, one of the officials apologized and requested permission to proceed, which Ringenberg granted. *See* Gov. Exh. 12 (Depo. of G. Ringenberg 47:12–49:2).

Fourth, the government suggests that, because the existence of the road was known for decades, at the very least Ringenberg’s predecessors in interest were aware of the claimed easement and thus Ringenberg cannot be a bona fide purchaser. *See* Doc. 191 at 20. The government appears to confuse the doctrine of bona fide purchaser with a faulty variant of the so-called shelter rule. The latter, traditionally understood, provides that “one who is not a bona fide purchaser, but who takes an interest in property from a bona fide purchaser, may be sheltered in the latter’s protective status.” 77 Am. Jur. 2d Vendor and Purchaser § 412. But the shelter rule doesn’t operate in the inverse—that is, a bona fide purchaser doesn’t cease being a bona fide purchaser simply because one or more predecessors in interest can’t themselves qualify as bona fide purchasers. Rather, it’s enough that the bona fide purchaser himself had no notice. *See* Tenn. Code § 66-26-103. Hence, whatever Grainger or the Tedfords might have known cannot, of itself, vitiate Ringenberg’s status as a bona fide purchaser.

Fifth, the government cites Ringenberg’s title insurance policy, Doc. 191 at 20, but that policy is irrelevant to Ringenberg’s status as a bona fide purchaser. The policy does not put Ringenberg on any actual or constructive notice of any easement; it simply sets forth the circumstances in which Ringenberg might be compensated for the effects of any cloud on title. More importantly, Ringenberg did thoroughly inspect the property prior to purchase and found no evidence of any road or other human use within the alleged easement area. G. Ringenberg Decl. ¶¶ 8, 14. That conclusion was consistent with what the title company communicated to Ringenberg. *See id.* ¶ 17 & Exh. M.

Last, the government argues that, because the Tedfords intended to convey an easement to the government, the Court should invoke its equitable powers to “reform” the government’s deed to provide for such an easement. Doc. 191 at 19 & n.8. But reformation, as the government

proposes it, can't be used to defeat the interest of a bona fide purchaser. If Ringenberg otherwise qualifies as a bona fide purchaser, then he should take free of any encumbrance, regardless of the "intent" of the Tedfords and the Forest Service. *See Minton v. Long*, 19 S.W.3d 231, 241 (Tenn. Ct. App. 1999) ("Reformation of a deed for mutual mistake is an action in equity and will not lie if it affects intervening rights of third persons who actually and justifiably rely upon recorded instruments."). Reformation would be especially unwarranted here, as the Forest Service could easily have done a title check in 2001 prior to the land exchange, have determined that the Tedfords no longer owned Parcel 139-006.00, and thus have concluded that the Tedfords had no power to convey an easement thereon. *See generally Trent v. Mountain Commerce Bank*, 606 S.W.3d 258, 265 (Tenn. 2020) ("Equity does not permit us to correct a mistake . . . that the Petitioners could have avoided with reasonable diligence.").⁶

IV. Ringenberg is entitled to summary judgment on the government's emergency and public access affirmative defenses

The government's Seventh Affirmative Defense asserts that the government should have an easement over Ringenberg's property because it is necessary for emergency purposes. Although the government's opposition brief makes vague references to this defense, Doc. 191 at 2, 21, the government doesn't appear to offer any legal argument as to why the need for emergency access, standing alone, could justify the government's claimed easement. *Cf.* Doc. 179 at 22.

⁶ Indeed, it is precisely in these circumstances, where the Forest Service has obtained invalid title as part of a land exchange, that Congress has authorized the agency to quitclaim its interest to the affected property owner. *See* 7 U.S.C. § 2253 ("If the Secretary of Agriculture shall find after the acquisition by the United States of any land or interest therein . . . that title or color of title to such land or interest was acquired through mistake, misunderstanding, error, or inadvertence, he is authorized to execute and deliver on behalf of and in the name of the United States . . . to the person whom he finds entitled thereto a quitclaim deed to such land or interest . . ."). This very relief Ringenberg diligently sought. *See* App. 121.

Even if such an argument were legally cognizable, the government’s factual showing for it would fail on summary judgment. The government cites the first declaration from local fire chief Thomas Lenderman, RSUMF ¶ 27, but Lenderman’s subsequent declaration clarifies that the “Miller Ridge Road” referenced in his original declaration is the “Miller Ridge Road” that extends from Lula Gap Road into the Indian Boundary Subdivision, App. 93, and which terminates prior to reaching Ringenberg’s property. *See* Rife Decl. Exh. A (Expert Rep. at 35) (internal pagination) (excerpted USGS map depicting road referenced in the Lenderman declarations); Rife Decl. Exh. A (Expert Rep. at 4) (internal pagination) (description of Miller Ridge Road/Lula Gap Road). The government also cites its own deposition as evidence of emergency use. *See* RSUMF ¶ 27. But that testimony merely states that a road on a ridge “is naturally a good firebreak location.” Gov. Exh. 11 (30(b)(6) Depo. of U.S. 72:16–17). It nowhere states that such a firebreak in that location would be essential for firefighting; indeed, although the government acknowledged that maintaining the road would be important to preserving its firebreak potential, it could not testify as to whether any such maintenance had actually occurred. Gov. Exh. 11 (30(b)(6) Depo. of U.S. 73:11–74:5).⁷ Moreover, the government went on to acknowledge in its deposition that Lula Gap Road currently provides emergency access. App. 11 (30(b)(6) Depo. of U.S. 75:1–2). And Ringenberg himself has offered permissive use for fire suppression. *See* Gov. Exh. 12 (G. Ringenberg Depo. 46:9–47:11).

The government’s Ninth Affirmative Defense seeks to justify the claimed easement on the ground of a need for public access to public lands. Again, although the government makes vague

⁷ Among the matters which the government was requested to produce witnesses to testify on were “[a]ll facts pertaining to Defendant’s Seventh Affirmative Defense and Fifth Counterclaim that lack of public access to the alleged easement area endangers public safety.” Doc. 133 at 3.

allusions to this argument, Doc. 191 at 2, 21, the government offers no legal defense of it. *Cf.* Doc. 179 at 23.

Even if such an argument were legally cognizable as a claim for an easement by necessity, the government's factual showing for it would fail on summary judgment. The government asserts that the existing alternative access route identified by Ringenberg "is not the best access." RSUMF ¶ 28. In other words, other routes may not be as convenient as the alleged easement area. But to establish an easement by necessity, mere inconvenience is not enough, particularly where, as here, the government owns a vast parcel of land (Tract K-312a) immediately adjacent to the parcel at issue, App. 24. *See generally Newman v. Woodard*, 288 S.W.3d 862, 868 (Tenn. Ct. App. 2008) ("Where the party claiming the right can, at reasonable cost, create a substitute on his own estate the easement is not necessary.").

V. Ringenberg is entitled to summary judgment on his boundary-line claim

Ringenberg contends that the boundary line between his property and the government's Tract K-1190 should be established according to the Slack survey contained in the Grainger deed, rather than according to the Bragg survey contained in the government's later-executed and later-recorded deed from the Tedfords. *See* Doc. 179 at 24–25. The government's opposition brief contains no legal argument against Ringenberg's position. As to the facts, the government concedes that the Slack boundary line was established before the competing Bragg boundary line. SUMF ¶ 26; RSUMF ¶ 26. Moreover, the government doesn't appear to dispute that the depiction of the Slack boundary line as set forth by Ringenberg's surveyor expert is accurate. *See* SUMF ¶ 29; RSUMF ¶ 29. Hence, Ringenberg should be granted summary judgment on this claim.

VI. Ringenberg is entitled to summary judgment on those arguments which the government did not respond to

In addition to the above claims and defenses, Ringenberg has moved for summary judgment on the government's Second Affirmative Defense (Tennessee statute of limitations), to which the government has offered no response. Ringenberg also has moved on the government's Third Affirmative Defense (subject to existing servitudes), to which the government offered no response other than perhaps its belated request for reformation of its deed which, as explained above, is not merited. Ringenberg has moved as well on the government's Fifth Affirmative Defense (easement by color of title). Not only did the government not respond to Ringenberg's arguments against this defense, it has conceded that the 1974 Indian Boundary Subdivision plat does not purport to convey any interest to the government, SUMF ¶ 24; RSUMF ¶ 24, a requirement for any color of title defense. Similarly, the government offered (i) no response to Ringenberg's challenge to the government's Sixth Affirmative Defense (federal ownership of Tract K-1190) other than a vague reference to "rights as the owner of appurtenant National Forest lands," Doc. 191 at 13, (ii) no response as to the Eighth Affirmative Defense (failure to state a claim), and (iii) no response as to the Tenth Affirmative Defense (eminent domain)—thus, judgment should be entered in Ringenberg's favor on these defenses.

Conclusion

For the foregoing reasons and those contained in Ringenberg's opening papers, the motion for partial summary judgment should be granted.

DATED: January 12, 2026.

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**Pro Hac Vice*

Respectfully submitted,

/s/ Damien M. Schiff

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Defendant Forest Service*

Certificate of Service

I hereby certify that on January 12, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record. A hard copy of the foregoing will be forwarded via first-class U.S. Mail to the following *pro se* Defendants:

Gary L. Fields
Martha D. Fields
PO Box 836
230 Miller Ridge Road
Tellico Plains, TN 37385

/s/ Damien M. Schiff
DAMIEN M. SCHIFF*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GREGORY RINGENBERG,

Plaintiff,

v.

UNITED STATES OF AMERICA; GARY REEVES; ROBIN REEVES; GARY L. FIELDS; MARTHA D. FIELDS; MERVIN OWNBY; JACOB SAMUEL-JAMESON SLACK; GREGORY SCOTT COOK; PATRICK L. WHITE; JOAN M. MOWERY; DWIGHT A. COFFEY; VICKIE S. COFFEY; THEODORE RANDOLF HAMILTON; MICKEY ROSS MORGAN; OLIVIA MORGAN; MARY MORGAN; THOMAS F. KENNY, IV; LAUREN M. KENNY; TIMOTHY ZITZMAN; KATHLEEN ZITZMAN; KMT PARTNERS, GP; and ALL OTHERS CLAIMING ANY RIGHT, TITLE, OR INTEREST IN LANDS KNOWN AS MONROE COUNTY, TENNESSEE TAX PARCEL 139-006.00,

Defendants.

No. 3:23-cv-00295-DCLC-DCP

**SUPPLEMENTAL APPENDIX TO PLAINTIFF’S REPLY
IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT**

Enclosed are exhibits to Plaintiff’s Reply in Support of Motion for Partial Summary

Judgment Against Defendant United States of America:

Document	Page(s)
Environmental Assessment for Management of Compartment 424, approved April 27, 1981	Suppl. App. 1–10
Exhibit 15 from January 16, 2025, deposition transcript of Dr. Shelton	Suppl. App. 11–18
Declaration of Eric Fredrickson, dated February 14, 2025	Suppl. App. 19–21

DATED: January 12, 2026.

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Gary L. Fields
Martha D. Fields
PO Box 836
230 Miller Ridge Road
Tellico Plains, TN 37385

/s/ Damien M. Schiff
DAMIEN M. SCHIFF*

ENVIRONMENTAL ASSESSMENT FOR MANAGEMENT OF COMPARTMENT(S) 424

District: Tellico R.D.

FY Scheduled for Entry: FY82

Certified Prescriber: David Meriwether Date: 2/6/81

Recommending Approval: W. J. Graham Date: 2/9/81
(District Ranger)

Reviewed and Recommending Approval:

		DATE
LAND-MANAGEMENT PLANNER	<u>Bobby J. Lohy</u>	<u>4/10/81</u>
LANDSCAPE ARCHITECT	<u>William D. ...</u>	<u>4/20/81</u>
SILVICULTURIST	<u>Charles B. ...</u>	<u>4/10/81</u>
SOIL SCIENTIST		
TRANSPORTATION PLANNER	<u>Charter S. Lewis</u>	<u>4/13/81</u>
WATERSHED SPECIALIST	<u>Joe K. ...</u>	<u>4/22/81</u>
WILDLIFE BIOLOGIST	<u>Dave ...</u>	<u>4/22/81</u>

APPROVED: [Signature] DATE: 4-27-81
(Forest Supervisor)

REMARKS: Per 4/27/81 memo.

X Two non-system roads serve this area well. An old woods road, which will be referred to throughout this assessment as the Old Miller Ridge Road, runs the length of Miller Ridge from FS 284 to the Mount Isabella Church. The road has been used continuously by the public since as early as 1913 and possibly longer. It is presently used primarily for hunter access. The road is partially on national forest land in stands 1, 3, 15, and 17.

The other non-system road, which will be referred to throughout this assessment as the Hampton Branch Road, was used in 1976 to haul timber sold in Compartment 34. This road is gated at FS 284. Both of these roads are below the standards required for continuous access for resource management. However, both can be reconstructed in place to meet these standards.

One other logging road, used as access for a timber sale in 1967, forks with the Hampton Branch Road and runs out the compartment divide. This road coincides with the access needs for the compartment but has grown up in young pine regeneration. No other infrastructure improvements are known of in this area.

I. Lands (Map on page 93)

1. Special Uses

One special use within this compartment is presently under permit. Fort Loudon Electric Cooperative has a permit covering approximately 5000 feet of powerline right-of-way along the Rafter Road.

2. Claims

Two landline disputes are known of in this area. The first is a formal claim made by Mr. Larnsy Nickels concerning the east/west line along stands 4,5, and 6. This claim is being investigated at this time and should be settled during 1981.

The other claim was made to the prescriber by Mr. Lee Young. The northeast/southwest landline in stands 7 and 8 is the location of his claim. Mr. Young stated that the property line adjacent to his land has been moved several times since the Forest Service purchased the tract from him in 1931. He went on to say that he feels the line, which is designated a straight line in the deed, is curved to the south on the ground. He feels that the corners are located in the proper location.

3. Occupancy Trespass

Three cases of trespass were discovered in field examination. Mr. Kenneth Stewart has a spring box and water transmission in stands 7 and 8, which are not under permit for use. Mr. Dan Murphy has a chicken house and dog yard in stand 3. The other trespass is a part of a garden in stand 14. It is not known who is using this garden.

4. Acquisition/Exchange

OPTIONS FOR TRANSPORTATION SYSTEM MANAGEMENT

This section gives options for road construction and maintenance standards, and use limitations. Existing road locations will adequately serve the multiple use management of this compartment (See map page 11). Therefore, no road location options are considered. The transportation planning needs for this compartment are considered under these options.

1. Reconstruct Miller Ridge Road (TM1)

This option calls for the reconstruction of 0.9 miles of the Old Miller Ridge Road to facilitate timber sale activities on a continuing basis. The existing roadbed will be widened to a 12 foot wide, single lane road with turnouts. Spot graveling will be required as soil conditions dictate. Level 2 road maintenance will be provided. This option will require the purchase of right-of-way on approximately 0.4 miles of the road where it lies on private land. Since the public has prescriptive right-of-way over this road, continuous access will be permitted.

This option also calls for the reconstruction of 0.5 miles of the Hampton Branch Road to meet the standards described above for continuing administrative and resource treatment activities. The gate on this road will be maintained and public access will not be permitted. Level 1 road maintenance will be required following timber sale activities. Both this road and the previous road will be placed on the transportation system.

Access into stand 3 and the daylighting activities will be provided by construction of temporary roads. These roads will be revegetated and closed following completion of the timber sale.

Design of these roads will follow FSM 7706.14, CNF No.1. All roads will be located on ridges a minimum of 200 feet from perennial streams. Road construction and timber sale activities will be restricted to dry periods only. Revegetating roadbeds and banks will be done as quickly as is feasible.

2. Use of Miller Ridge Road as is. (TM2)

This option calls for the use of 0.6 miles of the Old Miller Ridge Road under prescriptive right-of-way. No reconstruction work will be done. Spot graveling and drainage will be performed to maintain the road in its present condition. Continuous public access will be permitted according to prescriptive right-of-way. Road maintenance will be provided at Level 2 and the road will be entered onto the Transportation Network Inventory as a public - other facility.

Also called for in this option is the reconstruction of 0.5 miles of the Hampton Branch Road. The road will be placed on the transportation system and will provide continuous access for administrative and resource treatment activities. The existing roadbed will be widened to a 12 foot wide, single lane road with turnouts. Spot graveling will be required as soil conditions dictate. The road will be maintained ~~at~~ Level 1 following timber sale activities. The gate will be maintained permitting no public access.

Access into stand 3 and the daylighting activities will be provided by construction of temporary roads. These roads will be revegetated and closed following timber sale.

Design of these roads will follow FSM 7706.14, CNF No. 1. All roads will be located on ridges a minimum of 200 feet from perennial streams. Road construction and timber sale activities will be restricted to dry periods only. Vegetating roadbeds and banks will be done as quickly as is feasible.

3. No Action (TM3)

This option coincides with the Timber Option for no commercial timber sale (T3). Present road standards are adequate for activities other than timber sales. No reconstruction or new construction would be prescribed. The gate and no vehicle access would be maintained on the timber access road.

Minerals

a. Existing Leases Type of Lease Conflict with Any Prescribed Treatment Recommendation

None

b. Lease Applications Type of Lease Conflicts with Any Prescribed Treatment Recommendation

ES 22518	Oil and Gas	Timber Sale	Grant Application
ES 22516	Oil and Gas	Timber Sale	Grant Application
ES 22517	Oil and Gas	None	Grant Application
ES 22515	Oil and Gas	None	Grant Application

Transportation System

a. Proposed Actions - System Roads

1) Restrictions

Existing Roads: No known restrictions.

Proposed Roads: Hauling over the Old Miller Ridge and Hampton Branch Roads will be limited by wet weather as it occurs.

2) Management

X

The Miller Ridge Road will be managed for continuous access of normally minor amounts of traffic. It will be maintained under maintenance level 2.

The Hampton Branch Road will be maintained under maintenance level 1 which calls for only basic custodial care. This road will be closed to traffic for other than administrative and resource treatment purposes.

3) Mill location and haul route restrictions.

Both the sawtimber and small roundwood will be appraised to Tellico-Robbinsville Road (SR 165) is the primary haul route. The only restriction is a 10 ton limit on the steel bridge across the Tellico River.

List below the roads 1/ approved in the EA that will be needed for the sale period. Attach map showing road locations and any proposed mill sets, log landings, or cable sets anticipated for this sale.

old county rd, at an inventory 442402 442401 44241

Road Name	Number Miles	2/ Symbol	3/ Maint. Level	Est. Road Costs	R. O. W. Req'd.
Old <i>South</i> Miller Ridge <i>(nonsystem)</i>	0.6	SS	2	\$2,000	Prescripti
Hampton Branch	0.5	R	1	\$10,000	No

Proposed sale year FY82

Total Road Cost = \$12,000
 Total Sale Value = \$22,493
 available for
 system roading

Deficit Sale Yes X No
 If yes, Augmentation Funds Req'd.
 Preroading Req'd. Yes X No

- 1/ Any proposed deviations or changes to the transportation system as approved in the EA will require an amendment to the EA. Attach copy of the proposed amendment.
- 2/ Use Symbols M, S, SS, R, or C to differentiate between maintenance, surfacing, spot surfacing, reconstruction, or construction.
- 3/ Maintenance levels are given in the Transportation System Maintenance Handbook FSH 7709.15.

(5). If any rights-of-way are required, supply the following information:

Landowner(s) name: N/A

Address:

Phone:

Is landowner willing to grant permission to survey R.O.W.? Yes No.

Is landowner willing to sell R.O.W.? Yes No.

Are there any special stipulations?

Do you foresee any problems in obtaining R.O.W.?

(6). Road Closures

--List existing road closures: location, type, etc.

1 Gate on the Hampton Branch Road at its junction with FS 284.

--Maintenance needed to bring up to standard? None

--Proposed road closures - location, type? Maintain existing gate.

b. Proposed Actions - Nonsystem Roads

Show location on map. If not shown or numbered on Transportation Plan, number each road T1, T2, T3, etc.

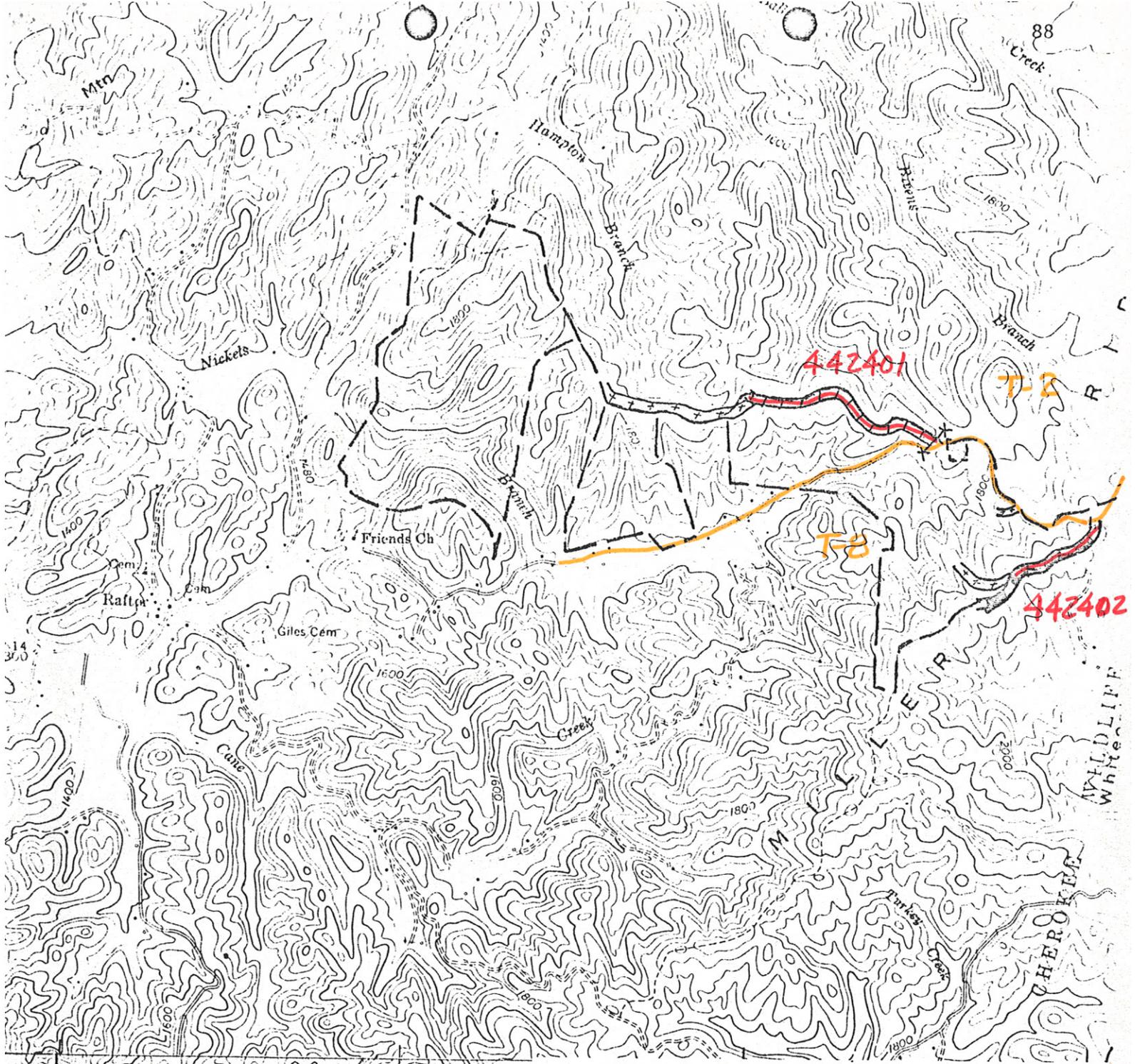
(1). Nonsystem Roads

<u>Road No.</u>	<u>Miles</u>	<u>Symbol</u>	<u>Estimated Cost</u>	<u>Road Closure</u>
T1	0.2	C	\$800	Permanent Bunker
T2	0.5	R	\$750	Gate on system road

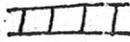
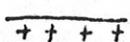
*Use Symbol R, C to differentiate between reconstruction and construction.

(2). Number of Stream Crossings

<u>Road No.</u>	<u>Temporary Culverts</u>	<u>Temporary Bridges</u>	<u>Natural Fords</u>
None			



TRANSPORTATION SYSTEM MAP
 Scale: 1"=2000'

- Spec. Road Reconst. 
- Public - Other 
- Temporary Road 
- Road Closure - Gate 



Reply to: 1920 Land & Resource Planning

Date: 3/17/81

TELICO R.D.

Subject: Compartment 424

MAR 18 '81

To: District Ranger, Tellico

Here are the Core Team's comments for compartment 424 - except Timber's and LMP's. We will bring them with us Thursday.

Recreation

--Mighty slim ICOS

--P 20 - R1, 3rd line. Delete "and safety". Done

--P 32, #3. Add "See Chapter 2, Volume 1, VMS. Done

--P45. Modification VQO can be met but there are requirements. See pages 34-35 and pages 38-39, especially lower left photo, page 39. Stand 6 (P.R.) should be o.k.

Engineering

--P 37, 3rd paragraph, 3rd & 4th sentences - "No maintenance on this..." to be placed on system, a road will be maintained to at lease level 1 (FSM 7732.11). Done

--P 38 - 1st paragraph, 5th sentence - "The road will be..." Similar comment. During sale maint. level may be higher, but afterward (on system road) still to be maintained to at least level 1 - which is consistent with p. 59 for maintenance on Hampton Br. Rd. Done

--P 37, par 6, sent. 1, - "This option calls for..." Be careful that proposed work makes no improvement in existing road when under prescriptive r/w. Also, without regular legal r/w, can't show Miller Ridge Road as system like p. 59. And not really temp. road as on maps p 40, 88. Therefore, need to indicate as "Public-Other" or something like that. Suggestion: That this road be entered on our inventory (not as FS road, but like we do county and state roads) since it obviously is of importance to us. Then, if we ever do get r/w or if county should ever take it over, we can change the coding accordingly to FS rd. or county rd, or whatever. Done, see pages 37, 38, 40, 88 and 59

--Basically, I agree with transportation proposals, but suggest adding the road as described. We would need a road log. Also, suggest using Old Miller Ridge as name since there is an existing FS rd. named Miller Ridge (#2033). Should change name accordingly throughout EA. If you add the road, contact Bob White for details of information needed to show on inventory. Done

--Also, when EA is approved, remind us to add Hampton Branch Rd. to system so that work can be done on it. Will do.

Route	Initials
___ Ranger	WJ
___ Tbr. Asst.	
___ Res. Asst.	
___ Forester	
___ Colvin	
___ Frye	
___ Watson	
___ Patterson	
___ Cheeks	
___ D. Clerk	
___ VIS Clerk	
___ File	
___ Library	

Done [Signature]
Bobby L.
told me personally
this was a very
good prescriptive
WJ



Soil & Water

--P 64 - In compartment 424 you have soil EMU 030522. You may want to alter your prescription to allow for cove hardwoods in stand 3. *Not for this stand.*

--Soil Resource Map - Stands 15 and 17 have not been mapped. Please state when a stand has no available soils information. I believe your prescription for these stands is correct. However, I can't be certain on the coding of the EMUs without a field investigation. *Done - page 4, para. 3 + page 56, last sentence*

--It would be helpful to give topo sheet references on map copies. *Will do in future EAs*

--P 4 - Affected environment, soil & water - an excellent job.

--P 30, 1st para., 3rd sent. - Suggest you rewrite as "Soil pH will be increased. Available nitrogen, phosphorous, calcium and maganesium will also be increased but total supply will be slightly decreased. Last sentence has very little to do with the above. This sentence should be incorporated with the paragraph. *Done*

--5th para., 3rd sent. - True only if burning plan states what direction prevailing winds will be from. *Corrected*

--Map on p 83. Shows location of domestic water supply but does not show location of treated area. Could improve on display. *Done*

--P 43, 5 para., next to last word. Fouling should be from falling into. *Done*

--p 70, last sentence. "...within noo' of the spring box." Need a number here. *Done*

--P 77, stand 17, EMU - should be pine site. I think EMU is wrong. From map it looks like a cove site. In spite of comments - an excellent prescription. *Refer to second comment*

Wildlife & Fish

--W12 315 - AEQs includes timberwork. *See next comment*

--P 44 & 48 - You included timber coordination acres when you figured AEQ output. Only direct habitat improvement projects are used (see attachment). *Separated direct from indirect improvements, as per comment 3/3*

--Stands 1, 4, 9, 12. Are there any possibilities of thinning these stands to favor hardwood this entry? *Local areas will not support thinning*

--Stand 14. Can this be precommercially thinned to favor the management type of 53? This could put the stand into mast producing capability sooner and lessen impact proposed and future cuts. *Stand should be reexamined in 1983 and may qualify for precommercial thinning at that time*

--Overall, it is a good prescription.

B. J. Larkey

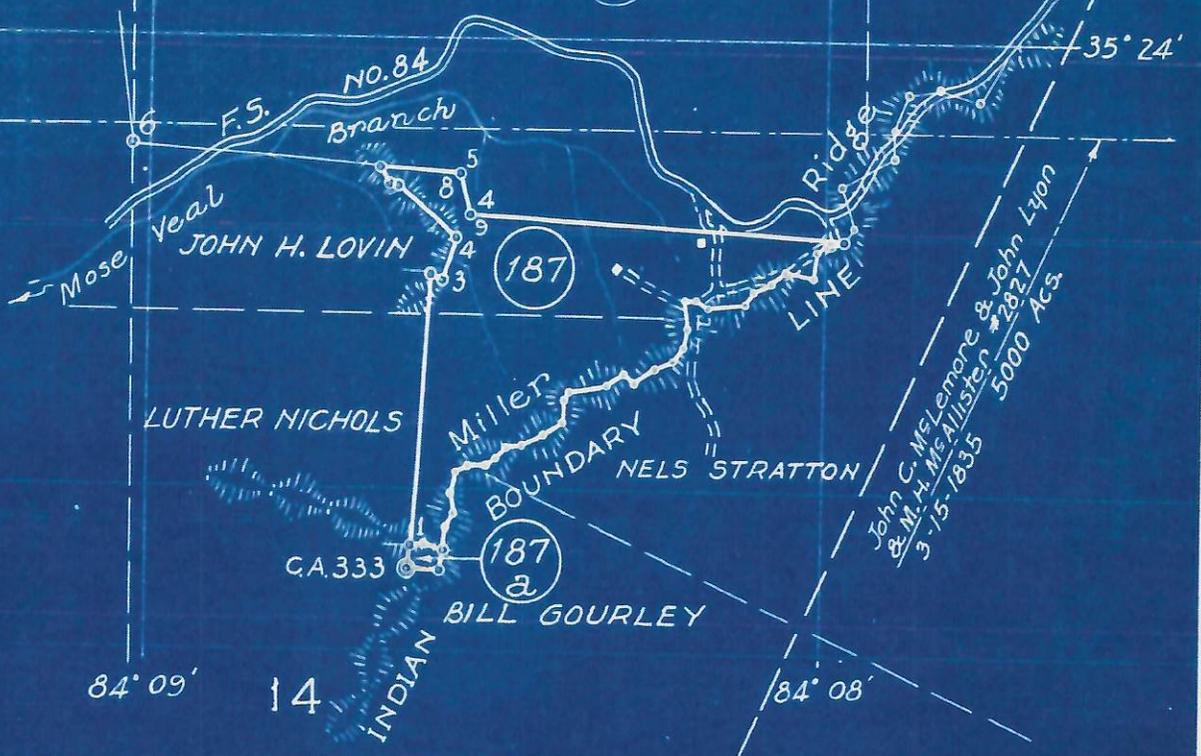
BOBBY J. LARKEY
Land Management Planner

Attachment

F.T. 4 R. 4 E.
11

(361)

TRUE NORTH



Note: For bearings and distances see description to which this map is attached and made a part of.

CHEROKEE N.F. JOHN H. SMITH TRACTS NOS. 187, a.

TRACT NO. 187 77.5 ACRES
TRACT NO. 187a 0.8 ACRES

MONROE COUNTY, TENNESSEE
SURVEYED BY: U.S.F.S.
SCALE: 1" = 20 CHS. SEPT. 19, 1938

James D. Sutton
CHIEF OF PARTY

DRWN. J.B.S.
CHKD. C.M.P.

BK. G-108

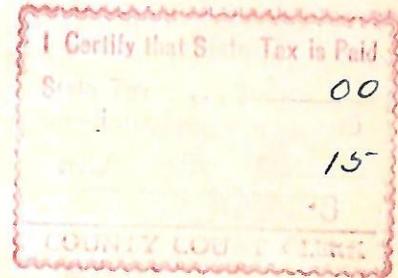
EXHIBIT
15
Shelton
PENGAD 800-631-6989

D E E D

JOHN H. SMITH AND MARY M. SMITH, HIS WIFE,

FILED in my office on the ²² day
of Oct 4^o 1945 P.
Noted in Note Book Page 87
Recorded in W.D. J 50 Page 528
A. G. Anderson
REGISTER OF MONROE COUNTY, TENN.

TO



UNITED STATES OF AMERICA

FOREST SERVICE TRACT 187

CHEROKEE NATIONAL FOREST

MONROE COUNTY, TENNESSEE

77.5 ACRES

Read as to description, acreage, consideration and conditions of purchase, date 10-7-40

THIS DEED, made and entered into this 11th day of October, in the Year of Our Lord One Thousand Nine Hundred and Forty (1940 A. D.), by and between JOHN H. SMITH and MARY M. SMITH, his wife, of Route 1, Robbinsville, Graham County, North Carolina, parties of the first part, and the UNITED STATES OF AMERICA, party of the second part,

WITNESSETH:

THAT the parties of the first part, for and in consideration of the sum of Two Hundred Seventy-Nine and 00/100 (\$279.00) Dollars, to them in hand paid by the party of the second part, the receipt of which is hereby acknowledged, have granted, bargained, sold, and conveyed, and do by these presents grant, bargain, sell, and convey unto the UNITED STATES OF AMERICA, and its assigns, forever, the following described tract or parcel of land:

Forest Service Tract 187
Cherokee National Forest

All that certain tract or parcel of land situate, lying, and being in the new 5th Civil District of MONROE COUNTY, TENNESSEE, approximately eight and one-half miles northeast of Tellico Plains, Tennessee, on the west side of Miller Ridge, watershed of Mose Veal Branch, a tributary of Cane Creek, and being a part of Sections 11 and 14, Fractional Township 4, Range 4 East, Hiwassee Land District, and more particularly described as follows:

BEGINNING at Corner 1, a stone in a mound of stones on the crest of a ridge, being Corner 4 of Tract 187a and corner to Bill Gourley and Luther Nichols, from which a 6" pine scribed BT-187-1 bears N. 20° E. 0.15 chain distant and a 10" pine scribed BT-187-1 bears S. 68° W. 0.22 chain distant;

THENCE N. 03° 49' E. 29.40 chains to Corner 2, a stone at the base of an old chestnut snag on crest of a spur ridge, corner common to Luther Nichols and John H. Lovin, from which a 16" spotted oak scribed BT-187-2 bears N. 84° W. 0.63 chain distant and a 6" yellow pine scribed BT-187-2 bears S. 40° E. 0.07 chain distant;

THENCE with five lines adjoining lands of John H. Lovin:

- (1) S. 63° 16' E. 1.39 chains to Corner 3, an 8" yellow pine scribed FS-187-3 on crest of a spur ridge;
- (2) N. 17° 25' E. 5.00 chains to Corner 4, a double 6" black oak scribed FS-187-4 on crest of a spur ridge, from which a 4" black oak scribed BT-187-4 bears N. 69° W. 0.17 chain distant and a 14" white oak scribed BT-187-4 bears N. 52° E. 0.32 chain distant;
- (3) N. 50° 03' W. 8.44 chains to Corner 5, a stone in a mound of stones on crest of a spur ridge, from which a 14" black pine scribed BT-187-5 bears S. 52° W. 0.11 chain distant and a 14" black pine scribed BT-187-5 bears N. 57° W. 0.21 chain distant;
- (4) N. 77° 52' W. 1.00 chain to Corner 6, a stone in a mound of stones, from which an 8" white pine scribed BT-187-6 bears S. 43°

E. 0.19 chain distant and a 6" white oak scribed BT-187-6 bears N.

23° W. 0.16 chain distant; and

(5) N. 31° 29' W. 2.05 chains to Corner 7, a stone in a mound of stones on crest of a ridge, being a point in line between Corners 5 and 6 of the Gernert Brothers Lumber Company Tract 361 and corner to John H. Lovin, from which a 6" white pine scribed BT-187-7 bears N. 86° W. 0.11 chain distant and an 8" white oak scribed BT-187-7 bears S. 79° E. 0.27 chain distant;

THENCE with three lines adjoining Tract 361:

(1) S. 85° 26' E. 8.87 chains to Corner 8, a 4" x 4" x 36" stone chiseled FS-361-5, at base of a 24" white oak snag bearing old corner marks, on crest of a ridge, being Corner 5 of Tract 361, from which a 12" maple scribed BT-361-5 bears N. 02° E. 0.30 chain distant and a 5" Spanish oak scribed BT-361-5 bears N. 66° W. 0.30 chain distant;

(2) S. 15° 54' E. 4.39 chains to Corner 9, an 18" white pine bearing old corner marks, scribed FS-361-4, on crest of a ridge, approximately 2.50 chains west of a branch and an old road, from which an 8" yellow pine scribed BT-361-4 bears S. 17° W. 0.13 chain distant and an 8" maple scribed BT-361-4 bears S. 88° E. 0.33 chain distant; and

(3) S. 86° 32' E. 41.60 chains to Corner 10, a 4" x 6" x 36" stone chiseled FS-361-3, on crest of Miller Ridge and in the old Indian Boundary Line, approximately 0.25 chain south of an old road and

approximately 2.00 chains south of the White Oak Flats Road, being Corner 3 of Tract 361 and corner to Nels Stratton, from which a 10" black pine scribed BT-361-3 bears S. 45° W. 0.36 chain distant and an 8" black pine scribed BT-361-3 bears N. 61° E. 0.33 chain distant;

THENCE with the old Indian Boundary Line and following the crest of Miller Ridge as it meanders, southwestwardly, 68.68 chains to Corner 11, a 12" black oak scribed FS-187-8 at intersection of a spur ridge, being Corner 3 of Tract 187a and corner to Nels Stratton and Bill Gourley, from which a 12" black pine scribed BT-187-8 bears S. 34° E. 0.26 chain distant and a 6" black pine scribed BT-187-8 bears S. 54° W. 0.28 chain distant;

THENCE with one call adjoining Tract 187a and following the crest of the spur ridge as it meanders, westwardly, 4.04 chains to THE POINT OF BEGINNING, CONTAINING SEVENTY-SEVEN AND FIVE-TENTHS (77.5) ACRES, BE THE SAME MORE OR LESS, being the same lands conveyed to John H. Smith by A. L. Phillips and M. E. Phillips, his wife, by deed dated January 18, 1911, and recorded in the office of the Register of Deeds for Monroe County, Tennessee, on December 21, 1922, in Deed Book 30, pages 316 and 317.

SUBJECT to any public rights in existing roads.

RESERVING, HOWEVER, unto the grantors herein the right to remove from the premises hereinabove described, within one year from

the date of this conveyance, all buildings and fences situated upon said premises, PROVIDED, however, that all debris resulting from the removal and wrecking of the buildings and fences be cleaned up and removed, and after the expiration of one year from the date of this conveyance, the right and privilege herein reserved by the grantors shall cease and determine.

TO HAVE AND TO HOLD the said premises, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining, unto the said party of the second part, and its assigns, forever.

AND the said parties of the first part, for themselves and for their heirs, executors, and administrators, do hereby covenant with the said party of the second part, and its assigns, that they are lawfully seized in fee simple of the premises above conveyed, and they have full power, authority, and right to convey the same; that said premises are free from all encumbrances, and that they will forever warrant and defend the said premises and the title thereto against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF the said parties of the first part have hereunto set their hands and seals on the day and year first above written.

Witnesses:

W. H. Lawrence
Frank M. Corbett

John H. Smith (SEAL)
JOHN H. SMITH

Mary M. Smith (SEAL)
MARY M. SMITH



Tennessee
STATE OF ~~NORTH CAROLINA~~)
COUNTY OF ~~GRAHAM~~ Monroe ;)

PERSONALLY appeared before me Frank N. Grallon,
a Notary Public in and for said county, the within named bargainors,
JOHN H. SMITH and MARY M. SMITH, his wife, with whom I am personally
acquainted and who acknowledged that they executed the within instru-
ment for the purposes therein contained.

WITNESS my hand and official seal at office this the 11
day of October, 1940.

(Notarial Seal)

Frank N. Grallon
Notary Public in and for
~~Graham County, North Carolina.~~
Monroe County, Tennessee

My Commission expires:

Oct. 7, 1942

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GREGORY RINGENBERG,

No. 3:23-cv-00295-DCLC-JEM

Plaintiff,

v.

UNITED STATES OF AMERICA; GARY REEVES; ROBIN REEVES; GARY L. FIELDS; MARTHA D. FIELDS; MERVIN OWNBY; JACOB SAMUEL-JAMESON SLACK; GREGORY SCOTT COOK; PATRICK L. WHITE; JOAN M. MOWERY; DWIGHT A. COFFEY; VICKIE S. COFFEY; THEODORE RANDOLF HAMILTON; MICKEY ROSS MORGAN; OLIVIA MORGAN; MARY MORGAN; THOMAS F. KENNY, IV; LAUREN M. KENNY; TIMOTHY ZITZMAN; KATHLEEN ZITZMAN; KMT PARTNERS, GP; and ALL OTHERS CLAIMING ANY RIGHT, TITLE, OR INTEREST IN LANDS KNOWN AS MONROE COUNTY, TENNESSEE TAX PARCEL 139-006.00,

Defendants.

DECLARATION OF ERIC FREDRICKSON

I, Eric Fredrickson, am over the age of 18, am competent to testify, and hereby declare as follows:

1. I submit this declaration in *Ringenberg v. United States*, No. 3:23-cv-00295-DCLC-JEM.
2. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could and would testify to these facts under oath.

3. In 2019, I purchased an approximately 50-acre parcel of land in Monroe County, Tennessee, identified as map/parcel 139-005.01 in a warranty deed recorded in the Office of the Monroe County Register of Deeds.

4. My parcel adjoins to the east the map/parcel 139-006.00, which is owned by Plaintiff Gregory Ringenberg. My parcel adjoins to the south and the southeast Forest Service Tracts K-312a and K-1190, respectively.

5. It is my understanding that Defendant United States claims an easement for a road extending from Lovin Road and thence in a northeasterly direction, more or less along Miller Ridge, until meeting Rafter Road.

6. I first met the Plaintiff in 2019, when he and I were both looking for property to purchase in the Tellico Plains area.

7. When I purchased my parcel, there was no usable and maintained road in the alleged easement area from Lovin Road to my property. Although there were remnants of what might have been a road or trail in the distant past, in 2019 it was obvious to me that any such road or trail had not been maintained or used regularly by anyone for some time. The area from Lovin Road to my property could only be traversed by a four-wheel drive truck, and even then still with difficulty. Indeed, in travelling over this area, my truck would often bottom out.

8. Also in 2019, I commenced several improvement projects on the parcel, including installation of a driveway. In performing this work, I would sometimes need to take my truck just slightly beyond my boundary line to where the Plaintiff's property commences, to make a U-turn. In doing so, I observed that the alleged easement area running northeast through the Plaintiff's property became even more obstructed with vegetation and forest litter. I could not have accessed

the area with my four-wheel drive truck, and I doubt that it could have been safely traversed even with an all-terrain vehicle.

9. In approximately 2022, I installed cameras on my property to record the presence of wild game. These cameras are positioned such that they can show the use of the alleged easement area. Based on this camera footage, I estimate the use of the alleged easement area to be no more than about one vehicle per month.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed in the State of Tennessee on February 14th, 2025.

Signed by:
Eric Fredrickson
73CD4583B3AD4D7...
Eric Fredrickson