

Rockingham

Arbitration Report # 1

Filed in the Clerk's Office  
Rockingham County, Va.

FEB 22 1934

J. Robert Smith Clerk



REPORT OF THE BOARD OF ARBITRATION FOR ROCKINGHAM COUNTY UPON  
EXCEPTIONS FILED IN THE SHENANDOAH NATIONAL PARK CONDEMNATION  
PROCEEDINGS.

To the Circuit Court for Rockingham County, Virginia:

The undersigned respectfully submit this report of the Board of Arbitration, appointed to arbitrate the exceptions taken to the report of the Board of Appraisal Commissioners, in the proceedings pending in the Circuit Court for Rockingham County, entitled, The State Commission on Conservation and Development of the State of Virginia, v. Cassandra Lawson Adkins and others, and 52,501 acres, more or less, of land in Rockingham County, Virginia. At Law No. 1829.

There is attached to this report a copy of the uniform agreement, under which these exceptions were submitted to arbitration; and there is also attached a copy of the appointment of the members of this Board of Arbitration by the Governor of Virginia.

The Board of Arbitration, pursuant to the arbitration agreement, expresses its approval of such order or orders as may be submitted in appropriate form to this court, in these proceedings, the entry of which may be sought under authority of Section 36 of the Public Park Condemnation Act, providing for and directing the amendment of the findings of the Board of Appraisal Commissioners, in Table II of their report, as to the value of the tracts of land mentioned therein, and the incidental damages which will result from their condemnation, so as to make those findings conform to the awards herein reported.



Before making the awards, hearings were held by this Board of Arbitration, at which the evidence for the exceptants and for the petitioner was fully heard. All elements of value disclosed by the evidence have been considered, and all disputes have been resolved.

In the table of awards, the several tracts are designated by the numbers assigned to them upon the county ownership map, by which numbers they were also designated in the report of the Board of Appraisal Commissioners. The name of the exceptant follows the tract number.

The exceptant named may or may not be the true owner of the tract; that was not a question which this Board was authorized to determine, but one for the court to determine before the award can be distributed. This is stated to prevent any misunderstanding upon the part of the exceptants, or others who are not familiar with these proceedings and the scope of this arbitration.

Overlaps of one tract upon another have been given separate numbers and awards; they are designated by the number of the tract, followed by a Roman numeral. This designation follows the county ownership map.

After the name of the exceptant there follows the value awarded. Incidental damages, when found, are reported as such; and where none are reported, none were awarded.

For the information of those who are unfamiliar with the method of procedure in the condemnation of the Shenandoah National Park area, it may be stated that where a tract of land lies partly in one county and partly in another, each part has



been given a tract number on the county ownership map of the respective counties; and while the tract was considered as a whole in determining the elements of value and the question of incidental damages, a separate award was made for each county. So that where a tract is in two counties, the reports in both counties must be consulted to know the amount awarded for the entire tract.

This Board of Arbitration reports the following awards:

TRACT NUMBER 50. Wesley A. Dean.

Value: One Thousand and Seventy Dollars (\$1,070.00).

TRACT NUMBER 76. John K. Haney.

Value: Five Thousand, Two Hundred Forty-eight Dollars, (\$5,248.00).

TRACT NUMBER 81. E. C. and E. E. Lam.

Value: Two Thousand and Nine Dollars and Eighty Cents (\$2,009.80).

TRACT NUMBER 84. Maude Shipp.

Value: Two Thousand Three Hundred Dollars (\$2,300.00).

Arthur N. Dean.

Value: Six Hundred and Ninety-three Dollars and Twenty-two Cents (\$693.22).

TRACT NUMBER 242. Annie R. Begoon.

Value: Thirty-two Hundred and Eighty Dollars (\$3,280.00).

TRACT NUMBER 244. J. W. Hinkle.

Value: Fifteen Dollars (\$15.00).

TRACT NUMBER 312-a. John H. Mace.

Value: Fifteen Hundred and Sixty-three Dollars (\$1,563.00).

TRACT NUMBER 312-b. John H. Mace.



Value: Seven Hundred and Sixty-eight Dollars and Fifty Cents (\$768.50).

TRACT NUMBER 325. R. T. Miller.

Value: Five Thousand, Three Hundred and Twenty-six Dollars (\$5,326.00).

TRACT NUMBER 326-III. J. A. Alexander. Lap on J. W. Hinkle.

Value: Six Hundred and Forty-five Dollars (\$645.00).

TRACT NUMBER 368. E. C. Lam.

Value: Seventeen Hundred and Ten Dollars and Sixty Cents, (\$1,710.60).

TRACT NUMBER 371. Margaret Mundy.

Value: Fifty-four Hundred and Ninety Dollars and Twenty-nine Cents (\$5,490.29).

TRACT NUMBER 372. G. Luther Kite.

Value: One Thousand, Nine Hundred and Eighty-nine Dollars, (\$1,989.00).

TRACT NUMBER 372-I. G. Luther Kite.

Value: Two Hundred and Seventy Dollars (\$270.00).

(Note: Tract No. 84. Arthur N. Dean constructed house on part of this tract after appraisalment by Board of Appraisal Commissioners).

TRACT NUMBER 372. G. Luther Kite.

Value: One Hundred Seventy-four Dollars, (\$174.00).

(Note: This is an additional award to the award under the same tract number above. It is for 58 acres, additional, at \$3.00 per acre).



GOVERNOR'S OFFICE

No changes should be made in the language of this Agreement. When signed this should be mailed promptly to Governor John Garland Pollard, Richmond, Virginia.

Arbitration Agreement  
As Proposed By The  
Governor  
July 18, 1933

The State Commission on Conservation and Development and William E. Carson, its Agent in the maintenance of the Shenandoah National Park Condemnation proceedings now pending in the courts of the State, agree with any of the persons who have filed exceptions to any of the reports of the Boards of Appraisal Commissioners appointed in those proceedings, within the time prescribed by law, who, at the invitation or with the approval of the Governor, will sign their names to this agreement, to submit any and all questions arising in the course of said proceedings as to damages and values of land and improvements sought to be condemned therein to arbitration by three or five arbitrators appointed by the Governor from the Circuit Court Judges of the State; and the parties hereto further agree that the decisions of the arbitrators shall be binding upon them and each of them; and that, without objection, they and each of them will consent to the entry in the said proceedings of any and all orders, judgments, or decrees which may have the approval of said arbitrators; and that the said arbitrators shall be empowered to adopt such rules and procedure and to take and consider such evidence and to adopt such other measures as in their opinion may be useful or necessary in the performance of their duties as such arbitrators; provided, however, that the findings of the Boards of Appraisal Commissioners shall not be taken as prima facie proof of the facts found by them, but they shall be admitted as evidence and given such weight and consideration as the arbitrators may deem proper. It is further agreed that this submission to arbitration may be entered of record in any of the courts of Virginia on motion or petition of any of the parties hereto.

Signed and Accepted: State Commission on Conservation & Development, and William E. Carson, Agent of the Commission in the Maintenance of the above mentioned condemnation proceedings.

By William E. Carson July 19, 1933 Witnessed by A. C. Carson

Signed and Accepted:

\_\_\_\_\_ 1933 Witnessed by \_\_\_\_\_

\_\_\_\_\_ 1933 Witnessed by \_\_\_\_\_

\_\_\_\_\_ 1933 Witnessed by \_\_\_\_\_

\_\_\_\_\_ 1933 Witnessed by \_\_\_\_\_

The signing of the names attached to the above agreement is approved.

John Garland Pollard Governor



COMMONWEALTH OF VIRGINIA

GOVERNOR'S OFFICE

Richmond

Under authority conferred upon me by the terms of each and all of the arbitration agreements forwarded or which shall hereafter be forwarded to me by the parties thereto, the execution of which has been or shall hereafter be approved by me, as evidenced by my name signed or stamped by my direction on the face of each of said agreements after the word "approved", the parties to which arbitration agreements are the State Commission on Conservation and Development and one or more exceptants to findings of any of the Boards of Appraisal Commissioners appointed in the course of the several condemnation proceedings now pending, and heretofore instituted and maintained, under authority of the Shenandoah National Park Act, in the Circuit Courts of the counties of Warren, Rappahannock, Page, Rockingham, Albemarle, Green, Madison and Augusta;

I, Jno. Garland Pollard, Governor, do hereby designate and appoint the Honorables Philip Williams, J. R. H. Alexander and H. W. Bertram as arbitrators in and under each and all of such agreements in so far as they are related to exceptions filed in the said proceedings pending in the counties of Warren, Rappahannock, Page and Rockingham:

And I hereby designate and appoint the Honorables Philip Williams, Joseph A. Glasgow and Lemuel F. Smith as arbitrators in and under each and all such agreements, in so far as they are related to exceptions filed in the said proceedings pending in the counties of Albemarle, Greene, Madison and Augusta;

Provided, nevertheless, that in any case wherein any one of said arbitration agreements is related to an exception to any such findings with reference to a part of a single tract of land, or of one or more contiguous tracts of land, partly located in one or other of the first of the said groups of counties and partly located in one or other of the second said group of counties, in which entire tract or contiguous tracts any of said exceptants own or claim an interest, the members of that one of the above mentioned groups of arbitrators which first takes arbitration jurisdiction over any part of such tract or such contiguous tracts shall be deemed to be duly appointed and designated and are hereby appointed and designated as the arbitrators with jurisdiction as arbitrators over such entire tract or contiguous tracts of land wheresoever, and in whatever counties they may be located: and

Provided also, that the foregoing designation and appointment of the several arbitrators above mentioned shall not be effective in any specific case in which one or other of the above designated persons shall be of opinion that he is disqualified to serve as such arbitrator, and shall so advise me in writing; or in any case wherein one of such persons is unable by reason of sickness,



or death or for any other reason whatsoever to take part in the arbitration proceedings, or having taken part to continue to participate therein until an arbitration award has been made, and in which such fact shall have been certified to me in writing by him, or where that is impracticable by his associate arbitrators: it being my purpose and intention to designate and appoint such additional arbitrator or arbitrators as may be required by the facts and circumstances in any and all such cases.

Subject to such action as may be taken hereafter by the arbitrators themselves I hereby designate and appoint the Hon. Philip Williams as Chairman, pro.tem. of the said Warren, Rappahannock, Page and Rockingham arbitrators and as Chairman pro.tem. of the said Albemarle, Greene, Madison and Augusta arbitrators above mentioned.

Witness my signature hereto attached this 8th day of August, 1933.

Jno. Garland Pollard  
Governor



Submitted this 21 day of February, 1934.

JRS Alexander

H W Gertrude

Philip W. ...

Board of Arbitration.

The ...



Rockingham

Arbitration Report Board # 2

Green County overlap

Filed in the Clerk's Office  
Rockingham County, Va.

FEB 22 1934

J. Robert Switzer Clerk



VIRGINIA: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY.

The State Commission on Conservation and Development  
of the State of Virginia - - - - - Petitioner.

V. AT LAW NO. 1829

Cassandra Lawson Atkins and others and Fifty-Two Thous-  
and Five Hundred Sixty-One (52,561) Acres of Land,  
more or less in Rockingham County,  
Virginia - - - - - Defendants.

This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited the record of the above styled proceeding, and announced its purpose and intention to move and pray the Court on the 28th day of February, 1934, to enter Judgment in rem, in substantially the form, words and figures shown in a proposed draft thereof hereinafter set forth at length, (but with such modifications as to the amounts of "value" and "incidental damages" shown in the table included in said draft as may have been ordered at the date of entry of said judgment, under authority of Section 36 of the Public Park Condemnation Act) condemning to the use of the Petitioner each of the several tracts of land within the area described in the petition which are severally designated in the table included in said proposed draft of said judgment by the respective numbers thereof as shown, designated and delineated on the County Ownership Map filed with the report of the Board of Appraisal Commissioners appointed herein; and also to move for such other and further relief as Petitioner may be advised, including orders for the dismissal of this proceeding in respect of any or all the various tracts of land shown and delineated on said Map which Petitioner may decide not to acquire as authorized under Section 22 of the Public Park Condemnation Act; and thereupon Petitioner moved the entry of an order setting this proceeding for hearing on said date, and directing any and all the parties of record in this proceeding, if they desire to oppose the entry of said judgment in rem, to show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It appearing from the said record that the respective values of the fee simple estate in each and all of the said tracts of land as to which Petitioner purposes to pray for judgment in rem, and the respective amounts of incidental damages which will result from the proposed condemnation thereof have been determined, ascertained and set forth in the report filed by the Board of Appraisal Commissioners heretofore appointed in this proceeding; and it appearing from the report of the said Board of Appraisal Commissioners and of the Special Investigators heretofore appointed in this proceeding that guardians ad litem have



damages set out in Section No. 20 of said Act.

"(3) That this proceeding was had upon newspaper publication of notice, warning 'all persons whomsoever' as provided in Section No. 12 of said Act;

"(4) That the report of the Special Investigators and the Board of Appraisal Commissioners heretofore appointed in this proceeding, filed herein discloses a final and conclusive ascertainment and determination of the value of the fee simple estate in each of the numbered tracts of land shown in the table hereinafter set out and for which judgment of award condemning the same to the use of the Petitioner is moved and prayed by Petitioner; and of the amount of incidental damages which will result from the condemnation of each of the said tracts for the use of Petitioner, on account of which any person who has appeared and is entitled to be heard, has submitted claims, or on account of which it appears from the said report of Special Investigators and the Board of Appraisal Commissioners, filed as aforesaid, any infant, insane person, or person under legal disability, or any person not entitled to be heard at the hearing provided in Section No. 12 of said Act, has a real and well founded claim, or on account of which it has been made to appear that any infant, insane person or person under other legal disability has any real and well founded claim;

"(5) That the record discloses an ascertainment and determination of said Board of Appraisal Commissioners, as shown by the said report filed as aforesaid, of the fact or facts of value of all, or substantially all, claims of right, title, estate, or interest by such owners or claimants, in or to each of the said respective tracts, and amount of any real claim which any of such persons, or any other person, or persons, who have appeared and are entitled to be heard, may have in the proceeds of each of said respective tracts;

"(6) That a longer period than six months has elapsed since the 'day certain' fixed by the order of the Court entered herein on or before which all interested persons were warned to appear and answer or plead as provided in Section No. 9 of said Act;

"(7) That a longer period than sixty days has elapsed since said report of Special Investigators and Board of Appraisal Commissioners was filed in the Clerk's Office of this Court;

"(8) That neither Petitioner, nor any other person has filed, or presented any motion praying this Court or the Judge thereof to decline to accept or to disapprove any of the findings of facts of value and incidental damages so ascertained and determined by said Board of Appraisal Commissioners as shown by their said report with reference to any of said tracts; or if any such motion or exception has been filed or presented with respect to said tracts or any of them, such motion or exception has been unconditionally overruled or dismissed, or withdrawn, or has been overruled, or dismissed, or withdrawn in so far as such motion or exception relates to the findings of value and incidental damages set forth in said report after amendment of such findings by consent of the Petitioner and the exceptant or movant, under the provisions of Section 36 of the Public Park Condemnation Act.

"(9) That each of said tracts is located wholly within



the boundary lines of the lands sought to be condemned and set forth and described in the petition filed herein, and is separately shown, delineated and designated by number on the County Ownership Map, and described in the above mentioned report of the Special Investigators and Board of Appraisal Commissioners, with which said County Ownership Map was filed and of which it forms a part;

"(10) That diligent inquiry and search was made by the Special Investigators appointed herein as to the existence of any land, or parcels or tracts of land, or right or title or interest or estate therein, within the boundary line set forth in the petition, or of any real claim in or to the proceeds of any such land, or right, or title, or estate, or interest in the event of its condemnation, owned by any infant, insane person, or person under other legal disability, or any property or properties owned by such person or persons which will be damaged by the taking of land within the boundary line set forth in the petition, beyond the peculiar benefits that will accrue to such property or properties of such persons from the acquisition of the land, or estate, or interest therein, sought to be condemned and the use of the same for a public park or for public park purposes; and the names of all such persons found by the said Special Investigators or otherwise known to the Board of Appraisal Commissioners, were reported in the said report of the Special Investigators and the Board of Appraisal Commissioners appointed herein; and guardians ad litem were appointed in this proceeding for each and all of such persons;

"(11) That Petitioner, in compliance with the order setting this proceeding for hearing on its motion and prayer for a judgment in rem condemning the hereinafter mentioned tracts of land to its use, and forthwith upon the entry of said order, mailed a copy thereof to all parties of record in this proceeding who appear to have any claim of right, title, estate or interest in or to any of the said numbered tracts of land, as set forth in said report filed by the Special Investigators, and the Board of Appraisal Commissioners appointed herein, or who have excepted to the findings in said report with relation to said tracts, whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem appointed herein for all infants, insane persons, and persons under other legal disability, who appear to have any claim of right, title, estate, or interest in or to any of the said tracts of land, or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the said report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein after diligent search made for such persons as set out in said report, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the parties of record in these proceedings or any of said guardians ad litem or any of said infants, insane persons or person under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and thereafter Petitioner filed with the record a verified statement in writing showing the mailing of such copies of said order, to whom mailed and the date of mailing.

136



"(12) That all the provisions and requirements of said Public Park Condemnation Act, and specifically the provisions of Section 11 and Section 38 thereof, have been complied with and the facts shown and disclosed by the record entitle the Petitioner to the judgment in rem condemning each of the said tracts to the use of Petitioner as moved and prayed by Petitioner.

"It is, accordingly, adjudged and ordered, upon the motion and prayer of the Petitioner, by counsel, that the fee simple estate in each of the several tracts described in the report of the Special Investigators and Board of Appraisal Commissioners filed with the record of this proceeding and numbered, shown and delineated on the County Ownership Map filed with and made a part of said report, the County Ownership Map number of which is set forth in the following table, is hereby condemned to the use of the Petitioner upon the Petitioner paying into the custody of this Court, for the use and benefit of the person or persons entitled thereto, the sum ascertained and determined, and shown and disclosed in the report of the Special Investigators and the Board of Appraisal Commissioners appointed herein as filed herein, or as modified under the provisions of Section 36 of the Public Park Condemnation Act, to be the value of the fee simple estate in said tract together with the amount of the incidental damages resulting from the condemnation thereof ascertained and determined by said Board of Appraisal Commissioners, which sum and amount of incidental damages are as shown and separately set out in the following table, which table constitutes an integral part of this judgment, and are here expressly stated as constituting the award for each of the said tracts herein contained, and upon the payment into the custody of this Court by Petitioner of the amount thus stated as constituting the award for any such tract the fee simple estate therein shall vest in the Petitioner as provided in Sections 13 and 38 of said Public Park Condemnation Act.

"But nothing herein contained shall be construed as requiring or obligating Petitioner to pay the said awards or any of them into the custody of the Court or to acquire all or any of said tracts, and Petitioner may at its election acquire any one or more of said tracts by payment into the custody of the Court of the amount stated herein as the award therefor.

"The following table sets forth in columns under appropriate explanatory headings:- First, under the heading 'Tract No.', the numbers of the several tracts designated by number and shown and delineated on the above mentioned County Ownership Map and described in the said report of the Special Investigators and the Board of Appraisal Commissioners filed with the record of this proceeding, each of which is condemned herein to the use of the Petitioner; Second, under the heading 'Value', the value of the fee simple estate in each of the said tracts as ascertained and determined by the said Board of Appraisal Commissioners; Third, under the heading 'Incidental Damages', the amount of the incidental damages ascertained and determined by said Board of Appraisal Commissioners which will result from condemnation hereunder of the numbered tract in the corresponding column of the table; Fourth, under the heading 'Aggregate', the aggregate of the value and of the amount of incidental damages ascertained and determined by the said Board of Appraisal Commissioners with reference to the numbered tract in the corresponding column of the table, which



aggregate amount as shown in the table is stated and set out herein as constituting the award for the said tract upon its condemnation to the use of the Petitioner. But in any instance wherein the original findings of said Board as to value or damages set forth in said report have been modified in arbitration proceedings, or by stipulation or otherwise, under authority of Section 36 of the Public Park Condemnation Act, this table shows under the respective headings of "value" and "incidental damages" and "aggregate" the original findings of said Board stricken out by a line running through such findings and aggregate and the modified findings and aggregate have been inserted in the table in lieu of the original findings and aggregate thus stricken from the table.

(A) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired by the Petitioner, hereunder, in any or all of the said tracts of land is and shall be subject nevertheless to such easements of passage and rights of way therein or thereover as have heretofore been acquired or are now claimed by the United States of America, which easements and rights of way are described in said report of the Board of Appraisal Commissioners, in Exception 7 of the body of said report as an easement of passage and right of way on or over a strip of land one hundred feet wide running through the tracts mentioned in said Exception 7 of said report, the value of which easement of passage and right of way was not ascertained or determined by the said Board of Appraisal Commissioners; and it further appearing from the said report that the said United States of America owns or claims the fee simple estate in said strip of land and that the value of the said fee simple estate in the said strip of land owned or claimed by the United States subject to said easement of passage and right of way thereon or thereover, has been ascertained and determined by the said Board to be one dollar, U. S. currency, the fee simple estate in said strip of land is hereby condemned to the use of the Petitioner subject to said easement of passage and right of way, upon the payment of the said amount of one dollar into the custody of the Court for the use and benefit of the person or persons entitled thereto, which said amount is hereby stated and set out as constituting the award for the fee simple estate in said strip of land subject to the said easement of passage and right of way.

(B) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired hereunder by the Petitioner in any or all of the said tracts of land is subject to such rights of way and easements in, on or over such tracts or any of them for the erection, maintenance, repair, replacement and operation of poles and wires or other appliances or means for the transmission of electricity as have heretofore been lawfully acquired therein by the Harrisonburg Mutual Telephone Company to which reference is made in Exceptions 2, 3 and 4 in the body of said report of the Board of Appraisal Commissioners; and by the Virginia Service Corporation, to which reference is made in Exception 6 in the body of said Report.

(C) It is further adjudged and ordered that all and every right, title, estate or interest claimed or owned at the date of the entry of this judgment in rem by E. T. Wyant, his heirs, successors in interest, or assigns, to which reference is made in Exception 5 in body of said report in or to any or all of the said tracts of



land which may or shall be acquired by the Petitioner hereunder, and in or to any of the lands described in the petition to which reference is made in Exception 5 of the body of said report of the Board of Appraisal Commissioners herein, are hereby condemned to the use of the Petitioner, upon the Petitioner paying into the custody of the Court for the use and benefit of the person or persons entitled thereto, the sum of Seventy-Five Dollars (\$75.00), ascertained and determined as the value thereof by said Board of Appraisal Commissioners, as set forth in Exception 5 of the body of said report, which sum is here expressly stated as constituting the award therefor.