

NAME OF CLAIMANT

#227 - Burke, Robert M.

Number of Acres: 132

Location: Blue Ridge Mountain at Powells Gap. Entirely within the Park area. Partly in Rockingham and partly in Greene County.

Roads: Three and one-half miles to Swift Run; thence four miles over Spotswood Trail to Elkton.

Soil: Deep and fertile sandy clay with very little surface rock on the cleared portion. Grazing land in Rockingham is better than Greene County portion.

History of Tract and condition of timber: Most of the tract was cleared many years ago and has been grazed and cultivated since. All the merchantable saw timber has been removed.

Improvements: Old barn:

Acreage and value of types:

Types	Acreage		Value per acre	Total Value
Ridge:				
Slope:	34	@	\$5.00	\$170.00
Cove:				
Grazing Land:	<u>98</u>	@	45.00	<u>4410.00</u>
	132			\$4580.00

Fields Restocking:

Cultivated Land:

Orchard:

Minerals:

Value of Land: \$ 4580.00

Value of Improvements: \$ 100.00

Value of Orchard: \$ 50.00

100.00

Value of Minerals: \$

Value of Fruit: \$

Value of Timber: \$

Value of Wood: \$

50.00

\$4730.00

Value per acre for tract: \$ 35.83

Incidental damages arising from the taking of this tract: \$ NONE.

Geo. N. Pen

CLERK.

Claim of R M Burke & Barbara B Burke  
In the Circuit Court of Rockingham County, Virginia, No. 1829, At Law.  
The State Commission on Conservation and Development of the State of Virginia, Petitioner, vs. Cassandra Lawson Atkins et als and 52, 561 acres

more or less, of land in Rockingham County, Virginia, Defendants.  
The undersigned, in answer to the petition of the State Commission on Conservation and Development of the State of Virginia, and in response to the notice of condemnation awarded upon the filing of said petition and published in accordance with the order of the Circuit Court of Rockingham County, Virginia, asks leave of the Court to file this as his answer to said petition and to said notice.

My name is R M Burke  
My post office address is McGrathysville Va

I claim a right, title, estate or interest in a tract or parcel of land within the area sought to be condemned, containing about 311 acres, on which there are the following buildings and improvements: uncl. farm with dwelling on 246 A in Rockingham Co & 65 A in Green Co.

This land is located about 10 miles from Elkton Virginia, in the Stonewall Magisterial District of said County.

I claim the following right, title, estate or interest in the tract or parcel of land described above: (In this space claimant should say whether he is sole owner or joint owner, and if joint owner give names of the joint owners. If claimant is not sole or joint owner, he should set out exactly what right, title, estate or interest he has in or to the tract or parcel of land described above.)

I am joint owner with my sister with ownership as follows. R M Burke 3/4 246 A & 3/8 100 A & 246 A. & Barbara B Burke is owner of balance of said 246 A

The land owners adjacent to the above described tract or parcel of land are as follows:

North J T Heard  
South Burton Morris  
East J M Funkhouser  
West J T Heard

I acquired my right, title, estate or interest to this property about the year 1910 in the following manner:

By purchase & will of Mary G Burke & partly by inheritance from Columbia J Burk.

I claim that the total value of this tract or parcel of land with the improvements thereon is \$10,000. I claim that the total value of my right, title, estate or interest, in and to this tract or parcel of land with the improvements thereon is \$8,000.00.

I am the owner of 4.51 acres of land <sup>within 15 mi</sup> adjoining the above described tract or parcel of land but lying outside the Park area, which I claim will be damaged by the proposed condemnation of lands within the Park area, to the extent of \$7,500.00.

(In the space below should be set out any additional statements or information as to this claim which claimant desires to make; and if practicable he should also insert here a description of the tract or parcel of land by metes and bounds).

Remarks: \_\_\_\_\_

The land taken by the Park Area is entirely suitable to grazing and by reason of the loss of said grazing, will very greatly handicap and create considerable loss each year in the operation & conduct of my home farm to the extent of at least \$7500. (Continue remarks if necessary on the back).

Witness my signature (or my name and mark attached hereto) this 16th day of Feby 1930, 1930. R M Burke & R M Burke att. for B B Burke

STATE OF VIRGINIA, COUNTY OF Rockingham, To-wit:

The undersigned hereby certifies that R M Burke & R M Burke att. for B B Burke the above named claimant personally appeared before him and made oath that the matters and things appearing in his above answer are true to the best of his knowledge and belief, this 16th day of Feby 1930, 1930.

[Signature]  
Clerk of the Court, or Special Investigator or Notary Public, or Justice of the Peace.

Filed  
2/16/31

Revised

County: Rockingham  
District: Stonewall

County: Greene  
District: Monroe

#227 - Burke, G. J. & Robert M. - Rockingham Co.  
#260 - " " " " " " - Greene County

Acreage Claimed: Assessed: 146 Deed: 211  
Value Claimed: Assessed: \$1200.00 Deed: \$2767.00  
Area: 188 Acres. in 1909.

Location: Blue Ridge Mountain at Powells Gap. Entirely within the Park area. Partly in Rockingham and partly in Greene County.

Incumbrances, counter claims or laps: None known.

Soil: Deep and fertile sandy clay with very little surface rock on the cleared portion. Grazing land in Rockingham is better than Greene County. portion.

Roads: Three and one-half miles to Swift Run; thence four miles over Spotswood Trail to Elkton.

History of tract and condition of timber: Most of the tract was cleared many years ago and has been grazed and cultivated since. All the merchantable saw timber has been removed.

Improvements: Old barn: No value --  
Orchard: 76 apple trees valued @ \$1.00 per tree - \$76.00.

Value of land by types: (Rockingham)

Type	Acreage	Value per acre	Total Value
Slope	34	\$2.50	\$85.00
Grazing	98	35.00	3430.00
	132		\$3515.00

Total value of land \$3515.00  
Total value of improvem'ts 76.00  
Total value of tract \$3591.00  
Average value per acre \$27.20

(continued)

#227 - Burke, C. J. & Robert M. (Rockingham Co)  
#260 - (Greene Co.)

Value of land by types: (Greene Co.)

<u>Type</u>	<u>Acreage</u>	<u>Value per acre</u>	<u>Total Value</u>
Slope	8	\$2.50	\$20.00
Grazing	48	20.00	960.00
	<u>56</u>		<u>\$980.00</u>

Total value of land..... \$980.00  
Total value of tract..... 980.00  
Average value per acre..... \$17.50

SUMMARY

	<u>Rockingham Co.</u>	<u>Greene Co.</u>	<u>Total</u>
Total value of land	\$3515.00	\$980.00	\$4495.00
Total value of improvements	76.00	-	76.00
Total value of tract	<u>\$3591.00</u>	<u>\$980.00</u>	<u>\$4571.00</u>
Acreage	132 A.	56 A.	188 A.
Average value per acre	\$27.20	\$17.50	\$24.31

BURKE, C. J. and ROBERT M.  
#260  
GREENE COUNTY

IN RE. ARBITRATION AGREEMENTS submitted to the Governor arising in or out of Condemnation Proceedings pending in the Circuit Court of Virginia under authority of the Shenandoah National Park Act.

SUMMARY STATEMENT OF PETITIONER:

EXCEPTANTS: Burke, R. M. and B. B.

ORIGINAL CLAIM: Acreage - : Value \$ - : Inc. Damages, None

VALUE PLACED ON TRACT BY PETITIONER'S APPRAISERS:

<u>TRACT NO.</u>	<u>VALUE</u>	<u>INCIDENTAL DAMAGES</u>
260	\$980.00	None

BOARD OF APPRAISAL COMMISSIONERS FINDINGS:

MAP NUMBER OF TRACT: 260

VALUE OF TRACT:

<u>TRACT NO.</u>	<u>VALUE</u>	<u>INCIDENTAL DAMAGES</u>
260	\$1344.00	None

Copies of this statement are attached to the statement of Petitioner filed in the County in which the major portion of the land lies and in which this exceptant has filed his statement.

BURKE, C.J. & ROBT. M.  
#227  
ROCKINGHAM COUNTY

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

SEP 9 1933

*J. Robert Hixson* Clerk

IN RE. ARBITRATION AGREEMENTS submitted to the Governor arising in or out of Condemnation Proceedings pending in the Circuit Court of Virginia under authority of the Shenandoah National Park Act.

SUMMARY STATEMENT OF PETITIONER:

EXCEPTANTS: Burke, R. M. and B. B.

ORIGINAL CLAIM: Acreage 311 : Value \$10,000.00: Inc. Damages, \$7500

VALUE PLACED ON TRACT BY PETITIONER'S APPRAISERS:

<u>TRACT NO.</u>	<u>VALUE</u>	<u>INCIDENTAL DAMAGES</u>
227	\$3,591.00	None

BOARD OF APPRAISAL COMMISSIONERS FINDINGS:

MAP NUMBER OF TRACT: 227

VALUE OF TRACT:

<u>TRACT NO.</u>	<u>VALUE</u>	<u>INCIDENTAL DAMAGES</u>
227	\$4,730.00	None

The greater portion of the tract belonging to these claimants lies in Rockingham County. No exception was filed in Rockingham and no statement filed in Rockingham. An exception was filed to the Greene County portion of this tract but since the bulk of the land lies in Rockingham, a statement of the acreage and values as reported by the State's appraisers and the Board of Appraisal Commissioners is submitted for the information of the Board of Arbitration.

W. C. Armstrong  
W. C. Armstrong, Attorney  
for Petitioner

Subscribed to and verified before me this the 8<sup>th</sup> day of September, 1933.

Emma K. Stokes  
Emma K. Stokes, Notary Public

No. 227  
260

RETURN IN FIVE DAYS TO  
**J. ROBERT SWITZER, CLERK**  
Circuit Court of Rockingham County  
HARRISONBURG · VIRGINIA

STATEMENT

OF

) Ralph H. Bader, p.d.

C. J. & ROBERT M. BURKE

STATEMENT OF COSTS, POSTAGE, ETC.:



RALPH H. BADER  
ATTORNEY AT LAW  
HARRISONBURG, VIRGINIA

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

The State Commission on Conservation  
and Development of the  
State of Virginia,

PETITIONER,

V. At Law No. 1829.

Cassandra Lawson Atkins and others,

DEFENDANTS.

On this, the 26 day of January, 1934, came Bertha B. Burke and R.M. Burke, and, on their motion, leave is given them to file their application for payment to them of the sum of \$4,730.00, the amount of the award set out in the judgment of condemnation for Tract No. 227, and heretofore paid into court.

And it appearing to the Court that Bertha B. Burke is seised <sup>in fee simple</sup> and possessed of a  $\frac{1}{4}$  interest in said tract of land, and that R.M. Burke is seised and possessed of a  $\frac{3}{4}$  interest in fee simple therein;

And it appearing to the Court that the said parties are invested with a superior or better right or claim of title in and to said tract of land No. 227 than any other person or persons, and that the record of this cause does not disclose any denial or dispute by any party or person in interest as to the title to said Tract No. 227 or to the proceeds arising from the condemnation of said Tract No. 227;

And it further appearing to the Court that all taxes due on said tract No. 227 have been paid:

Upon consideration whereof, it is considered and ordered by the Court that said sum of \$4,730.00, paid into court by petitioner as just compensation for Tract No. 227, be disbursed as follows:

\$1,182.50,  $\frac{1}{4}$  thereof, to Bertha B. Burke; and

\$3,547.50,  $\frac{3}{4}$  thereof, to R.M. Burke.

And the Clerk of this Court is directed to transmit a certified copy of this order to the Treasurer of Virginia, who shall

pay unto said Bertha B. Burke the said sum of \$1,182.50, and to R.M. Burke the said sum of \$3,547.50, the amount of the award set out in the judgment of condemnation for Tract No. 227, taking from the said Bertha B. Burke and R.M. Burke receipts therefor and certifying such payments to the Clerk of this Court for appropriate entry thereof, as required by law.

Enter.

*AWB*

\_\_\_\_\_  
Judge.

*20*  
*106*

The State Commission on Conservation  
and Development of the  
State of Virginia,

vs.

Cassandra Lawson Atkins and Others .

WILL OF MARY G. BURKE

A certified copy of Miss Burke's will is hereto attached and reference is made to the following provision thereof:

"I do expressly hereby give, devise and bequeath all the remainder of all my personal property and real estate to R. M. Burke and heirs at law that I may have and possess at the time of my death."

A devise to "A and his heirs" does not import any present estate in the heirs, but indicates an absolute estate in A. The use of the word "heirs" as a word of limitation is still a frequent occurrence, although under the statute, it is no longer a necessary word. 1 Harrison on Wills, Sec. 201.

In the construction of all written instruments technical words are presumed to be used in their technical sense unless the contrary plainly appears. King vs. Johnson, 117 Va. 49.

There is nothing in Miss Burke's will to indicate that she used the words "and heirs at law" in other than the technical sense. Such being the case the estate devised by her to R. M. Burke is a fee simple.

I, Mary G. Burke, of Penn Laird, Rockingham County, Virginia, being of sound mind and disposing memory, do make this as and for my last will and testament, hereby revoking any and all wills by me at any time heretofore made.

FIRST: I hereby direct my executor to pay all my just debts of every kind and nature, including expenses incident to my last sickness, death and burial, along with a suitable monument, marking my last resting-place.

SECOND: I do expressly hereby give, devise, and bequeath all the remainder of all my personal property and real estate to R. M. Burke and heirs at law that I may have and possess at the time of my death.

I hereby appoint R. M. Burke executor of this my last will and testament and of whom no bond shall be required in administration.

IN WITNESS WHEREOF, I have hereunto written my name this the 27th day of August, 1927.

Mary G. Burke

The said testator, Mary G. Burke, of Penn Laird, Rockingham County, Virginia, signed this instrument as and for her last will in our presence. And we, at her request and in her presence and in the presence of each other have signed our names as subscribing witnesses.

A. S. Kemper

P. B. F. Good

In the Clerk's Office of the Circuit Court of Rockingham County, June 9, 1928.

A writing purporting to be the last will and testament of Mary G. Burke, deceased, was this day presented in the office

2.

aforesaid, and said writing being fully proved by the oaths of A. S. Kemper and P. B. F. Good, the subscribing witnesses thereto, and the tax on same having been paid on an estate estimated at \$3600.00, said writing is admitted to record as the true last will and testament of Mary G. Burke, deceased. And thereupon, R. M. Burke, the Executor named in said will, appeared in said office, and entered into and acknowledged a bond in the penalty of Five Thousand Dollars, (\$5,000.00), conditioned and payable as the law directs, and without surety as requested in said will, and the said Executors having taken the oath prescribed by law, certificate is granted him for obtaining a probat of said will in due form.

Atteste: J. Robert Switzer, Clerk.

A COPY.

ATTESTE: J. Robert Switzer, Clerk.

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

The State Commission on  
Conservation and Development  
of the State of Virginia,

PETITIONER,

V. At Law No. 1829.

Cassandra Lawson Atkins and others,

DEFENDANTS.

Come now the undersigned, R.M.Burke, Bertha B.Burke,  
Gilbert M.Burke, Avis R.Burke, R.Benton Burke, Leon A.Burke, Mary  
O. Burke, and Virginia B.Burke, and show to the Court:

That a judgment in rem has heretofore been entered in this  
proceeding condemning to the use of the petitioner the fee simple  
estate in the tract of land No. 227 and described in the report  
of the Board of Appraisal Commissioners appointed herein, and  
shown, numbered, and delineated on the County Ownership Map filed  
therewith, upon payment into the custody of the Court of the sum  
set out in the said judgment as constituting the award therefor,  
as follows:

Award on Tract No. 227, -----\$4,730.00.

That, by deed dated September 18, 1909, recorded in the  
Clerk's Office of this Court in D.B.No. 87, Page 78, R.F.Powell  
conveyed a tract of land lying partly in Rockingham County and part-  
ly in Greene County to the undersigned R.M.Burke and his mother,  
C.J.Burke, jointly, the part of the said land in Rockingham County  
being the said Tract No. 227 condemned herein.

That the said C.J.Burke departed this life, intestate, in  
or about the year 1912, and her one-half interest in said tract of  
land descended to her following sons and daughters, her only heirs  
at law: R.M.Burke, F.F.Burke, C.H.Burke, S.V.Burke, Mary G. Burke,  
and Bertha B.Burke.

That, by deed dated May 30, 1912, recorded in said Clerk's  
Office in D.B.No.96, at Page 173, R.M.Burke and F.F.Burke, their

wives uniting, conveyed a 1/6 interest in said tract of land to C.H.Burke, S.V.Burke, Mary G.Burke, and Bertha B.Burke.

That, by deed dated December 20, 1913, recorded in said Clerk's Office in D.B.100, Page 22, the said C.H.Burke, his wife uniting, conveyed his interest in said tract of land to the undersigned R.M.Burke.

That, by deed dated February 28, 1929, recorded in said Clerk's Office in D.B.No. 143, Page 279, S.V.Burke, single, conveyed her interest in said tract of land to the undersigned Bertha B.Burke.

That, by her last will and testament, probated June 9, 1928, and recorded in said Clerk's Office in Will Book No. 11, Page 177, the said Mary G. Burke devised her interest in said tract of land to the undersigned R.M.Burke with remainder to his heirs at law. That the heirs at law of the undersigned R.M.Burke/<sup>if deceased</sup> are his sons and daughters, the undersigned Gilbert M.Burke, Avis R.Burke, R. Benton Burke, Leon A.Burke, Mary O.Burke, and Virginia B.Burke.

That the ownership of the said tract of land is now vested in the undersigned and in the following proportions: R.M.Burke 5/8, Bertha B.Burke 2/8, R.M.Burke a life estate in 1/8, and remainder to Gilbert M.Burke, Avis R.Burke, R.Benton Burke, Leon A.Burke, Mary O.Burke, and Virginia B.Burke.

Gilbert

That the undersigned / M.Burke, Avis R.Burke, R.Benton Burke, Leon A.Burke, Mary O.Burke, and Virginia B.Burke do hereby assign and transfer their interest by remainder to the said R.M. Burke, and request that their said interest be paid to him.

That the petitioner has paid into the custody of the Court the sum set out in said judgment as constituting the award for the fee simple estate in said tract of land. That no other person or persons than the undersigned are entitled to share in the distri-



bution of the said award.

That all taxes assessed against the said tract of land have been paid, as is shown by certificates of the Treasurer of Rockingham County and the Clerk of the Circuit Court of Rockingham County, Virginia, filed herewith.

Wherefore, the undersigned pray that they may be made parties herein, and be allowed to file their petition in these proceedings. That the award of Forty-seven Hundred and Thirty Dollars (\$4,730.00) for said Tract No. 227 be disbursed as follows: Eleven Hundred and Eighty-two Dollars and Fifty Cents (\$1,182.50), one-fourth thereof, to the undersigned Bertha B. Burke, and Thirty-five Hundred and Forty-seven Dollars and Fifty Cents (\$3,547.50, three-fourths thereof, to the undersigned R.M. Burke.

That your petitioners may have such other and further relief as the nature of the case may require.

R.M. Burke  
Bertha B. Burke  
Gilbert M. Burke  
Avis R. Burke  
R. Benton Burke  
Leon A. Burke  
Mary O. Burke  
Virginia B. Burke

Ralph H. Bader,  
Counsel.

State of Virginia,

County of Rockingham, to-wit:

This day R.M. Burke, Gilbert M. Burke, Avis R. Burke, R. Benton Burke, Leon A. Burke, Mary O. Burke, and Virginia B. Burke, personally

appeared before me, M.A. Yancey, a Notary Public in and for the County aforesaid, in the State of Virginia, and, being first duly sworn, depose and say that they are petitioners in the said matter; that they are acquainted with the facts herein set forth, and that the said facts are true and correct, to the best of their knowledge and belief.

Given under my hand this 12 day of January, 1934.

M.A. Yancey,  
Notary Public.

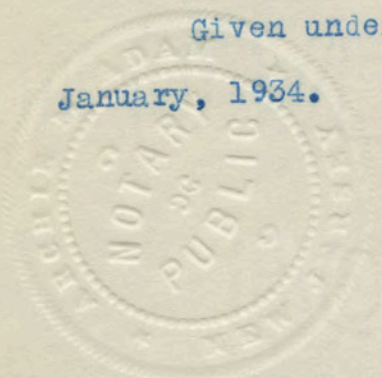
State of New Jersey,

County of Somerset, to-wit:

I, Frederic M. Adams, a Notary Public in and for the County aforesaid, in the State of New Jersey, do certify that Bertha B. Burke personally appeared before me, and, being first duly sworn, deposes and says that she is one of the petitioners in the said matter; that she is acquainted with the facts herein set forth, and that the said facts are true and correct, to the best of her knowledge and belief.

Given under my hand and Notarial seal this 17<sup>th</sup> day of January, 1934.

Frederic M. Adams,  
Notary Public.



To whom it may concern:

This is to certify that the taxes for the year 1933 on the tract of mountain land containing 146 acres, situated in Stonewall District, Rockingham County, Virginia, and assessed in the names of R. M. Burke and B. B. Burke have been paid.

Given under my hand this 11<sup>th</sup> day of January, 1934.

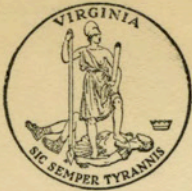
*Deputy* E. A. Zigler  
Treasurer of Rockingham County, Virginia.

To whom it may concern:

This is to certify that the records in my office do not show any delinquent taxes against the tract of mountain land assessed in Stonewall District, Rockingham County, Virginia, as 146 acres, in the names of R. M. Burke and B. B. Burke.

Given under my hand this 4 day of January, 1934.

J. P. [Signature]  
Clerk of the Circuit Court of Rockingham County, Virginia.



JOHN M. PURCELL  
TREASURER OF VIRGINIA

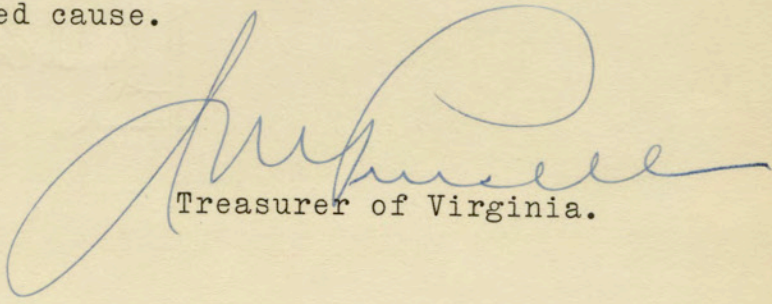
# Commonwealth of Virginia

TREASURER'S OFFICE

RICHMOND, VA.

January 29, 1934

This is to certify that I, J. M. Purcell, Treasurer of Virginia have this 29 day of January in accordance with an order of the circuit court of Rockingham County dated 1/26/34 in the cause of the State Commission on Conservation and Development of the State of Virginia vs. Cassandra Lawson paid to R. M. Burke \$ 3,547.50 being in full settlement of tract # 227 in the above mentioned cause.

  
Treasurer of Virginia.



JOHN M. PURCELL  
TREASURER OF VIRGINIA

# Commonwealth of Virginia

TREASURER'S OFFICE  
RICHMOND, VA.

FEB 9 - 1934

R. M. Burke

Received of J. M. Purcell, Treasurer of Virginia, the sum of \$3,547.50, in accordance with an order of the Circuit Court of the county of Rockingham entered on the 26th day of Jan. 1934, in the matter of the State Commission on Conservation and Development v Cassandra Lawson Adkins and others, being full and complete settlement for the tract of land known in said proceeding as # 227.

RMBurke

Sign original and duplicate  
and return to the Treasurer  
of Virginia.



JOHN M. PURCELL  
TREASURER OF VIRGINIA

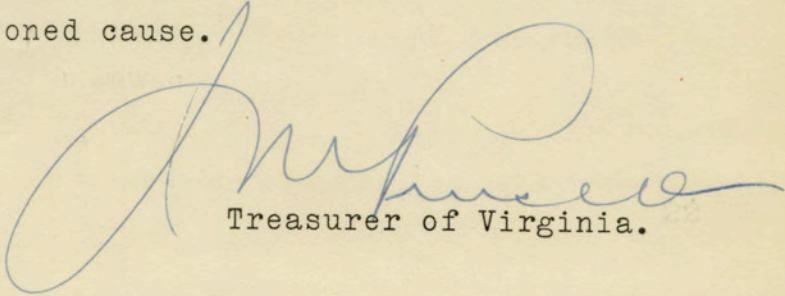
# Commonwealth of Virginia

TREASURER'S OFFICE

RICHMOND, VA.

January 29, 1934

This is to certify that I, J. M. Purcell, Treasurer  
of Virginia have this 29 day of January in accordance  
with an order of the circuit court of Rockingham County  
dated 1/26/34 in the cause of the State Commission  
on Conservation and Development of the State of Virginia  
vs. Cassandra Lawson Atkins  
paid to Bertha B. Burke  
\$ 1,182.50 being in full settlement of tract # 227  
in the above mentioned cause.

  
Treasurer of Virginia.



JOHN M. PURCELL  
TREASURER OF VIRGINIA

# Commonwealth of Virginia

TREASURER'S OFFICE  
RICHMOND, VA.

FEB 9 - 1934

Bertha B. Burke

Received of J. M. Purcell, Treasurer of Virginia, the sum of \$ 1,182.50, in accordance with an order of the Circuit Court of the county of Rockingham entered on the 26th day of Jan 1934, in the matter of the State Commission on Conservation and Development v Cassandra Lawson Atkins and others, being full and complete settlement for the tract of land known in said proceeding as # 227.

Bertha B. Burke

Sign original and duplicate  
and return to the Treasurer  
of Virginia.