The Samuel Smith land grants: a historical study of land ownership and use in southern West Virginia

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THE SAMUEL SMITH LAND GRANTS:

A HISTORICAL STUDY OF LAND OWNERSHIP AND USE IN SOUTHERN WEST VIRGINIA

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By

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ABSTRACT

“THE SAMUEL SMITH LAND GRANTS:
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LAND USE IN SOUTHERN WEST VIRGINIA”

By Stephen M. Porter

This study intends to illustrate the history of several tracts of land granted to General Samuel Smith, of Baltimore, Maryland by the state of Virginia in the years 1796 and 1797 containing, in totality, 300,000 acres (more or less). This research attempts to untangle some of the tangled web of ownership (both surface and mineral) that has affected this tract in particular and reflects the general trend of corporate land ownership in southern West Virginia.
DEDICATION

The author wishes to dedicate this work to my loving and very supportive wife and best friend, Bracken Ann (Bashaw) Porter and to my parents, Michael and Sandra Porter.
ACKNOWLEDGMENTS

The author wishes to thank the following individuals for their assistance with this work. By providing advice, suggestions for source material (or providing information), moral support or other bits of insight and suggestions you have been an enormous help.

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Lincoln County Clerk’s Office – Staff
Logan County Clerk’s Office – Staff
Mingo County Clerk’s Office - Staff
Putnam County Clerk’s Office – Staff
Wayne County Clerk’s Office – Staff
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GLOSSARY OF TERMS

All definitions are from *Black's Law Dictionary, Eighth Edition*. Italicized text has been added for emphasis and clarity.

**Adverse Possession:** 1. The use or enjoyment of real property with a claim of right when that use or enjoyment is continuous, exclusive, hostile, open and notorious. 2. The doctrine by which title to real property is acquired as a result of such use or enjoyment over a specified period of time.

**Adverse Title:** A title acquired by adverse possession.

**Attorney-in-fact:** Strictly, one who is designated to transact business for another; a legal agent.

**Clear Title:** A title free from any encumbrances, burdens, or other limitations.

**Deed:** 2. A written instrument by which land is conveyed. 3. At common law, any written instrument that is signed, sealed, and delivered and that conveys some interest in property.

**Severance:** The removal of anything (such as crops or minerals) attached or affixed to real property, making it personal property rather than a part of the land.

**Fee Simple:** An interest in land that, being the broadest property interest allowed by law, endures until the current holder dies without heirs.

**Gap:** A parcel of unclaimed land that exists due to inaccuracies, either in deed or survey, between two or more adjoining parcels of land.

**General Warranty:** A warranty against the claims of all persons.

**Instrument:** A written legal document that defines rights, duties, entitlements, or liabilities, such as a deed, contract, will, promissory note, or share certificate.

**Instrument Date:** The date an instrument is created.

**Junior Grant/Patent:** Parcel or tract of land that conveys a portion of a larger tract by a deed or title that is “younger” (i.e. less senior) than that of the older grant.

**Land Patent:** An instrument by which the government conveys a grant of public land to a private person.
Minerals: 1. Any natural inorganic matter that has a definite chemical composition and specific physical properties that give it value. 2. A subsurface material that is explored for, mined, and exploited for its useful properties and commercial value. 3. Any natural material that is defined as a mineral by statute or case law.

Mineral Deed: A conveyance of an interest in the minerals in or under the land.

Mineral Interest: The right to search for, develop, and remove minerals from land or to receive a royalty based on the production of minerals.

Quitclaim Deed: A deed that conveys a grantor’s complete interest or claim in certain real property but that neither warrants nor professes that the title is valid; often shortened to quitclaim.

Royalty Interest: A share of production - or the value or proceeds of production, free of the cost of production - when and if there is production.

Senior Grant/Patent: Parcel or tract of land that is the first outgrant or outsell from a larger body or parcel of land. For example, the first grants of land to individuals by the Commonwealth of Virginia are senior to grants made later by the Commonwealth.

Special Warranty Deed: A deed in which the grantor covenants to defend the title against only those claims and demands of the grantor and those claiming by and under the grantor.

Straw Party: A third party used in some transactions as a temporary transferee to allow the principal parties to accomplish something that is otherwise impermissible. Also used as a method to transfer property between individuals and/or corporations. A trusted associate acts as the Straw Party and agrees, at some future point, to transfer all properties acquired in his/her capacity as the Straw Party to the individual they are representing.

Surface: The top layer of something, especially of land.

Surface Interest: Every right in real property other than the mineral interest. For Example: The surface interest owner has the right to the surface subject to the right of the mineral interest owner to use the surface. The surface interest owner is entitled to whatever non-mineral substances are found in or under the soil.

Trustee: One who, having legal title to property, holds it in trust for the benefit of another and owes a fiduciary duty to that beneficiary.

Tax Deed: A deed showing the transfer of title to real property sold for the nonpayment of taxes.

Warranty: A covenant by which the grantor in a deed promises to secure to the grantee the estate conveyed in the deed, and pledges to compensate the grantee with other land (or other compensation) if the grantee is evicted by someone having better title.

Warranty Deed: A deed containing one or more covenants of title; esp., a deed that expressly guarantees the grantor's good, clear title and that contains covenants concerning the quality of title,
including warranties of seisin (ownership), quiet enjoyment, right to convey, freedom from encumbrances and defense of title against all claims
MAPS

1. The Samuel Smith Land Grants

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Exhibit 1: The Samuel Smith 120,000 acre land Grant (Issued June 16, 1796)

ROBERT BROOKE, ESQUIRE, GOVERNOR OF THE COMMONWEALTH OF VIRGINIA.
TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye that by virtue of two Land Office Treasury Warrants (#1228 & #1229) issued the 14th day of March 1795 there is granted by the said commonwealth unto Samuel Smith a certain tract or parcel of land containing 120,000 acres by survey bearing date the 8th day of July, 1795, lying and being in the county of Kanawha on the waters of Mud River, Guyandott (GUYANDOTTE RIVER) and some heads of branches of the left-hand fork of (Big) Sandy (RIVER) RIVER (TUG FORK); JOINING LANDS OF ELIJAH WOODS (100,000 ACRE TRACT GRANTED TO ELIJAH WOOD), RICHARD STOCKTON (58,000 ACRE TRACT GRANTED TO RICHARD STOCKTON), WILLIAM McCLEARY (100,000 ACRE TRACT GRANTED TO WILLIAM McCLEARY), and James Patton (50,000 ACRE TRACT GRANTED TO JAMES PATTON) and bounded as follows, to wit:

BEGINNING at a poplar in a flat by a small branch of Mud River, corner to a survey of 100,000 acres made for Elijah Woods being on the right-hand fork of Cole River (KNOWN TODAY AS THE LITTLE COAL RIVER) and with a line of said survey S 5° E 6,330 poles, crossing a small branch of Mud River as marked on the plan to three black oaks on a ridge, corner to said Woods and also corner to a survey of 58,000 acres made for Richard Stockton; thence leaving Woods and with said Stockton’s survey S 47° W 980 poles to two lynns and poplar; S 20°W 46 poles to two sycamores on the bank of Guyandott at the mouth of a large creek (THIS “LARGE CREEK” IS IDENTIFIED AS BIG CREEK OF GUYANDOTTE RIVER, IN LINCOLN COUNTY BETWEEN HARTS AND CHAPMANVILLE. THESE SYCAMORES WERE DESTROYED (POSSIBLY BY THE CONSTRUCTION OF THE C&O RAILWAY’S GUYANDOT VALLEY BRANCH IN 1902-1903), AND REPLACED BY A “STAKE” AS EVIDENCED BY CABELL COUNTY DEED BOOK 145, AT PAGE 267); S 150 poles, crossing the river to a beech on the bank; S 20°W 120 poles to a sugar tree and two beeches; S 50°E (2)40 poles to a cherry tree and two mulberries at the mouth of a creek; ; S 20°W (96) poles to a sugar, beech and ash; ; S 40°W 80 poles to two sugar trees and a buckeye; S30°W 280 poles to two beeches and a sycamore; S 15°W 440 poles to a buckeye and beech; ; S 30°W 136 poles to a white oak and beech; S 190 poles to two beeches; S 50°W 550 poles to three beeches; S 90 poles to two maples and a birch; S 35°E 168 poles to a white oak and beech; S 30°W 140 poles to a beech and poplar; S 290 poles to two beeches; S 50°W 216 poles to two beeches; S 22°W 1,115 poles to a maple and white oak on a line of William Mc Cleary’s survey of 101,212 ½ acres (THIS IS THE SAME TRACT IDENTIFIED ABOVE AS CONTAINING 100,000 ACRES. THE ORIGINAL SURVEY FOR McCLEARY ENCOMPASSED 175,000 ACRES, 75,000 ACRES OF WHICH WAS ALREADY GRANTED OR CLAIMED BY OTHERS) and with a line of same; N 40°W 2,130 poles to two white oaks (THESE WHITE OAKS WERE REPORTED TO BE GONE AND REPLACED BY A “STAKE AND STONE” AS REPORTED BY A. P. SINNETT IN 1893 WHEN HE RESURVEYED PORTIONS OF THE SMITH 120,000 ACRE GRANT IN REGARD TO LITIGATION BETWEEN EDWARD ILSLEY AND A. W. WILSON),
corner to the same and also a corner to a survey of 50,000 acres made for James Patton and
with a line of said Patton;  N 56°W 2,776 poles, crossing waters of the left-hand fork (Tug
Fork) of Sandy River to a beech and white oak, corner to the (James Patton) survey;  thence
leaving said Patton’s survey  N 25°E 6,680 poles; crossing Guyandott to two white oaks on a
small branch of Mud River thence;  N 57°E 3,200 poles crossing Mud River to the Beginning.
But it is always to be understood that the survey upon which this grant is founded includes
86,000 acres exclusive (The survey for Smith’s 120,000 acre grant actually
encompassed 206,000 acres;  86,000 acres of which were prior claims by others; thus
this description is actually for a tract of 206,000 acres, NOT 120,000 acres) of the
above quantity which having a preference by law to the warrants and rights upon which this
grant is founded;  Liberty is reserved that the same shall be firm and valid and may be
carried into grant or grants and this grant shall be no bar in either law or equity the
confirmation of the title or titles to the same as before mentioned and reserved with its
appurtenances to have and to hold the said tract or parcel of land with its appurtenances to
the said Samuel Smith (except as before exempted) and his heirs forever in witness thereof the
said Robert Brooke, Esquire, Governor of the Commonwealth of Virginia hath hereunto set
his hand and caused the lesser seal of the said Commonwealth to be affixed at Richmond on
the 16th day of June in the year of our Lord 1796, and of the Commonwealth the 20th.

(SIGNED) Robert Brooke
Exhibit 2: The Samuel Smith 31,000 acre land Grant (Issued June 29, 1797)

JAMES WOOD, ESQUIRE, GOVERNOR OF THE COMMONWEALTH OF VIRGINIA.
TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye that by virtue of a Land Office Treasury Warrant (#1230) issued the 14th day of March 1795 there is granted by the said commonwealth unto Samuel Smith a certain tract or parcel of land containing 31,000 acres by survey bearing date the 12th day of October, 1795, lying and being in the county of Kanawha and bounded as followeth, to wit:

BEGINNING at a large poplar on the Middle Fork of Mud River, corner to a survey made for Elijah Woods of 100,000 acres (THIS IS THE SAME POPLAR CALLED FOR AT THE BEGINNING OF THE SAMUEL SMITH 120,000 ACRE GRANT AND IS A COMMON CORNER BETWEEN THIS 31,000 ACRE GRANT, SMITH’S 120,000 ACRE GRANT AND ELIJAH WOODS’ 100,000 ACRE GRANT) and S 57° W 2,980 poles crossing waters of Mud River as laid down in the plan (THIS IS A REFERENCE TO AN UNRECORDED MAP OF THIS SURVEY) to a poplar and beech trees standing on the bank of the south-west fork of said Mud River (MAIN-STEM MUD RIVER, SOUTH OF HAMLIN) thence; N 33° W 2,980 poles crossing waters of Mud and Guyandott Rivers as in the plan (ANOTHER REFERENCE TO AN UNRECORDED MAP OF THIS SURVEY) laid down to a white oak and two poplar trees; thence N 57° E 2,980 poles crossing waters of Mud and Guyandott Rivers to a beech and buckeye trees on a south-east branch of Mud River; thence S 33° E 2,980 poles crossing waters of said Mud River as aforesaid to the beginning. But it is always to be understood that the survey upon which this grant is founded includes 24,502 acres which, having a preference by law to the warrant and rights upon which this grant is founded Liberty is reserved that the same shall be firm and valid and may be carried into grant or grants and this grant shall be no bar in either law or equity to the confirmation of the title or titles to the same as before mentioned and reserved with its appurtenances

TO HAVE AND TO HOLD the said tract or parcel of land, with its appurtenances, to the said Samuel Smith (except as before excepted) and his heirs forever,

IN WITNESS WHEREOF, the said James Wood, Esquire, Governor of the Commonwealth of Virginia hath hereunto set his hand and caused the Lesser Seal of the said commonwealth to be affixed, at Richmond, on the 29th day of June in the year of our Lord one thousand 7 hundred and 97, and of the Commonwealth the 21st.

(SIGNED) James Wood
Exhibit 3: The Samuel Smith 33,000 acre land Grant (Issued June 29, 1797)

JAMES WOOD, ESQUIRE, GOVERNOR OF THE COMMONWEALTH OF VIRGINIA.
TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye that by virtue of 2 Land Office Treasury Warrants (#1230 and #1231)) issued the 14th day of March 1795 there is granted by the said commonwealth unto Samuel Smith a certain tract or parcel of land containing 33,000 acres by survey bearing date the 19th day of October, 1795, lying and being in the county of Kanawha and bounded as followeth, to wit:

BEGINNING at a poplar and beech trees on the bank of the south-west fork of Mud River, corner to a survey of 31,000 acres made for said Smith (THIS IS THE SAME POPULAR AND BEECH TREES CALLED FOR AT THE SECOND CALL OR MONUMENT OF EXHIBIT 2) and running S 57° W 220 poles to a chestnut and chestnut oak trees; S 25° W 2,620 poles crossing waters of Guyandot River (as in the plan) (THIS IS A REFERENCE TO AN UNRECORDED MAP OF THIS SURVEY) to a walnut and two mulberry trees on the head of a drain, a water of Guyandot River; S 65° W 2,980 poles (THIS IS AN ERRONEOUS BEARING; THE ACTUAL BEARING SHOULD READ N 65° W ) crossing waters of Guyandot River and 12-Pole Creek (as in the plan) (THIS IS A REFERENCE TO AN UNRECORDED MAP OF THIS SURVEY) to a black oak and hickory trees on a small drain, a water of 12-Pole Creek; thence N 32°30' E 4,421 poles crossing 12-Pole Creek and Guyandotte waters (as in the plan) (THIS IS A REFERENCE TO AN UNRECORDED MAP OF THIS SURVEY) to a white oak and two poplar trees and thence S 33° E 2,980 poles crossing waters of Guyandot and Mud Rivers to the beginning. But it is always to be understood that the survey upon which this grant is founded includes 29,651 acres which, having a preference by law to the warrants and rights upon which this grant is founded Liberty is reserved that the same shall be firm and valid and may be carried into grant or grants and this grant shall be no bar in either law or equity to the confirmation of the title or titles to the same as before mentioned and reserved with its appurtenances

TO HAVE AND TO HOLD the said tract or parcel of land, with its appurtenances, to the said Samuel Smith (except as before excepted) and his heirs forever;

IN WITNESS WHEREOF, the said James Wood, Esquire, Governor of the Commonwealth of Virginia hath hereunto set his hand and caused the Lesser Seal of the said commonwealth to be affixed, at Richmond, on the 29th day of June in the year of our Lord one thousand 7 hundred and 97, and of the Commonwealth the 21st.

(SIGNED) James Wood
Exhibit 4: The Samuel Smith 31,000 acre land Grant (Issued June 29, 1797)

JAMES WOOD, ESQUIRE, GOVERNOR OF THE COMMONWEALTH OF VIRGINIA.
TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye that by virtue of 2 Land Office Treasury Warrants #1229 and #1231 (Acreage specified within a particular treasury warrant could be used to support several separate grants as long as the acreage specified within the warrant was not exceeded) issued the 14th day of March 1795 there is granted by the said commonwealth unto Samuel Smith a certain tract or parcel of land containing 31,000 acres by survey bearing date the 24th day of October, 1795, lying and being in the county of Kanawha on the head of 12-Pole (a branch of the Ohio River and on a branch (TUG FORK) of Sandy River (THE BIG SANDY RIVER) adjoining a survey of 33,000 acres made for said Smith (EXHIBIT #3) and also joining another survey of said Smith’s of 120,000 acres (EXHIBIT #1) bounded as followeth, to wit:

BEGINNING at a walnut and two mulberries on the head of a small branch of Guyandott, corner to said Smith’s 33,000 acre survey and in a line of his survey of 120,000 acres; thence S 25° W 2,980 poles crossing waters of 12-Pole and some of Sandy River as marked in the plan (This is a reference to an unrecorded map of this survey) to two poplars and two lylms by a drain; thence N 65° W 2,980 poles crossing waters of Sandy River as marked in the plan (This is a reference to an unrecorded map of this survey) to a sugar, black oak and dogwood trees on a ridge; thence N 25° E 2,980 poles to a black oak and hickory crossing waters of Sandy River and some of 12-Pole noted as before mentioned; thence S 65° E 2,980 poles crossing waters of 12-Pole to the Beginning. But it is always to be understood that the survey upon which this grant is founded includes 24,502 acres which, having a preference by law to the warrants and rights upon which this grant is founded Liberty is reserved that the same shall be firm and valid and may be carried into grant or grants and this grant shall be no bar in either law or equity to the confirmation of the title or titles to the same as before mentioned and reserved with its appurtenances

TO HAVE AND TO HOLD the said tract or parcel of land, with its appurtenances, to the said Samuel Smith (except as before excepted) and his heirs forever.


(SIGNED JAMES WOOD)
CHAPTER I

Introduction

I don’t remember when I first heard the name “Gen. Samuel Smith”. But at the time it was unimportant. It was just the name of one of the faceless individuals who had received grants of land from the State of Virginia in the late 1700’s. Commonly referred to as the “Smith Grants” or the “Smith Patent”, I became intimately involved in the retracement of portions of this property while employed with Augusta Land Consultants, Inc. in southern West Virginia. We resurveyed small portions of the outer boundary of some of what was once Smith’s land, as well as surface tracts that were later severed from the original estate, and while the original boundary monuments were long gone, their approximate locations have been preserved, as least partially, over the years by subsequent resurveys. This formed the basis of our attempts to re-define the original boundaries in order to properly delineate where coal and land company property started, and individual property surface owner’s began.

This is where my interest in the land grant system, whom these individuals were and what had happened to them, began to grow. It has developed into an intense fascination with the land grant system and how it has indirectly guided the development of our state. Because these lines, lain down on maps that are not on public record and have been lost to the general populace through fire and flood, still determine who owns much of the vast mineral wealth beneath the soil of southern West Virginia. Studies have been made of land ownership in West Virginia in the past, most famously that of Tom Miller of the Huntington Herald-Dispatch who, in December of 1974 published his report upon just who owns most of the land in West Virginia. His report caused a bit of a stir when it was published, drawing attention to a situation that many people within the state, at least those outside the coal fields, were unaware existed. The fact, proven by Mr. Miller, is that absentee landlords own the majority of West Virginia’s land. What Mr. Miller’s report didn’t reveal is that the land grant system, as practiced in West Virginia and at a level unequaled in the rest of the nation, allowed this to happen. This research will attempt to show, by detailing the history of four individual, contiguous land grants, how this system worked and how it continues to effect the lives of all West Virginians, whether they know it or not.
CHAPTER II

Review of Literature

This literature review includes several different types and kinds of source material. The material can be roughly categorized in one of two separate groups: the history of the land granting process and land use that occurs or has occurred in the area. The first group contains information that relates to the characteristics of land grants and patents; how the system developed, as well as the procedures that were required to receive a land grant or patent, either from the Commonwealth of Virginia or, in the case of land in much of the eastern panhandle, by the heirs of Thomas, Lord Fairfax. The second group of source material will focus upon land use that occurs or has occurred within the study area.

Before land can be used, ownership must be determined, Price states “Patterns of land division are important among the many features of regions that geographers study in trying to describe and find meaning in the lives of the people in those regions (Price, 1995, p. xiii). Indeed, the physical division of land was often the first act performed in a wilderness area. The first settlers would “… commence “tomahawking” his “right(s)”” (De Hass, 1851, p. 82). However, this soon led to disagreements due to overlapping land claims. Also, as hunters and settlers migrated across the Appalachians, it became necessary to try to bring order to these relatively lawless areas of the frontier. Thus, a system was developed to parcel out land owned by the state to private citizens or companies. The process, described by Sam Bowers Hilliard as it was conducted in Georgia, is very similar to that found in Virginia and later West Virginia (Hilliard, 1982, p. 417). The surveyor would be employed by a warrant holder to delineate a parcel of land and provide a plat for recordation using the metes and bounds system (Hilliard, 1982, p. 417). Hilliard also provides great detail in his discussion describing the tools and methods used by surveyors to compile deed and plats of property (Hilliard, 1982, p. 417).

The book “Virginia’s Colonial Soldiers” by Lloyd DeWitt Bockstruck provides information about land grants made to Revolutionary War soldiers (Bockstruck, 1988). A research paper by Edward T. Price, entitled “Dividing the Land: Early American Beginnings of our Private Property Mosaic” is an excellent source that provides very in-depth information about land delineation and demarcation throughout the early United States.

Historically, the surveyor is the “unsung hero” of land development and land use. However, one early surveyor is well-known to most Americans: George Washington. Donald A. Wise states “To a young man without a large estate, surveying in 18th century Virginia promised a respectable and lucrative career (Wise, 1979, P. 11). The surveyor was most often one of the first “educated” people to enter an area, thus giving them a unique perspective; that of one educated in geology and geography that could immediately see the value of obtaining as much land as possible. Wise further provides an excellent glossary of terms used when discussing these early land parcels (Wise, 1979, p. 12). Wise also describes how a young George Washington traveled with surveyors employed to
subdivide a portion of the vast Northern Neck grant made to Lord Fairfax, furthering his education (Wise, 1979, p. 16?). Washington was also a land speculator who purchased land when able to, as well as receiving several awards of land grants for service during the French and Indian War (including a tract of 7,226 acres near present-day Winfield and a tract of 2,830 acres near present-day St. Albans, as well as many smaller tracts along the Ohio and Kanawha Rivers.

Grants of land in what is now West Virginia were originally granted by the state of Virginia. This makes land research in West Virginia difficult to accomplish, as often these records are not readily available in county courthouses. However, in 1952 Edgar B. Sims, then the State Auditor of West Virginia, compiled a listing of all land grants and patents made in what is now West Virginia (Sims, 1952). “Sims’ Index to Land Grants in West Virginia”, or simply “Sims”’ as it is commonly called, has become an invaluable tool for anyone performing any type of land record research in West Virginia. Furthermore, the Library of Virginia, based in Richmond, VA, maintains an extensive World Wide Web site that allows anyone with an internet connection to view a scanned image or every grant made by the State of Virginia, going back to the 1600’s. While Sims’ Index is invaluable, it only provides the name, size, date and patent or grant book number and page of the original grant. Determining the title history after this first conveyance requires research in each county of the study area.

The destruction of local official records is a problem in much of the study area. Sadly, several county courthouses within the study area have experienced extensive amounts of damage to documents stored within them, both by natural and unnatural events. For example, the Lincoln County courthouse in Hamlin was destroyed by a suspicious fire in 1909, while the Mingo County courthouse in Williamson was severely damaged by flooding. These events create “gaps” in the official history that can be difficult to overcome.

The historical components are central to this research; however, the analysis and discussion of past and current land use is critical. There are many sources that deal with land use in general, for example. One source that was found deals with mapping performed in Canada by and “… is a paper that examined the urban maps and plans published by Joseph Bouchette during the first half of the 19th century” (Ferley, 1999, p. 3). The author gives a detailed history of Bouchette’s life and career, as well as detailed analysis of his maps and their importance. The article is important to my research because Ferley explains about maps in general: why they are produced and how they can be used for historical analysis. He provides a number of useful comments about maps that should be considered before they are used for research purposes.

Ferley makes four key points concerning the use of Bouchette’s maps while performing research. The first requirement “…was to determine the availability of land” (Ferley, 1999, p. 4). Bouchette’s maps showed areas that had been previously settled, and thereby also showing regions that were open to further settlement. Ferley continues: “The second demand made by colonial authorities was that the large-scale maps of Lower Canada provide a characterization of the current state of development of the colony and opportunities for profitable exploitation” (Ferley, 1999, p. 4).

Ferley continues, describing why historical trends had an effect upon Bouchette’s work, “Bouchette’s motivation in detailing urban areas may also represent an artifact from the French regime in Canada, where a strong tradition of detailing urban maps existed.” (Ferley, 1999, p.4). Finally, Ferley describes one of the most important aspects to map production, both in Bouchette’s time and our own. Maps are expensive to produce, and therefore whoever was paying for the maps Bouchette produced also had a say in what was on them, “One final factor that may have influenced Bouchette’s decision to include urban maps was related to the financing of his publications.” (Ferley, 1999, p. 5). Ferley’s work illustrates how maps can be used to study land development over time.
Noting how and why land ownership changes over time is important, as well, because “The more researchers learn about how, where and why land ownership changes, the more we will be able to help planners and policy makers anticipate and respond to the social and ecological effects of these changes.” (Butler and Stanfield, 2002, p. 1). The authors of this paper studied how changing land ownership in the Big Elk Valley of Oregon affected land use during the past century (Butler and Stanfield, 2002). The authors further state “Ownership of this 56,981 acre water shed is highly diversified.” (Butler and Stanfield, 2002, p.2). This allowed Butler and Stanfield to study a wide variety of land use patterns within a relatively small area over time, and how corporate land ownership within the study area had increased. The authors also make note of increased parcelization of some of the larger tracts within the study area. The reader learns that land ownership within the Big Elk Valley is becoming increasingly corporate, and several of the larger parcels are being subdivided to ease development.

When studying land transactions and use, it is important remember that often times competing interests may be involved. J. C. Wilkinson’s study of geopolitics and colonialism in Africa, “The Zanzibar Delimination Commission 1885-1886” (J. C. Wilkinson, 1996), has proven somewhat pertinent to this research, as it illustrates how competing factors can drive land development. Another paper also provides a cautionary note about bias. “Frontiers, Borders and Edges: Liminal Challenges to the Hegemony of Exclusion” by Richie Howitt appeared to be worthwhile, however it is biased and can serve as a reminder to always consider the overt or covert bias that any author may hold toward his or her subject. It deals with “… the implications of metaphors used to represent frontiers, boundaries, edges and complex relations within and between indigenous and non-indigenous territories in Australia.” (Howitt, 2001, p. 233). As such, it seems to deal more with psychology and philosophy than geography, and was very difficult to follow. Again, it provides a great example of how not to write a research paper, in my opinion.

Lines on a map, as property boundaries are often described, are crucial to both national identity and economic prosperity. “The Last Missing Fence in the Desert: The Saudi-Yemeni Border” (Schofield, 1996) provides a fascinating account of the ongoing disagreements between the nations of Saudi Arabia and Yemen, and illustrates how lines on a map, even in a track-less desert, are important for different reasons to different people. The many maps used by the authors, as well as the general composition of the paper provide an excellent guide to how to pattern a paper about an area with a complex and convoluted history.

The “underlying” factor, pardon the pun, in the study area is the geology. Oil and natural gas wells are common occurrences, as are trucks laden with coal that will later be transported by rail or barge to power plants or even foreign countries. Several sources have proven useful because of the extensive information they provide about this subject. “Marine flooding events and coal bed sequence architecture in southern West Virginia”, by James R. Staub provides a detailed study of coal formation and, in so doing, identifies the coal seams that are actively mined in West Virginia and their composition. (Staub, 2002).
Methodology

This research examines the historical development of several large tracts of land granted to Revolutionary War General Samuel Smith by the Commonwealth of Virginia in the mid- and late-1790's. These large tracts, in aggregate containing 300,000 acres, have been the focus of contention, animosity and bad feelings for more than 100 years, as various interests' exerted legal rights and fought to obtain clear title to this land and the valuable minerals underneath the surface. I have personal experience dealing with this tract through my involvement in surveying portions of it over the last 4¼ years and have acquired a keen interest in the development and utilization of the land within these boundaries and the historical research that would permit me, I felt, to perform an accurate and thorough study of the area.

The large physical scope of the project presents a challenge, as it involved performing extensive research in portions of six counties in West Virginia (Cabell, Lincoln, Logan, Mingo, Putnam and Wayne). Complications involving incomplete records in each county presented a challenge to the compilation of complete title chains. First, and perhaps most importantly, the destruction of records in both Lincoln and Mingo Counties, by fire and water respectively, is a major impediment. Much of the tracts to be studied encompass much of what is now Lincoln County, and the lack of reliable public records during the key time period between the mid-1800's and 1910 has been difficult to overcome. Fortunately, some of this data is also recorded in Cabell County, allowing research to continue.

Secondly, data that would be integral to a comprehensive study of the effects of these early land grants is found only within the private archives of Columbia Natural Resources, Inc. (“CNR”) and Columbia Gas Transmission Corporation (“TCO”, pronounced “tico”) in Charleston, West Virginia and The Forestland Group, LLC in Winston-Salem, North Carolina (The Forestland Group manages their interests through several holding companies: Heartwood Forestland Funds I through IV, inclusive). Historically, these companies are very reluctant to share any information, especially maps or title opinions that make use of information that is not of public record and considered by their legal departments as privileged. I have made contacts within CNR's mapping department and hoped to be granted limited access to some of the information they have compiled. After discussions about accessing this important repository with members of the Land Department at CNR, I was told that “on the advice of counsel” they would not be willing to provide any assistance. This was expected, and demonstrates why these companies so zealously guard this information. The information found in their archives is constantly utilized by the companies to protect their interests in various legal actions. This data is of great importance, but I feel that a strong paper can be produced without this information. In fact, this incident further illustrates why I chose this topic, so that citizens who are unaware of this situation can become more informed about land use within the state. Integrating data from several different counties will also be challenging, but the increasing use of GIS technology may make it more manageable.

The research I have performed is termed “historical research” and is defined by Paul D. Leedy and Jeanne Ellis Ormrod as follows: “An attempt to solve certain problems arising out of a historical context through gathering and examining relevant data” (Leedy and Ormrod; 114). I have modified this “textbook” definition somewhat, as I am not trying to solve a problem, per se, but to identify land use and how the boundaries between contiguous parcels of land can affect future land use over time. Property boundaries are unique in that they can be invisible, yet represented many ways and therefore selectively interpreted by adjoining land owners.
Furthermore, this research is termed as qualitative (Leedy and Ormrod; 147) and as having “...two things in common. First, they focus on phenomena that occur in natural settings, that is, in the “real world”. And secondly, they involve studying those phenomena in all their complexity (Leedy and Ormrod; 147). The study of boundaries and their use and interpretation is enormously important as they have a far-reaching effect upon our daily lives in ways we seldom realize. The roads we drive, the places we work, study and live are all affected by the previous and current ownership of the land, over time.

To study land use and how it has changed over time can be difficult. I will employ several “tried and true” methods used by those who perform records research in order to show change over time. The first requirement that I will fulfill will be gathering boundary records to re-establish (at least on paper) boundary lines, both past and present. These are described as “Descriptions of the boundaries of real property” (Davis Et al.; 575). These consist of “… deeds, official plats or maps, or notes of the original surveys” (Davis, Et al., 575). Unfortunately, mistakes can be made in these records that can make re-trace ment difficult. Names are misspelled or omitted, and erroneous back references can cause frustration and lost time.

I originally hoped to use information gathered through personal interviews to augment data gathered from public records. However, no interviews were conducted. I chose to focus solely upon public records and only re-evaluate the need for interviews if I feel they will add to the resolution of the overall research problem.

Another source that will involve extensive research is that of the West Virginia Department of Environmental Protection – Division of Oil and Gas office. This entity maintains maps and information concerning gas and oil wells that have been drilled or are proposed for drilling. These maps often provide a wealth of historical info concerning patent and grant lines, as well as current ownership at the time the well was drilled. Wells are also shown on United States Geological Survey (USGS) topographical maps and can be used to approximate boundary lines on these maps. By focusing upon information available as public record, I will not have to rely upon information that may or may not be provided by a private corporation. I hope that my research will prove to be of interest to a diverse group of people and will inspire an interest in the effects of property boundaries, both past and present, upon not only local residents, but the region at large.
The name “Samuel Smith” is one that is unknown to most Americans. A rather common-sounding name, perhaps, and nothing more. After all, it seems everyone knows a “Smith” (at least in Appalachia) and Samuel, while not especially common, is indisputable enough that it isn’t that unusual, either. A Google search of the name “Samuel Smith” generates approximately 42,000 “hits” for many Samuel Smiths, but not the one we are interested in. We must look beyond the brewery in England named, ironically and probably unintentionally, for someone who was perhaps one of the most important figures in defeating the British during the War of 1812. There are Samuel Smiths who are doctors, lawyers and chemists (one of which was instrumental in the invention of Scotchgard, the stain-resistant coating for fabric). Samuel Smith was a General, so perhaps we should add that to our search criteria. With the addition of “General”, our search narrows considerably, with only about 70 “hits”. Now we are getting somewhere.

Samuel Smith was born in the town of Carlisle, PA on July 27, 1752, the grandson and namesake of one of the first Irish-Americans to come to the New World (Cassell, 4). Tensions in this frontier town were high however, as the French and Indian War was raging. Instability on the frontier due to continued fighting led John Smith, Samuel’s successful merchant father, to relocate the family to the (then) small town of Baltimore (Cassell, 4). John Smith chose to partner with his brother-in-law, William Buchanan, to form a shipping business, and due to shrewd business skills rapidly developed his company, Smith and Buchanan, into one of the largest such mercantile companies in America at that time (Cassell, 5).

After completing his formal education at the age of 14, young Samuel joined his father’s company as a clerk in order to learn the business and to enable him to succeed his father when the time came (Cassell, 6). Although we may view the job of clerk as a rather unimportant position today, this was a very important position in a company at this time, as it allowed a person to come into contact with all facets of the business, from dealing with clients and fellow employees, to running errands and delivering paperwork to other businesses. It allowed an ambitious and intelligent person to make contacts among a diverse group of associates, as well as providing an exceptional “real-world” education in international business affairs (as the shipping industry has always been).

Samuel apparently excelled in this capacity; and his father soon sent him to London to work for another company to gain more experience, and, more importantly, to make contacts for the family business in the European market that could be used for future expansion (Cassell, 6). However, upon his arrival in London Samuel decided to change his father’s plan and chose instead to rent space on one of his father’s ships, which he accompanied to Venice rather than stay in his intended clerkship. Despite the destruction of the vessel in the Venetian harbor Samuel was able to salvage some of the cargo and continue his journeys throughout the Mediterranean, making contacts and gathering valuable information about the various ports and harbor facilities. He also was gathering information about potential markets and how his father’s company (Smith and Buchanan) could employ their growing fleet to supply them. His “fact-finding” trip also included detailed information about the political and social conditions in each country, as well as the character of the people the company may be doing business with (Cassell, 7-11). When Samuel returned to Baltimore in 1774 his father’s company (now re-organized as John Smith and Sons) was prospering, despite growing tensions
between the colonies and Great Britain. Samuel's trip throughout the Mediterranean, which opened new markets for the company, would prove fortuitous as trade with London ceased (Cassell, 12-13). Samuel, who with his father supported the Independence movement; joined the militia (a unit called the Baltimore Independent Cadets, which was composed of the sons of the most prominent and wealthy families in Baltimore) despite a lack of any military experience. Cassell states that “...Smith quickly mastered the necessary military skills. With his quick intelligence, his flair for organization, and his youthful zeal, he won rapid promotion first to sergeant and then adjutant of his company” (Cassell, 12).

Clearly, Smith was viewed as a rising star, at least in the Baltimore Militia. By January of 1776, Smith was promoted to Captain and given control over three companies of militia forces. As hostilities seemed imminent Samuel’s company was sent to join with the Continental Army, led by Gen. George Washington, at New York City (Cassell, 16). The Battle on Long Island was an utter disaster although Smith’s units performed well, and Smith showed extreme bravery and courage while helping the wounded among his company to retreat (Cassell, 17). Smith’s unit was one of the last to leave, evacuated by General Washington himself; the first encounter among men who would be lifelong friends (Cassell, 16).

Smith continued to serve with distinction and, during an attack on Fort Mifflin, was wounded such that it required him to be evacuated (Cassell, 30). Smith was then sent back to Baltimore to recruit troops for the Continental Army, where he performed admirably but wanted to get back to the business of fighting. The war had not been “good for business”, however, and John Smith and Sons was in serious financial trouble. Smith chose to resign from the militia in May of 1779, personally writing to Gen. Washington to resign his commission; yet offering to help the effort at anytime in the future if needed (Cassell, 34-36). Little did Smith know that his services would be required again in the future, during the War of 1812.

Cassell goes into great detail about the young man’s life. He married Margaret Spear (whose father was also a prominent Baltimore merchant) and began to re-establish the family’s business as the war ended. Smith continued to rebuild the company and became active in Baltimore politics. A staunch federalist who counted notable individuals such as Thomas Jefferson, Alexander Hamilton and George Washington as friends and contemporaries, he quickly began to consider a political career. Elected to Congress in 1792, Smith brought with him all the experience he had obtained while traveling the world, commanding men in combat and building a successful business. All of these skills would prove important as Smith began to draft legislation that he felt would help the economy of the new country by encouraging free trade and limiting business-stifling taxes and restrictions.

Samuel Smith had a distinguished career in the Congress. This led to problems that would later bankrupt his company (now called S. Smith and Buchanan). While pursuing his political career Smith had turned over responsibility for all operations to his partner James Buchanan. Buchanan continued to bring prosperity to the business, however he began investing heavily in stock of the Bank of the United States, which was greatly overvalued (Cassell, 222-223). By working with the bank’s Baltimore Branch director, Buchanan took out large loans without putting up any collateral. Smith was not told about his partner’s business dealings and was caught “holding the bag” when all the loans came due and Buchanan could no longer cover them. Buchanan, who was well aware that his actions and dealings were illegal, took the pre-emptive move of transferring most of his property into the hands of family members, protecting it from creditors (Cassell, 223-224). In April of 1819 the house of cards collapsed. Smith was then responsible for covering the debt. Smith was forced to sell “… the fruits of a lifetime of labor. Montebello, the town house, the magnificent household possessions, and most (emphasis added) of his landholdings” (Cassell, 223). Cassell never lists any of Smith’s landholdings (other than his manor home and his townhouse, both of which were located in Baltimore) specifically.
Cassell doesn’t provide detailed information about Smith’s landholdings; possibly because Smith himself didn’t know exactly where or even what they were. He probably relied upon someone else to manage the properties, as was often the case for most land speculators.

I will attempt to trace the history of these tracts from their formation in 1796 and 1797 to the present day, and how this pattern of landownership is typical for that of most of the large land tracts in West Virginia that are owned by absentee land owners. It is unfortunate that, although we know a great deal about Samuel Smith’s political and business life (due to frequent correspondence with many of the founding fathers and business associates) we don’t know key details about his land dealings. Cassell doesn’t touch on this, choosing to focus solely on Smith’s political life and how his business interests and his belief that prospering businesses lead to a prosperous economy shaped his legislative actions. Very little is known about his involvement in land speculation in “western lands” in Virginia and Kentucky. Being a contemporary of people like Robert Morris, Henry Banks and Wilson Cary Nicholas, Smith is undoubtedly one of the land speculators described as a “Baltimore merchant” in Otis K. Rice and Stephen W. Brown’s “West Virginia: A History”. Knowing that Smith was an astute business man it is not difficult to assume that he would have jumped at the chance to purchase large tracts of land for pennies on the dollar. None of the accounts of his life mention his ownership of at least 300,000 acres of property in what would have been Kanawha County, Virginia. However, Edgar Sims’ “Index to Land Grants in West Virginia” lists 8 tracts containing, in aggregate 300,000 acres, entered onto the land books in the name of Samuel Smith. While I am only focusing on 4 of those 8, one would think that a biographer would have been aware that Smith owned this property. In my research, which included reading two biographies of Samuel Smith, no mention is made of these land holdings in either one. It has been suggested by some that perhaps Smith had sold this property soon after he purchased it. However, as I will attempt to show, this is not the case, and the history of this land, like the life of its first “owner”, is much more complicated than most people realize.
CHAPTER III
Early History of the Samuel Smith Land Grants: 1600 – 1796

In order to understand the complicated pattern of land ownership that occurred in Virginia (and, by extension, in West Virginia), one must first look at how what would become America was partitioned by the first explorers (and their royal sponsors) who arrived to colonize the “New World” from England and other European countries including France, Spain and the Netherlands (Sims, “Making a State” 3). An excellent (although unknown to many West Virginia scholars) resource is “Making a State” by former state Auditor Edgar B. Sims. This work, in conjunction with Mr. Sims’ “Index to Land Grants in West Virginia” provides very well-researched and accurate information about land ownership in what is now West Virginia available. I will therefore use this work as my primary resource for what follows, which is a brief introduction of the important issues that effected early boundary line placement in this region.

Sir Walter Raleigh is credited with naming the portion of the New World where he attempted to establish a settlement “Virginia” in honor of England’s “Virgin Queen”, Queen Elizabeth (Sims, 3). Raleigh’s initial attempt to establish settlements failed, as did several other attempts in New England. As the Crown began to grow weary of funding expeditions and settlement attempts that failed, royal funding began to diminish. This required capital from private companies of investors who were willing to privately fund settlement attempts in exchange for the proceeds of any goods that the new colony may produce or supply. The London Company was one such group of investors that was successful in establishing a colony in Virginia in 1606. The colony, named Jamestown in honor of King James I (many early settlements and charters were named for royalty or key company shareholders in an attempt flatter them) is perhaps the most well-know of the early settlements, despite its limited commercial success. The Jamestown colonists slowly began to prosper, as did other colonization attempts in the surrounding area. Once it became more obvious that colonial settlements could thrive, investment capital began to be easier to obtain for those willing to risk their money for the prospect of a financial gain.

Land was often the driving force that led people to leave England and risk their lives crossing the Atlantic to start a new life in a land that was completely foreign to them. Sir Walter Raleigh claimed (and named) Virginia to honor the Crown. The King, through his powers as sovereign, possessed the sole ability to give land to those who requested it. Thus, King James chartered the Colony of Virginia in 1609 (Sims, 3). The royal charter process was important; as it gave land to the leaders of the colony to use as they saw fit that was bounded as follows:

...embracing the territory beginning at Old Point Comfort (near present-day Norfolk) and extending two hundred miles north, two hundred miles south, into the Atlantic Ocean one hundred miles and from sea to sea (Sims, 3)

This is a sizable tract of land, which stretched from present-day Norfolk to near Atlantic City, New Jersey in the north and Wilmington, North Carolina in the south. When the King later expanded the colonies’ boundaries to 900 miles into the Atlantic, this gave control of the present-day Outer Banks to Virginia, as well. These very generic boundary delimitations were due to limited knowledge of the geography of the newly-discovered landmass. This would lead to problems in the future, as other colonies were chartered and began to be settled and Virginia’s territory began to be slowly whittled away as several colonies were created from within her boundaries.
Perhaps the best description of the challenges faced when determining the various early boundaries in what was Virginia and would become America is as follows: (from “Report on The Resurvey of the Mason and Dixon Line, prepared as a result of join resolutions of the respective Legislatures of Pennsylvania and Maryland pursuant to a boundary dispute between the Commonwealth of Pennsylvania and the State of Maryland; p 106-107):

The claims of the English to the sea-coast between Nova Scotia and Cape Fear were based on the voyages of the Cabots in 1497-1498. The territory, lying between latitudes 34° and 45° was known originally as Virginia and was granted in two parts to the London and Plymouth and Exeter companies, the dividing line being the 40th degree of latitude. Later in 1624 the Crown reclaimed the territory assigned to the London Company, that is from 34° to 40° north latitude, and regranted a northern portion to Lord Baltimore in 1632 and a southern portion to the Earl of Clarendon in 1663. In the meantime the Swedes and Dutch had settled along the Delaware and Hudson rivers. The Dutch were originally regarded by the English as squatters, and finally the latter successfully asserted their claim in 1664, and their whole territory was granted to the Duke of York who later became King James II. He in turn granted, sold or leased the territory of New Jersey to Berkeley and Carteret in 1664, and that of Pennsylvania and Delaware to William Penn in 1681 and 1682. The Pennsylvania Territory had originally been granted to the Plymouth Company in 1606 and later to the Plymouth Council for New England in 1620 but had never been settled by them. The Delaware territory was originally granted to Lord Baltimore in 1632 but small settlements of Swedes and Dutch gained possession of the land before Maryland had grown large enough to need it.

The gradual occupation of all the territory brought up the question of boundaries and compelled a careful consideration of the rights of the Swedes to Wilmington, the Dutch to the Delaware, the Duke of York to the territory, previously granted by his father Charles I to Lord Baltimore, and the subsequent rights of William Penn to the same territory. The final decisions were made without sufficient regard to the actual facts of the case, many of them, having been overlooked and only subsequently brought to light, and were the results of numerous compromises by the proprietors in their attempts to reach amicable adjustments of their claims. The carrying out of the final decrees involved the interpretation of many obscure points regarding localities named, methods of surveying proposed, and the meaning of terms employed in the agreements.

Each contestant used all legitimate, and occasionally rather questionable, methods to maintain the integrity of what was supposed to be his own…

This is perhaps the most crucial point to bear in mind when performing any type of land ownership research or any attempt to recreate old maps or descriptions based upon written research and without regard to what may actually be present on the ground in the way of remaining monuments or evidence that is often very different from that found in the official record. In the case of the litigation between Pennsylvania and Maryland, differences in interpretation and confusion over settlements that had already been made led to many years of disagreements that, despite several lawsuits that adjudicated the mutual boundary line, are still subject to debate and discussion among scholars and surveyors.

The King later expanded upon this initial grant, extending the boundaries 900 miles into the Atlantic to include any and all islands and to reserve 20% of the minerals to the benefit of the Crown. The London Company, as recipients of the Royal Charter, were responsible for bringing settlers into the new colony, establishing it successfully and for making payments to the King as required by the Charter. The London Company was derelict in these duties, however, and the King revoked their charter and made Virginia a royal colony in 1624 (Sims, 3). Despite the many disagreements and protracted legal issues between colonies surrounding portions of Virginia’s northern boundary, the areas to the west were always considered part of Virginia (since her boundary had always extended to the Pacific Ocean in the west). However, competing claims to this territory were made by France. French explorers and trappers had traveled along the Ohio
since at least 1748 when, in an attempt to solidify French claims to the Ohio Valley, and expedition led by Pierre-Joseph Celoron de Blainville buried lead plates with inscriptions claiming the Ohio and all the waters that drained into in the name of France (Rice and Brown, 21). This would lead to hostilities that would culminate in the French and Indian War, which resulted in the French relinquishing all claims east of the Mississippi River while England relinquished all claims west of the Mississippi River. Settlement into the area that would become West Virginia continued to occur slowly, as groups of Native Americans continued to fight against the encroachments into what had been their territory.

“Predations” by Native Americans were not the only factor that delayed settlement into western Virginia. Sir William Johnson, a colonial official acting on behalf of the Commonwealth of Pennsylvania, agreed to halt all settlement attempts in the Ohio Valley when he signed the Treaty of Easton with the Iroquois, even as settlers were already expanding into the territory (Rice and Brown, 21). Eventually, all Native American lands in Virginia were transferred to the government of Virginia through various treaties and agreements. During treaty negotiations, several factors came in to play that guided the Virginians in what boundaries they established. Since grants of land had already been made to speculators (such as the Greenbrier Company and the Loyal Company) all land negotiations had to be made so that these lands were conveyed from the Native Americans and to the Virginians. With the threat of attack now removed, settlers began to flood the newly (and now legally) accessible lands in the west (Rice and Brown, 28).

Other considerations also had to be made as settlers began to move into western Virginia. As a reward for service during the French and Indian War, the Colony of Virginia had promised to provide land (in the form of grants as allowed by an act passed by the Royal Government in 1705 (Sims, 97)). The act of 1705 required that a yearly fee (which acted as a form of rent or tax) be paid in proportion to the amount of land owned, as well as requiring that 6% of that land had to be cultivated and improved within three years of the patent date or the land would be returned to the Crown (Sims, 97). Later proclamations issued in 1754 and 1763 allowed grants to be made to soldiers who fought in the French and Indian War. These later proclamations eliminated the rent requirement for a period of up to 15 years from the date of the patent (Sims, 97). Land claimed under these proclamations would be termed Military Grants, and were awarded as follows:

“… to every person having the rank of a field officer, five thousand acres; to every captain, three thousand acres; to every subaltern or staff officer, two thousand acres; to every non-commissioned officer, two hundred acres; to every private man, fifty acres” (Sims, 97)

Sims makes the assertion that “many of the soldiers who took up grants under these conditions (the Military Grant process) later found themselves unable to fulfill the terms of the grants and either sold them or lost them” (Sims, 97). Without funds to pay for crops or to purchase tools to construct a home on their property, many of these men could not afford to keep the land that they had received (as taxes would be due upon the property) and had no other choice but to sell them to any interested party. This ability to sell the Military Grants (as well as other grants) would later prove to be one of the key factors that permitted the absentee land ownership situation to develop in what would become West Virginia. Other grants of land had also been made to individuals and some corporations, and squatters had settled in some areas on land that had not been granted to anyone (Sims, 100). This system (or perhaps a lack thereof) created incredible vagaries for anyone who may want to risk moving west to live on property that they may not, after following all applicable rules, retain the privilege of owning. However, it would take many years and an act of the Virginia Legislature to adjudicate the legality of the procedure. Unfortunately, the “fix” only made it easier for land speculators and wealthy financiers from Philadelphia and New York to
begin amassing large tracts of western Virginia real estate.

Once independence from the Crown had been attained, the Commonwealth of Virginia made an attempt to bring order to what had been a chaotic system of dispensing with waste land and passing ownership to individuals and corporations (Sims, 100). The original intent of what is commonly referred to as the Virginia Land Law of 1779 was to solidify and codify exactly the various acreages of land would be provided to veterans as reward for their service, based upon rank.

“For adjusting and settling the titles of claimers to unpatented lands under the present and former government previous to the establishment of the Commonwealth’s land office.” (Sims, 100)

Provisions were made to establish commissioners for each county (most of the area that would become West Virginia had originally been composed of a single county named Augusta County, although by 1779 Augusta County had been partitioned into several smaller counties). Each commissioner would then be responsible for determining the validity of claims made by individual claimants to land within their county (Sims, 100). Further legislation enacted in 1779 created the Land Office to regulate and document land transfers between the Commonwealth and individual (and later corporate) entities (Sims, 100). This act, dated May 3rd, 1779 detailed the process for transferring land from public ownership into private hands.

The act that established the Virginia Land Office left no confusion about why it was created. The first line in the body of the act reads as follows:

“Whereas there are large quantities of waste and unappropriated lands within the territory of this Commonwealth, the granting of which will encourage the migration of foreigners hither, promote population, increase the annual revenue, and create a fund for discharging the publick debt; BE IT ENACTED BY THE GENERAL ASSEMBLY, That an office shall be, and is hereby constituted for the purpose of granting lands within this commonwealth…” (Sims, 115).

It is clear what the intent of the legislators was. By establishing a central office to administer all the land disbursements within the state, settlers (and later, speculators) would be able follow a clearly defined procedure for receiving land from the government. This would remove all doubt and conflict that had arisen as settlers first moved into the areas west of the Blue Ridge that had been originally given as patents by the Crown. The act also established the method of obtaining a grant of land from the state and how to legally secure title to the property. The first part of the act established the office of register (or clerk) of the Land Office who would be appointed by the legislature (in Virginia at this time all officeholders were appointed by the legislature, including that of the Governor). This person would then be responsible for obtaining copies of all existing land records available from any other state office, as well as administering the new system that was part of the act establishing the Land Office. Any land transferring functions that may have been handled by another state office (such as the “secretary’s office”) would now be handled by the new Land Office (Sims, 115-116).

Once the new office was established, the General Assembly sought to clarify how soldiers who had served during the French and Indian War and the Revolutionary War would receive their rewards of land (sometimes referred to as land bounties). A soldier, or if deceased, his heirs, were required to provide proof of his service from a commanding officer or from someone who could satisfactorily testify to the county clerk of the soldier’s service. Once the county clerk was satisfied, a copy of the document (called a military warrant) would be provided to the Clerk of the Land Office for recordation (Sims, 116). Thus the land would be removed from the books as waste land and transferred to the ownership of the soldier requesting the military warrant, and this individual
would then be responsible for annual taxes due.

This provision “settled up” with the veterans who had been promised land in return for military service. However, there were still vast amounts of “waste and unappropriated land” (Sims, 116) that could be transferred to private individuals as an inducement to settlement in a process that mirrored that of the military warrants. An individual could purchase land as follows:

“so much waste and unappropriated land as he or she shall desire to purchase, on paying the consideration of forty pounds for every hundred acres, and so in proportion for greater or smaller quantity, and obtaining a certificate from the publick auditors in the following manner: The consideration money shall be paid into the hands of the treasurer, who shall thereupon give to the purchaser a receipt of the payment, specifying the purpose it was made for, which being delivered to the auditors, they shall give to such person a certificate thereof, with the quantity of land he or she is thereby entitled to” (Sims, 116-117).

This certificate was referred to as a treasury warrant, and resembled the military warrant in that it acted to entitle the holder to a certain acreage of land, as detailed on the warrant. These warrants acted as an “option” to purchase the amount of property listed on the warrant. The Land Office would then furnish the warrant holder with a certificate that would be provided to a surveyor appointed for the county where the warrant holder’s property would be located. The General Assembly then detailed how this would be accomplished, as follows:

“The party (the warrant holder) shall direct the location thereof specially and precisely, as that others may be enabled with certainty, to locate other warrants on the adjacent residuum, which location shall bear date the day on which it shall be made (the date the land is surveyed), and shall be entered by the surveyor in a book to be kept for that purpose (known as a Surveyor’s Record Book), in which there shall be left no blank leaves or spaces between the different entries. And if several persons shall apply with their warrants at the office of any surveyor at the at the same time to make entries, they shall be preferred according to the priority of the dates of their warrants, but if such warrants be dated on the same day, the surveyor shall settle the right of priority between such persons by lot” (Sims, 118-119).

The surveyor would then survey the parcel of land “as soon as may be, and within six months at farthest” (Sims, 119). The surveyor would then schedule a time to meet the warrant holder to survey the property. The warrant holder would be required to provide workers to act as chainmen (who would assist the surveyor in making measurements) and brush-cutters (to clear lines of sight) for the surveyor, as well as supply any markers to be used by the surveyor to mark the property corners and the boundary line. The surveyor would operate a device called a transit that measured angles in relation to a compass mounted within the unit. All angles were measured from magnetic north. Distances were measured in “poles” (or rods) and “chains”. A pole was 16 ½’ long, while a “surveyor’s chain” was 100’ long and composed of 66 “links” that could be counted separately. Both were colonial terms of measure utilized to provide consistency and repeatability to distance measurements that often required traversing streams and mountains. However, it should be noted that chains shorter than this were used in some regions, although generally the 100’ chain was standard by the late 1700’s. This uniformity simplified the process of surveying, as a chainman was often the son or relative of the prospective land owner and most likely did not have a formal education. Although this system brought some measure of uniformity to land surveying, a surveyor was limited in his measurements by the precision of his tools. Thus poles were normally given as whole poles, or perhaps at best ½ poles. For example, a measurement of 1000’ would often be recorded as 60 poles (which is actually 990’), or at best as 60 ½’ poles (998.25’). It could also be recorded as 10 chains. Accuracy of measurements was the responsibility of the surveyor, as well as recording all notes and making all calculations. Field notes would be recorded on the day of survey which would be used for calculations later to craft the final deed.
The “metes and bounds” system of land surveying was employed to document and monument a tract of land. This system is still used today within the territory of the original thirteen colonies, as well as west of the Mississippi and south of the Ohio (although portions of Ohio within the boundaries of the Virginia Military Survey were also partitioned utilizing this system). The “metes” are the direction and distance between two monuments, or “bounds”. Often referred to as “calls”, the metes provide the necessary information (the length and direction of the boundary line) required to “travel” to the next corner monument. Typically, trees or set stones were used as property corner markers, or an “X” could be cut on a rock cliff or outcrop to denote a property corner. Trees were marked with three “hacks” cut into the tree with an axe or machete. The axeman would make three downward slashes on the face of the chosen tree, through the outer bark of the tree and into the cambium (the inner bark), perpendicular to the property line as it “entered” the tree. The intent was not to harm the tree but to leave a permanent mark that would monument the tree as the property corner. By cutting into the cambium, the wound, although healed and harmless to the tree, would be perpetuated on the face of the tree as it continued to grow. The three hacks, spaced six to twelve inches apart depending upon the size of the tree, facilitated future recovery of the boundary lines. Often times, a large tree may serve as a boundary monument for several separate tracts. Thus, all the adjoining property lines met at the center of the tree at one single point. Where each property line entered and exited the tree three hacks would be made indicating the direction that the property line took as it exited the tree and traveled to the next boundary monument.

Two sets of three hacks on a property corner tree (in this case a gum tree) indicating direction of property lines; these hacks (as well as the area between the hacks) were painted red to facilitate future recovery. (Queens Ridge, Wayne County, West Virginia)
Establishing boundary monuments was only one aspect of the survey. Between monuments, trees that were adjacent to the property line would be marked with two hacks parallel to the boundary line. These “line trees” would act to perpetuate the boundary line and allow adjoining landowners to recover their boundary lines at their convenience, as long as the trees remained to “witness” (through their presence and markings) where the boundary line is. The procedure for selecting line trees required the axe man (or another member of the party) to “walk the line”. Any suitable tree within arms length of the property line would be marked with two hacks facing the boundary line. Any tree that happened to be growing directly on line would be marked with two hacks on the face of the tree where the line entered, as well as two hacks on the reverse side where the property line exited the tree.

The surveyor, as a function of his duty, would have already determined if other surveys or grants for land had been made in the area where he was about to work. He was required, by the Land Law of 1779, to document who adjoining landowners were and when he used existing property lines (as determined by previous surveys) as boundaries for new surveys. The surveyor would also provide a description of where the Point of Beginning (POB) of the survey was, including the watershed and any other information that would make it possible for some future surveyor or land owner to recover the point where the survey originated.

Hickory marked as a line tree. Hack is approximately 15 years old and has been painted orange by Columbia Natural Resources, Inc. (CNR) survey crews in the mid-1990’s.

Tree marked as line tree. Hacks are approximately 4 years old, placed and painted red by Augusta Land Consultants, Inc. per resurvey requirements for Pen Coal Corporation and The Forestland Group. This property is within the boundary of the Samuel Smith 120,000 acre grant.
Rebar (with red plastic cap) set at call for an original corner (now gone). Note small hickory, marked with three witness backs (not painted), directly behind the rebar.

If the warrant holder failed to meet the surveyor on the appointed day, and further failed to meet the surveyor on a second appointed day; his or her warrant would be nullified and returned to him, and the land that would have been surveyed would then be available for someone else to acquire through survey. The details and requirements for surveying the land were very specific, requiring measurements to be made to the best of the ability of those acting as chainmen or surveyors assistants and, by referencing the warrant provided by the prospective land owner, provide a legal description of the property. This legal description, along with a copy of the plat that would be recorded in the Surveyor’s Record Book, would be used by the land office to produce a deed to the property, as well as to keep track of land ownership not only within each county but the state as a whole (Sims, 118-122). It should be noted that a warrant holder could elect to “split” his or her warrant in two or more pieces that did not have to adjoin. For example, a treasury warrant for 1,000 acres could be surveyed as five tracts of 200 acres or two tracts of 500 acres or any other combination. These tracts could be situate adjoining each other or on the same watershed, or could be in different parts of the county. Once all requirements had been met to the satisfaction of the Land Office, the deed would be drafted by the Land Office and signed by the Governor, making the grant official. This “conversion” of a land warrant (either military or
treasury) into a land grant was the method used to create an orderly transfer of publicly owned property into the hands of private individuals. The intent of the Land Office was to ensure that the “waste and unappropriated lands” were documented as they became privately owned, so that they could be taxed and thereby generate revenue for the Commonwealth.

This is how land transferred from public ownership into the hands of private individuals. The ability to transfer warrants (both treasury and military) to others allowed land speculators to amass warrants (many of which could be for several thousand acres each) and combine them when surveyed into one large parcel. The land owner would contact the county surveyor and after notifying the public as well as all adjoiners and would petition to be allowed to combine the parcels or if an error had been made in a previous survey to correct it (Sims, 129-130). Although the Virginia Land Law of 1779 would be amended at later dates, these procedures did not change. In this manner land west of the Alleghenies began to be partitioned, with the majority of landowners who were amassing these large tracts living in the growing financial and political centers of Philadelphia, New York and Washington, DC. Robert Morris, a financier who was so wealthy that he loaned the early United States government money in order to fight the Revolutionary War was rewarded with at least three grants of property totaling 1,300,000 acres of land in Western Virginia. Wilson Cary Nicholas (Samuel Smith’s brother-in-law) had grants totaling 1,420,000 acres (Sims, 140), including one tract of 300,000 acres on the waters of Tug Fork and another of 500,000 acres on the waters of the Guyandotte River and the Tug Fork. Thus the trend of absentee land ownership within what would become West Virginia was firmly established.
CHAPTER IV

Origin and Early History of the Samuel Smith Land Grants: 1796 – 1850

The land that would become the Smith land grants remained relatively quiet after the Virginia Land Law went into effect. The land was apparently considered as waste and unappropriated land. People were not yet rushing into the west, although people were beginning to leave the tidewater and piedmont regions and move into the Ohio Valley. Samuel Smith is a respected Revolutionary War veteran, an extremely successful merchant and after the election of 1792, a member of Congress. A staunch Republican, he was good friends with many of the founding fathers and corresponded regularly with the likes of Thomas Jefferson, James Madison and Alexander Hamilton. Neither biography of Smith discusses much more than Smith’s political and merchant activities between the years of 1779 and 1796. Pancake indicates that Smith engaged in very profitable trade activities involving both smuggling and legal trade (Pancake, 35).

Smith, possibly influenced by Wilson Cary Nicholas and others, must have been encouraged to invest in land in the west. He was already one of the wealthiest individuals in his hometown of Baltimore, placing him in a position with a great deal of available capital. Although we don’t know how Smith became interested in land speculation, we can see the results of his investments as they begin to occur in 1796 and 1797. As mentioned earlier, Smith was granted 8 tracts of land that, in aggregate totaled 300,000 acres. Smith and his brother, Robert (who also speculated in western lands) also obtained another tract of 30,000 acres (some sources erroneously identify it as a 40,000 acre tract) that had been previously granted to Andrew Workman and Robert Curran on January 1, 1795 (often referred to as one of the “Work and Curran” tracts). Although this tract is not one of the 4 tracts that I have chosen to focus on, it will be included in discussion of all the lands owned by Smith for informational purposes, as it is not commonly known that Smith acquired that tract from Workman and Curran and owned it for a period of 24 to 27 years (depending upon which date is used).

Before entering into a discussion about each of Smith’s land purchases, a brief explanation is required to clarify dates of ownership. Any attempt to trace land grants within the state of West Virginia requires the use of the previously mentioned work Index to West Virginia Land Grants by Edgar Sims. “Sims Index” as it is commonly called by surveyors and lawyers, lists every land grant that was made by the State of Virginia (as well as grants made by Thomas, Lord Fairfax). These grants were copied from the originals in Richmond after West Virginia became a separate state. These copies were compiled into Grant Books and maintained, until recently, in an office of the State Auditor for public access. The original Grant Books are now in secure storage in the West Virginia Archives. Sims’ Index references the book and page where the copy of a certain grant is recorded in the West Virginia Grant Books. For example, the above-mentioned tract of 30,000 acres was granted to Andrew Workman and Robert Curran by the Commonwealth of Virginia on January 25, 1797 and recorded in Virginia Grant Book 32 at page 560. This deed was copied and dutifully recorded in West Virginia Grant Book 1 at page 456. Sims’ Index refers to the copy that is recorded in West Virginia. The copy can be used to reference the original book and page number on record in Richmond, Virginia. Also, the Library of Virginia maintains digital copies of all land grants in a very well indexed and searchable online database (http://www.lva.lib.va.us).

Differences in dates are also very important to remember. All deeds (as well as most other legal documents) contain the date the instrument (another name for a deed or other legal document)
was authored. That is the date that is listed in the preamble of the deed. Generally, a deed will be written in a manner similar to this:

“This deed, made this first day of June, Anno Domini 1916 between Herbert L. Clark, Edward W. Clark III, and George L. Estabrook, Trustees of the Guyandot Land Association…

(Cabell County Deed Book 145, Page 267)

This date is known as the **instrument date**, as this is generally the date it was prepared. Another date is stamped on the original deed when it is recorded at the County Clerk’s Office. Known as the **recording date**, this date is the official “date” of the instrument, as this is the date the instrument was made part of public record. Oftentimes the time of recordation will also be stamped on the deed. These dates (and times) establish the “age” of a deed and in a court case will determine which deed has seniority. In a boundary dispute, generally the older deed is given greater weight than a deed that is newer, as the older deed may be interpreted as a better representation of the original intent of the Grantor (the person giving or selling the property).

The older grants generally may have a total of four separate dates within the verbiage that forms the deed. Below is a portion of one of Samuel Smith’s first land grants, a tract that contains 15,000 acres. Although this grant is not within the region of study, its wording reflects the style of the day.

Robert Brooke, Esquire, Governor of the Commonwealth of Virginia,

To All to Whom these Presents shall Come, Greeting:

Know Ye, that by virtue of a Land Office Treasury Warrant No. 1232, issued the 14\textsuperscript{th} day of March 1795 there is granted by the said Commonwealth unto Samuel Smith a certain tract or parcel of land containing 15,000 acres by survey bearing date the 8\textsuperscript{th} day of July 1795 lying and being in the county of Kanawha on the North side of Elk River…

TO HAVE AND TO HOLD the said Tract of Parcel of land with its appurtenances, to the said Samuel Smith (except as before excepted) and his heirs forever. IN WITNESS WHEREOF, the said Robert Brooke, Esquire, Governor of the Commonwealth of Virginia, hath hereunto set his hand and caused the Lesser Seal of the said Commonwealth to be affixed, at Richmond, on the 13\textsuperscript{th} day of June in the year of our Lord one thousand 7 hundred and 96…

(Virginia Grant Book 36, Page 9)

Three separate dates are given within the body of this grant. The first is the date that Treasury Warrant #1232 was issued. As discussed previously, these warrants could be bought and sold, so the warrant may have been issued to Samuel Smith or he may have purchased it from someone else. It is my belief that the warrant was issued in his name due the sequential numbering of other Treasury Warrants he used to survey and receive adjoining tracts (see Exhibits 1-4).

The second date listed within the body of this deed is the survey date. This is the date listed on the map that was used to identify the boundaries of the grant after it had been surveyed. As mentioned above, once a treasury warrant was obtained, the recipient would contact the county surveyor in order to delineate the desired property. Once all field work and calculations were complete, the surveyor would produce a map of the property. By the cartographic standards of today, this map would be little more than a sketch; however it would be more than sufficient to identify the shape or configuration of the land, as well as identifying…
adjoining property owners. This was done in an attempt to prevent conditions where adjoining property lines crossed each other (an overlap) or areas where lines that should have adjoined each other did not, leaving a small strip or gap of land between two adjoining properties. Unfortunately, due to the poor communications and long distances traveled, conflicting surveys could still be used to acquire property, often leading to overlaps that would require the respective land owners to enter into a “quit-claim” agreement or deed with their neighbor. Each side would agree to relinquish all ownership to land they may be entitled to that was across their common property line. Thus by ceasing to claim this property, each owner surrendered (or quit claiming) property that may have been his in order to quiet any title issues. This resolution would work quite well where the area of the overlap was very small, such as a foot or two. However, many overlaps were much bigger, involving several acres. As we will see later, one such instance of an overlap, while not in the study area, illustrates some of the problems that could be involved when trying to claim title to a large land grant.

The third date on the deed is perhaps the most important, as this is the day that, by signing the deed, the Governor, acting as an agent of the Commonwealth of Virginia, gave or granted the described property to the individual who requested it. If a conflict arose between two land owners with adjoining land grants, this date would be used to determine which grant was senior and thus had greater color of title. This acts as the date the deed was recorded and was entered into the land books (these books, which listed property size, location and owner(s) were used for taxation purposes). This is the date it becomes a part of the public record, and thus becomes official.

A fourth date is often found on these land grants as well as older deeds. Typically written in the left margin, this date would represent the day that the deed was delivered to the person (or their representative) seeking the land grant. This date was written into the grant book after the fact, to serve as a record that the new, original deed had been supplied to the land owner. The value of this date is usually slight; however the name of the recipient can often be used to advance research that may have bogged down, as it typically listed the address to which the deed was delivered. This additional information can prove invaluable when performing in-depth research in pursuit of genealogical information or for litigation purposes.

Although I have only chose to transcribe the deeds for the four contiguous tracts that are commonly referenced when referring to Smith’s lands, it is important to note that General Smith received, in all, eight grants of land from the Commonwealth of Virginia in 1796 and 1797. The four other tracts are not contiguous (although they are in close proximity to one another) and are all located on waters of the Elk and Pocatalico Rivers north of Charleston. We also know that at some point several years later Smith, in conjunction with his brother Robert, purchased or by some other means acquired an additional tract in this area originally granted to Andrew Workman (or Andrew Work, depending upon the source) and Robert Curran which contained 30,000 acres. This property was in Smith’s name when it was sold at public auction December 22, 1825.

This land owned by Smith remains “quiet” for the next 20 years or so. Smith’s career in politics was blossoming, and as war with England once again appeared upon the horizon, General Smith, who continued to command the militia in Baltimore after leaving the Army, went into battle once more. As the War of 1812 was waged Smith was instrumental in protecting Ft. McHenry during the “Battle of Baltimore” (Cassell, 209). In an interesting side
not, a witness to this conflict who was imprisoned upon a British ship watched as the battle raged throughout the night of September 13, 1814. It was none other than Francis Scott Key, who would later describe what he saw in such an inspirational way that it would become our National Anthem (Cassell, 208-209). Cassell gives Smith most of the credit for this victory, which provided the United States with an improved bargaining position and led to the resolution of the war. Due to political machinations, Smith resigned from the Army and would soon return to the Senate. Unfortunately, Smith would soon lose almost everything he had to bankruptcy when, as mentioned earlier, his partner James Buchanan became involved in illegal banking schemes, bankrupting the company as well as Smith, who was forced to sell his home and rich furnishings, as well as most of his landholdings (Cassell, 223).

The spring and summer of 1819 were very difficult times for Smith. With the loss of his personal fortune and his good name being associated with the likes of debtors and criminals his daughter Cary Ann Smith wrote: “It is impossible for him to continue to feel as he does and live or retain his senses” (Cassell, 224). Eventually, friends were able to assist Smith, and his son was able to re-purchase the family estate. According to Cassell, as old friends began to come to Smith’s aid with comfort and support, his demeanor improved. He took an interest in his wife’s “…few assets and delighted in parlaying them into a small but respectable fortune.” (Cassell, 225-226). Cassell only identifies these assets as land in Kentucky that was retained after significant legal battles (Cassell, 225). No specific mention or description of these lands is found.

I believe that Cassell is mistaken in his assertion that these lands were located in Kentucky. Nothing I have been able to discover indicates that Smith owned any land in Kentucky. Kentucky was, however, originally part of Virginia, and perhaps this has led to confusion by Cassell in the location of these tracts. While it is clear that his financial difficulties motivated the sale of these lands, and forced Smith to sell his land holdings in western Virginia in 1821. Records in the Cabell County courthouse indicate that “Samuel Smith, of Baltimore and Margaret, his wife” conveyed 9 tracts of land to two individuals, Thomas Elliot and Jonathan Meredith. These tracts consisted of all 8 grants that Smith had received in his name, as well as the grant that he had obtained (along with his brother Robert) from Andrew Work(man) and Robert Curran. These tracts are briefly described as follows, as listed in the deed. The Grant Book listing refers to the books on record in Richmond at the Land Office. This is the original listing recorded when Smith received his grant(s) from the Commonwealth. Note the sequential listings.

1. A 15,000 acre tract granted June 13, 1796 and recorded in Grant Book 36, at page 9.
2. A 35,000 acre tract granted June 14, 1796 and recorded in Grant Book 36, at page 38 (actual number is illegible, possibly page 38).
3. A 120,000 acre tract granted June 16, 1796 and recorded in Grant Book 36, at page 10 (See Exhibit 1).
4. A 25,000 acre tract granted June 29, 1797 and recorded in Grant Book 37, at page 283.
5. A 10,000 acre tract granted June 13, 1797 and recorded in Grant Book 36, at page 431.
6. A 31,000 acre tract granted June 29, 1797 and recorded in Grant Book 39, at page 382 (See Exhibit 2). It should be noted that this entry is erroneous and should read Grant Book 36, at page 382.

7. A 33,000 acre tract granted June 29, 1797 and recorded in Grant Book 39, at page 408 (See Exhibit 3). It should be noted that this entry is erroneous and should read Grant Book 36, at page 408.

8. A 31,000 acre tract granted June 29, 1797 and recorded in Grant Book 36, at page 430 (See Exhibit 4).

9. A 40,000 acre tract (I believe this acreage to be incorrect; most likely it is one of several 30,000 acre tracts conveyed to Andrew Work(man) and Robert Curran granted January 25, 1795 and recorded in Grant Book 32, at page 560). Smith purchased this tract in conjunction with his brother Robert, however Robert’s interest apparently reverted to Samuel or was conveyed from Robert to Samuel at some point between May of 1797 and September of 1820. (Cabell County Deed Book 7, at page 193)

This leaves a total acreage that was conveyed from Smith to Elliot and Meredith as 330,000 acres. Remember, this is the total of ALL the tracts, four of which are contiguous and located on the watersheds of Twelvepole Creek, Tug Fork, Guyandotte River and Mud River. The other five tracts are all north of Charleston and located on or near the Elk River. I mention this because the 330,000 acre figure will reappear at a later date. Jonathan Meredith was a prominent lawyer in Philadelphia, Pennsylvania. His personal papers are archived at the Historical Society of Pennsylvania and include “… business papers on lands in Pennsylvania, Virginia, New Jersey and New York” (Historical Society of Pennsylvania website: www2.hsp.org). Thomas Elliot was apparently employed in a similar capacity, although details of his life are not readily available.

This is an instance where dates can be very enlightening. The deed from Samuel and Margaret Smith to Elliot and Meredith is not recorded in Cabell County, rather the reference to it is recorded in Cabell County Deed Book 7, at page 193. The actual deed that conveys all of the Smith’s interests to Elliot and Meredith is only recorded in Baltimore, Maryland (in Book 157, at page 355)! It is also important to note that Elliot and Meredith received that property as trustees, and in that capacity they were managing the property for the benefit of the trust, not the Smiths per se. Smith may have created this trust as a way to protect this property from creditors, thus leading to a long and protracted legal battle as mentioned by Cassell as these creditors attempted to obtain this property in order to sell it. Another (and more plausible explanation) may be that his creditors forced this action in order to protect themselves (and their investment) in the event that Smith attempted to sell the property and abscond on his debts. From what we know of Smith’s character, it is most unlikely that he would intentionally evaded his debts.

The deed recorded in Cabell County Deed Book 7, at page 193 makes for fascinating, if somewhat maddening, reading. It is very vague on specifics relative to the trust established by Smith, referring the reader to consult the original deed which is, as mentioned above, located in Maryland. This is most likely intentional to prevent going into detail about assets that may
have been protected by the trust. The purpose of this deed is to establish a solid chain of title for the property in order to prevent future legal wrangling, not to provide unnecessary information. This chain of title provides a way of tracing ownership from the original owner of a parcel of property to the current owner, creating a legally defensible “chain” that can be used by a future buyer to ensure that he or she is actually purchasing what they think they are, as well as ensuring that the seller actually owns the land they are attempting to sell. By referencing a legally recorded and binding deed, this chain is maintained. Technically, a copy of this deed from Smith to his trustees should have been recorded in Cabell County since that is where the property was located (this would occur today). In fact, most land companies will record a copy of any transfer of large parcels in each county where they own land “just in case” or, alternatively, record the deed in one county and reference it in each subsequent county. Once again, this deed (Book 157, Folio 355 – the Maryland deed) transfers all of Smith's interest in all nine tracts to the trust, which is controlled by Meredith and Elliot as trustees.

As we continue to examine this deed (via the brief synopsis recorded in Cabell County Deed Book 7, at page 193) we soon learn what became of the property. On December 22, 1825 the property was sold at public auction for an undetermined sum. James McCormick, according to the deed, was the purchaser of all nine parcels. As an aside, it is unclear who ordered the property to be liquidated. By 1825 Smith had recovered financially, so perhaps selling this property allowed him to return to solid economic footing. However, the fact that it was sold at public auction normally indicates that it was sold to pay creditors and not for his personal financial benefit. The deed then reiterates that it is meant to convey all interests in Smith’s land from the trust to McCormick. The deed is then finalized by the signatures of both Jonathan Meredith and Thomas Elliot (as trustees (and therefore as the grantors) the deed could not be recorded until they had signed it before a notary public). These assurances by the notary public are then incorporated into the final deed that is recorded for public record. Thus, ownership of Smith’s property was transferred to James McCormick; or was it? A diligent review of the Grantor/Grantee indexes in the Cabell County Courthouse indicates that McCormick never owned ANY property in Cabell County. In what is perhaps the most unusual entry I have witnessed in a deed, as part of the Cabell County Clerk’s certification of the deed (certifying the date the deed was recorded for public record) the certification reads as follows:

**Cabell County Clerks Office 16th March 1839**

This deed from Thomas Elliott and Jonathan Meredith to Marvin McNulty and George M. Chapman was this day presented to me the Clerk of Cabell County Court together with the certificates of acknowledgment thereon endorsed, the same is admitted to recorded.

Teste:  
John Samuels CKCC

This deed (Cabell County Deed Book 7, at page 193) bears no mention of either McNulty or Chapman within the body of the deed, yet the County Clerk states that the deed is a conveyance from Elliott and Meredith to McNulty and Chapman. The Clerk has, in essence, added verbiage to the deed that identifies two individuals not previously mentioned or identified as the new owners of the property. However, what the Clerk did, while illegal today (it probably was then, as well) may have been an attempt to make the deed a legal conveyance from Thomas Elliott and Jonathan Meredith (as trustees for Samuel Smith) to McNulty and
Chapman. This was probably performed at the request of whoever delivered this deed to Cabell County for recordation. Unfortunately, the margin note indicating to whom and when the final deed was delivered is illegible.

Common sense would indicate that Mr. McCormick would have taken immediate steps to place the property in his name in Cabell County, Virginia in order to protect his investment. However, although the deed would seemingly indicate that James McCormick is the lawful owner of the property, he apparently took no interest in legalizing his ownership in the property. This is because, I believe, the property was never conveyed to James McCormick. My research leads me to the conclusion that the apparent conveyance to McCormick by Thomas Elliott and Jonathan Meredith was a straw party conveyance. A straw party receives a parcel of property for someone else. The straw party agrees to, at some future point and at the request of the individual(s) they are representing, conveys the property to that individual. This is yet another instance where dates may play a role in explaining what may have occurred. This deed (Cabell County Deed Book 7, at page 193) bears an instrument date of February 27, 1839. Thus over 14 years have passed since the property was apparently sold by the trustees to James McCormick at auction. The deed is recorded by the Cabell County Clerk on March 16, 1839. Samuel Smith died April 22, 1839 at the age of 87 (Cassell, 262). My suspicion is that Smith was in failing health the last six months of his life. Although neither biography indicates this, Cassell informs us that Smith resigned as Mayor of Baltimore in November of 1838 (Cassell, 262). Pancake indicates that “… he soon realized that the tasks of the office had become too arduous for him, and late in 1883, as he was approaching his eighty-seventh year, he resigned his last public office.” (Pancake, 196). Although all indications are that Smith died as a result of an unexpected heart attack, it seems more than coincidental that the property transfer from Elliot, Meredith and McCormick to McNulty and Chapman occurred just one month before his death. If Smith was still controlling his former property, through the trust, he may have wanted to ensure that all his affairs were in order before his death and thus allowed the sale to occur. I believe that James McCormick was acting as a straw party for Thomas Elliott and Jonathan Meredith and was allowed to “purchase” the property at auction in order to allow them to maintain control over the property while simultaneously appearing to have transferred it to “the highest bidder”. One crucial clue is the fact that the deed bears the signatures of Thomas Elliott and Jonathan Meredith as well as that of James McCormick, indicated that all three men are acting as grantors and the true purpose of the deed is to transfer the property to McNulty and Chapman (as stated by the Clerk’s certification). McNulty and Chapman then appear within the Grantor/Grantee indexes as receiving “several tracts” (Cabell County Grantee Book M-Mc 1808-1922). Although this conveyance appears slightly suspect, it did achieve the goal of transferring the property from Elliott and Meredith, as trustees, and James McCormick, as apparent owner, to Marvin McNulty and George Chapman (thus each owns ½ interest in the property). However, there is still confusion (at least according to instruments on public record) about who really owns the property, as we will see.

The issue becomes seemingly more confusing when the agreement, found in Cabell County Deed Book 7, at page 375 is taken into account. This agreement, between Peter Clark of New York and John K. Porter of Virginia and Marvin McNulty and George Chapman (operating as the firm of McNulty and Chapman) indicates that McNulty and Chapman already owned the property by the date the deed was written (June 15, 1838). The basis of the contract, which describes the tract of 300,000 acres thusly:
…which said land is undulating, rolling and hilly, the soil rich and well adapted to agriculture, with much good bottomland along the streams, and the whole well watered and timbered, the country healthy and on the tract are several fine exposures of bituminous coal…

(Cabell County Deed Book 7, page 375)

The contract requires Clark (who is listed in later deeds as being responsible for partitioning the tract into sections of 640 acres) and Porter to travel to Cabell County and

“…do all that is needful to secure the titles to the said land before the first day of July next (1839)…”

(Cabell County Deed Book 7, page 375)

This agreement further indicates that Clark and Porter had originally been retained by James McCormick to perform these duties for him, and the purpose of the contract is to transfer the duties they were going to perform for McCormick to McNulty and Chapman. This agreement also provides clues to why, in later transfers, only five of the original nine tracts were conveyed to Chapman by McNulty in 1840 (see below). Clark and Porter are also authorized to settle a claim by John Breckenridge for lands promised in an agreement with James McCormick. Clark and Porter are instructed to take all necessary steps to ready the land for market. However, McNulty and Chapman reserve the right

“…to settle and adjust the claim of James Breckenridge referred to in their (Clark and Porter’s) said contract with McCormick which settlement shall not give the said Breckenridge more than the one hundred and fifteen thousand acres north east of the Kanawha River…”

This appears to be how Clark and Porter were to originally have been paid; that is McCormick and his lawyer Breckenridge had agreed to give Clark and Porter land in exchange for their services. Since they reference contracts that are not on record, we can only infer what was actually occurring. This agreement indicates that the Smith grants had been sold by the Commonwealth of Virginia for non-payment of taxes, as many large land grants were after legislation was enacted by the Virginia legislature in 1838. This legislation was an attempt to gain funds for the Commonwealth, as many of the large land grants made during the 1790’s had not been settled or had taxes paid on them. All properties that were delinquent (that is, hadn’t paid their taxes) were auctioned to the highest bidder. It appears that McNulty and Chapman purchased the property from the Commonwealth of Virginia but were permitted time to survey and confirm the title to the property before paying the remainder of the back taxes on the property, which were not to exceed four thousand dollars.

As becomes painfully obvious, the chain of title is not recorded in sequence. McNulty and Chapman purchased the Smith grants by paying the delinquent taxes due to the state of Virginia. It appears that, after ensuring that the property was marketable and worthy of their investment, they received a deed from James McCormick (who may have been the original purchaser of the property at the tax sale) conveying all his interest in the property to McNulty and Chapman in a further attempt to provide them with clear title to the property. This is a common occurrence with many of the chains of title to the large grants that make up much of southern West Virginia. Every attempt was made to secure title to the land, often leading to documents being recorded out of sequence as new title problems arose and land owners attempted to confirm title issues. Suffice it to say that by March of 1839 McNulty and
Chapman felt that they had taken all steps required to give them marketable title to the Smith grants.

Almost immediately, Marvin McNulty and Jonathan Meredith are listed as grantors (the sellers) of property in “Smiths Survey” to several individuals in Cabell County. Meredith may have been acting as an attorney for McNulty and Chapman, thus leading to the multiple entries found in the Grantor/Grantee books. Forty years have passed since the Commonwealth of Virginia conveyed the property to Smith. It appears that McNulty and Chapman now refer to the work that Peter Clark performed to obtain a survey of the property and divide it into sections, similar to the U. S. Government’s Public Land Survey System (PLSS). Each “section” is composed of 640 acres and is one square mile of area. This is an unheard of practice south of the Ohio River, where, as mentioned early, the metes and bounds system of land surveying was (and still is) in effect. However, the evidence is clear that at some point the land was surveyed and mapped on the township/range system of the PLSS.

Records indicate that several of these conveyances from McNulty and Meredith are sold as “sections” or portions of sections partitioned on the township/range system. Listed below is a summary of the portions of land sold by Meredith and McNulty after they acquired title to Smith’s land to others.

<table>
<thead>
<tr>
<th>Grantor</th>
<th>Grantee</th>
<th>Acreage</th>
<th>Deed Book/Page</th>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meredith &amp; McNulty</td>
<td>Nathan Dean</td>
<td>180</td>
<td>7/271</td>
<td>1839</td>
<td>Portion of &quot;Smith's Survey&quot;</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>Amos Ensign</td>
<td>20</td>
<td>7/272</td>
<td>1839</td>
<td>Portion of &quot;Smith's Survey&quot;</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>James McCormick</td>
<td>N/A</td>
<td>7/303</td>
<td>1839</td>
<td>Release (legal release)</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>Forrest Shepherd</td>
<td>2,560</td>
<td>7/304</td>
<td>1839</td>
<td>Portion of &quot;Smith's Survey&quot;</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>George M. Chapman</td>
<td>5 tracts</td>
<td>7/412</td>
<td>1840</td>
<td>McNulty’s interest in Smith’s Survey</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>Stephen Ainsworth</td>
<td>2,500</td>
<td>7/505</td>
<td>1839</td>
<td>Portion of &quot;Smith's Survey&quot;</td>
</tr>
<tr>
<td>Meredith &amp; McNulty</td>
<td>Henry Sargent</td>
<td>1,280</td>
<td>8/360</td>
<td>1839</td>
<td>2 sections &quot;Smith's Survey&quot;</td>
</tr>
</tbody>
</table>

Source: Cabell County Clerk’s Records

As listed above, Jonathan Meredith and Marvin McNulty conveyed portions of the Smith property to several others. By deed dated January 13, 1840 Marvin McNulty conveyed a portion of his ½ interest in the Smith property to George Chapman. He conveyed all of his interests in five of the nine tracts he and Chapman had received. These tracts, as listed previously, are the 120,000 acre tract, both 31,000 acre tracts, and the 33,000 acre tract (the four tracts that are the basis of this research) and the 10,000 acre tract located in Mason County. This conveyance purports to convey, in aggregate, 225,000 acres (120,000+31,000+31,000+33,000+10,000). This acreage is based upon the acreages claimed in the respective grants for each tract. As we will see later, these acreages are somewhat “fluid” and are open to interpretation, depending upon whether the seller wants to use the acreages called for in the grants, the acreages called for in the original surveys the grants are based upon, or a combination of the two.
Little is known about either Marvin McNulty or George Chapman. They were business partners to some extent, given that Cabell County Deed Book 7, at page 375 lists both McNulty and Chapman (both of New York) as members of the firm McNulty and Chapman. McNulty may have been a lawyer or businessman based in New York. It appears that he died in California in 1845. The life of George Chapman is even more of an enigma. He may have been involved in the Shaker movement; however this is rather sketchy. He too was most likely a lawyer or banker speculating in western lands and based in New York. What is known is that by the middle of 1840, George M. Chapman appears to be the sole owner of the above listed Smith grants.

But only if it were that simple! Chapman appears to have only owned the tract for a few months. Five days after the deed to Chapman from McNulty was created (Instrument date January 13, 1840), Chapman transferred the property to Eunice Chapman by deed dated January 20, 1840 and recorded in Cabell County Deed Book 7, at page 440 where Eunice Chapman is described as “a widow”. Chapman’s deed from McNulty had not even been recorded yet, and he had already transferred it to Eunice Chapman! This transfer conveys all interest in the Smith Grants, reserving all the above mentioned conveyances by McNulty and Meredith, as well two other vague conveyances. The first of these consists of two separate parcels purportedly conveyed to Thomas H. Richards. One parcel is described as 9,000 acres, while the other is described as “25 sections” (16,000 acres), the conveyance of which is found in Cabell County Deed Book 7, at page 388. Both are described as being part of the “Guyandotte Tract”. Both parcels are only described in reference to “Peter Clark’s Map”, an official copy of which has never been found although several deeds report that a copy was filed with the Cabell County Clerk. If so, this copy has been misplaced or destroyed, as no record of it exists. However, a possible “unofficial” copy of this map may exist as part of the A. P. Sinnett Collection at the West Virginia Archives at the Cultural Center at the Capitol Complex in Charleston, WV. This map appears to show a portion of the Smith Grants partitioned into equal size parcels that are numbered. Unfortunately, no title, scale or any other explanatory text is present on the map, leaving it as a tantalizing clue but nothing more. However, a diligent examination of the Grantor/Grantee books in Cabell County indicates that Richards never took possession of this property and it appears that, although the deed was recorded, the conveyance never took place. No further mention of this property is ever made, and its extent and exact location remains unknown.

The second conveyance also purports to convey two separate parcels to John Wilson. The first parcel is described as 16,000 acres, which is strangely coincidental with the purported conveyance to Richards, noted above. Wilson was also purported to receive a tract of 20,000 acres that is described as a portion of the “Mud River Survey” of the Smith Lands. The “Mud River Survey” is generally believed to be a reference to the 31,000 acre tract (Exhibit 2) which encompasses a large portion of the lower Mud River watershed. Wilson, like Richards, also appears to have never taken possession of this tract, and no mention of it is made in the Grantor/Grantee books.

Based upon what we know from the provided acreages, when George Chapman conveys his interest in the Smith Grants to Eunice Chapman, the property had been reduced from 225,000 acres to 157,480 acres. However, no indication that the above-described transfers took place can be found, other than the deeds that describe them. The deed purports to contain 225,000 acres, minus the conveyances by McNulty and Meredith and those to
Richards and Wilson. There has always been some speculation on my part that Eunice Chapman was George Chapman's mother, and that he was attempting to protect his asset (the Smith Grants) by transferring them into the name of his mother, to “protect” the property from creditors. I believe that this theory is supported by the judgment styled “Borer v. Chapman, 119 US 587 (1887)”, which was argued before the United States Supreme Court in 1887. This case involves one George M. Chapman (a resident of New Jersey), executor of the estate of his mother, Eunice Chapman, filing a lawsuit on behalf of her estate against Felix A. Borer, administrator of the estate of John Gordon, deceased.

The property remained, at least on paper, under the control of Eunice Chapman until, by deed dated June 5, 1844, 5,000 acres were conveyed to Daniel Bernard and Edward Killey as trustees for Peter Clark, apparently to settle an unidentified account. Recorded in Cabell County Deed Book 8, at page 507 on August 26, 1844, the details of this conveyance are rather vague. What is clear, however, is that some amount of land was conveyed to Peter Clark in exchange for previous (and possibly ongoing) services. The exact acreage of which appears to be around 8,500 acres (including previous conveyances). As the year 1844 drew to a close, Eunice Chapman was the owner of, based upon given acreages and outconveyances, five tracts of land which had been reduced from a claimed acreage of 225,000 acres to 152,480 acres.

The year 1849 would prove to be perhaps the most pivotal in the history of the grants. The first action is rather innocuous, at least at first appearance. By deed dated November 3, 1849 and recorded in Cabell County Deed Book 10, at page 181, the Guyandotte Land Company was formed. Three men are listed as trustees of the corporation: Henry McFarlan, Lyman Denison and Edgar J. Barton. As is often the case, little is known about these men. Supposition would indicate that they are all lawyers working out of Philadelphia (my belief) or New York City (where Eunice Chapman is identified as making her residence). I believe that Eunice and George Chapman had some connection to these men (or more likely their firm). Unfortunately the records are such that any connection that may exist is lost to history. Now that the corporation was formed (under the laws of Virginia) it could legally own property within the state.

This deed is the first in a series of deeds recorded in Cabell County Deed Book 10 that act to convey various interests in the Smith Patents to the Guyandotte Land Company. This is why the articles of association are recorded in this Deed Book. This is an unusual practice, as the actual articles of confederation would already be part of the public record in Richmond. But, we must remember that these men are about to acquire a large amount of land and are doing everything possible to ensure that title to this land will rest entirely in the hands of the Guyandotte Land Company. The deed is several pages long, going into great detail about how shares of the company will be divided among investors, and also lists some of the investors, including Peter Clark and Eunice Chapman. They were compensated with shares of the corporation in exchange for their legal interests in portions of the Smith Grants. For example, Peter Clark received 8,500 shares in the corporation (apparently one acre of land equated to one share) while others received unidentified compensation.

Although the Articles of Association identified some of the individuals who owned portions of the Smith Grants, the Articles DO NOT actually convey any interests to the Guyandotte Land Company. This must be done in the typical manner, a deed conveying any interest in the subject parcel of land from the Grantor (the seller) to the Grantee (the buyer or
recipient). So, it is no surprise that the deeds recorded directly after the Articles of Association in Cabell County Deed Book 10 do just that. All these deeds (as well as the Articles of Association) bear the same instrument date (November 3, 1849), although they were recorded at slightly different times. The first deed is from Peter Clark to Henry McFarlan, et al., trustees of the Guyandotte Land Company and recorded in Cabell County Deed Book 10, at page 185. This deed immediately follows the deed where the Articles of Association of the Guyandotte Land Company is recorded. The next subsequent deed (Cabell County Deed Book 10, at page 188) conveys:

“...all rights...those four several patents of land...granted to Samuel Smith lying adjacent to and adjoining each other on Guyandotte (River), Mud (River), and 12-Pole (Twelevepole Creek);... issued on patents that contain 379,000 acres of land...”

(Cabell County Deed Book 10, at page 188)

This deed is from Eunice Chapman to Henry McFarlan, et al., trustees of the Guyandotte Land Company and conveys her ¼ interest in 4 grants made to Samuel Smith based upon surveys that contain 379,000 acres. This deed has caused much confusion in the past due to this seeming disparity in acreages between the deed from which Eunice Chapman received the property (five tracts containing 225,000 acres) and the deed where she sold four tracts containing 379,000 acres. Again, this is an instance where different acreages are used for the same property. The 225,000 acre figure has been explained previously. The 379,000 acre figure originates from the original grants made to Samuel Smith by the Commonwealth of Virginia. Each tract that was surveyed for Smith actually contained more land than he was entitled to via his Treasury Warrants. For example, the survey of Smith’s 120,000 acre tract (Exhibit 1) actually encompassed 206,000 acres. 86,000 acres of this figure were already claimed by others, thus giving Smith his legally allotted 120,000 acres. Thus, the 379,000 acres figure was obtained by adding the surveyed acreages of the parent parcel of land that each of Smith’s grants was based upon.

<table>
<thead>
<tr>
<th>Exhibit #</th>
<th>Surveyed Acreage</th>
<th>Prior Claims</th>
<th>Acreage Granted to Smith</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit #1</td>
<td>206,000</td>
<td>86,000</td>
<td>120,000</td>
</tr>
<tr>
<td>Exhibit #2</td>
<td>55,502</td>
<td>24,502</td>
<td>31,000</td>
</tr>
<tr>
<td>Exhibit #3</td>
<td>62,651</td>
<td>29,651</td>
<td>33,000</td>
</tr>
<tr>
<td>Exhibit #4</td>
<td>55,502</td>
<td>24,502</td>
<td>31,000</td>
</tr>
<tr>
<td>Totals</td>
<td>379,655</td>
<td>164,655</td>
<td>215,000</td>
</tr>
</tbody>
</table>

Eunice Chapman’s conveyance to the Guyandotte Land Company did not include her interest in Smiths 10,000 acre grant that she had received from George Chapman. It is unknown what she did with the tract, although it may be assumed that it was disposed of in a similar arrangement as that described here, although to a different corporate owner. It makes sense that the 10,000 acre tract would not be included in any transaction involving Smith’s four grants on the Guyandotte and Mud Rivers and Twelvepole Creek as it was many miles away and bore no connection to the four grants that were transferred.

Several other deeds to the Guyandotte Land Corporation from various individuals who apparently had obtained partial interests from the previous owners were also recorded. These deeds mirrored that of Peter Clark’s in that shares in the corporation were exchanged for their
interests in the Smith Grants. Thus, by the end of 1850 the four Samuel Smith grants that are the subject of this thesis were vested in corporate hands.

Most of the land within the grant was still wilderness, although settlers had began to build communities within the boundaries of the grants. Many of these settlers were unaware of the existence of the Smith Grants, and bought and sold property as if they owned it. Individuals that were aware of the large land grants simply ignored the fact that others owned the property they were settling. These “squatters” could be problematic for a large absentee landowner. A squatter could “adversely” possess a parcel of land that someone else owned if the true owner, through inaction or lack of knowledge about the squatter’s presence on his land, permitted the squatter to stay on the land for ten years. By failing to notify the squatter that they were trespassing, the true landowner is making a de facto conveyance of the property to the squatter. In other words, by not forcing the squatter to leave or seeking legal action to remove them within a period of ten years, the true owner is in essence giving the squatter the land they have settled upon. In 1850, this was not yet a problem for the Guyandotte Land Company, as access to the region was still limited to foot or horseback travel and some river travel via canoes on the rivers. In later years, however, steps would be taken to ensure that the Guyandotte Land Company’s successors would not lose any property to squatters without a fight.
CHAPTER V

Early History of the Samuel Smith Land Grants: 1850-1890

The fact that Smith’s four grants were contiguous made them highly valuable. Obvious resources upon the property were extensive, consisting of timber and coal. Less obvious but hinted at based upon “sheens” floating on several streams within the property indicated the presence of large quantities of oil and gas beneath the surface. The virgin forests consisted of chestnut, elm, walnut and other valuable hardwoods, as well as vast stands of softwoods such as pine and hemlock. As mentioned previously, several outcrops of coal were known to be on the property, indicating that large quantities of coal could conceivably be mined. However, since the lack of good transportation from within the grant limited the ability of large bulk goods such as coal to be transported efficiently, the area remained relatively unsettled. Settlers did begin entering the area, however, and began to establish communities and homesteads in the productive soils adjacent to the river.

Advances in transportation would later have an effect upon the property, as well as the Guyandotte Valley as a whole. The Guyandotte River today bears little resemblance to the river known to these early pioneers. The R.D. Bailey Dam, in Wyoming County, controls flows on the Guyandotte. This lessens flooding during the late winter and spring months. The dam also releases a constant flow of water year-round. Early pioneers had no such structure. Rivermen (along the Guyandotte River) was able to transfer some goods up and down the river, however seasonal low flow and rapid sections prevented this from being reliable year-round. Dams (called splash dams) were constructed on tributaries of the river and allowed to create small ponds. Timber would be cut during the winter months and at times of low water levels and dragged to the edge of the creek or river. In the spring, heavy rains would fill the splash dams, which would then be breached in order to wash or “splash” the stockpiled timber downstream to the river. Logs that had been allowed to accumulate on the river bank during low-water periods could now be floated, as well. This timber was moved downriver via large assemblies of logs lashed together with chains or ropes into “rafts”. The lumberjacks and timber men would ride the rafts downstream, staying onboard the rafts in small housing structures called “arks”. These rafts of logs were floated down the Guyandotte to the Ohio, where they might continue downstream as far as Cincinnati for final processing.

The earliest known transportation of coal down the Guyandotte occurred in 1853, when coal was transported from Branchland (in Lincoln County) downstream. (1913 West Virginia Geological Survey, 28). Coal began being mined on a commercial scale here by 1855 and was shipped down-river via flat boats (1913 West Virginia Geological Survey, 16-17). It becomes clear that this is probably one of the driving factors that led to the formation of the Guyandotte Land Company and their attempts to clarify their claims to land in this region. We can only assume that mining activities that were occurring were permitted by the Company, which probably permitted lands to be leased for mining and timbering activities. Documentary evidence of this is sketchy; however some deeds refer to prior agreements that, while not on public record, appear to have involved conveyances of timber or coal rights.

The years between 1850 and 1865 were relatively quiet until the Civil War commenced. The Civil War’s effects were minor upon the land of the Smith Grants, as no known skirmishes or war activity occurred. It is safe to assume that the Guyandotte River valley was used as a
transportation corridor, as reports of Confederate groups using this route to reach southern Virginia are well known. The Civil War may have slowed business within the region from the perspective of the Guyandotte Land Company, as nothing happened with their property (at least according to surviving records) during this period.

After the Civil War concluded, the region was ripe for development. During the War, the Kanawha Valley’s resources had been fully realized, and attempts to make the New River and the Kanawha amenable to navigation would soon begin. Riverine transport continued to be the only practical way to move coal out of the property owned by the Guyandotte Land Company. It was during this time that the Company made an interesting decision. The Company decided to sell a portion of their property.

Specifically, the Guyandotte Land Company entered into an agreement with Gustavus A. Sacchi, of New York City, to sell him 100,000 acres of the Smith Grants. Unfortunately the deed is illegible in some places. It appears that the selling price of this property was $205,000.00 dollars “…lawful money of the United States of America” (Cabell County Deed Book 15, at page 104). Adjusted for inflation this would be approximately $3,950,000 in 2004 dollars. Although the deed does not give a specific reason for why this portion of the property is being sold, the deed is very specific on several issues:

“…the said parties of the first part (the Guyandotte Land Company) do grant unto the said party of the second part (Gustavus A. Sacchi) all their one hundred thousand acres of land lying the in State of West Virginia now owned in fee simple by the parties of the first part, being the northeasterly portion of the tract which comprises four contiguous surveys made for General Samuel Smith, late of the City of Baltimore, and on which four several patents were granted by the State of Virginia to said Smith dated on the Sixteenth day of June Seventeen hundred and ninety-six, and the others the twenty-ninth day of June Seventeen hundred and ninety-seven; said one hundred thousand acres is bounded and described as follows:

BEGINNING at the most northerly corner of said tract at a beech and buckeye near Charley’s Creek, so called a branch of Mud River, which trees were marked as an original corner to one of the four Smith Survey’s viz: the Mud River Survey (Exhibit #2); thence S 33°E 2,980 POLES by the easterly line of said Mud River survey to a stake near Turkey Creek (so called), another branch of said Mud River and near the house of the late Richard McCallister and standing in the place where a large poplar stood which was marked as an original corner of said Mud River survey, also as the beginning corner of said Smith’s upper or large survey (the 120,000 acre tract, Exhibit #1), and also an original corner of a survey of 100,000 acres made for Elijah Woods; thence southerly by the westerly line of said Woods survey and (being) the easterly line of said Smith’s upper or large survey (the 120,000 acre tract) to a point from which a line extended due west until it strikes the Guyandotte River, shall embrace within the lines before described and that portion of said Smith’s northerly lines which lie east of the Guyandotte River one hundred thousand acres owned by the parties of the first part in fee simple at the delivery of this deed; thence northerly down the river to the northerly line of said Smith’s survey (this is the northwesterly line of Smith’s 33,000 acre grant and is just upstream of where West Virginia Route 10 crosses the Guyandotte River at Salt Rock – see Exhibit 3); thence northeasterly along said last mentioned line (this is actually parts of TWO lines; the northwesterly line of Smith’s 33,000 acre grant (Exhibit #3) and the northwesterly line of Smith’s 31,000 acre grant (Exhibit #2) and known as the Mud River Survey) to the place of beginning
It being the intention of the parties of the first part by these presents to convey to the party of the second part his heirs and assigns the one hundred thousand acres owned in fee simple by the parties of the first part which lie in the most northerly and northeasterly portions of the said four contiguous surveys, and lie east of and adjoining the Guyandotte River…

(Cabell County Deed Book 15, at page 104)

This description leaves much to be desired. It requires that the reader first be adequately familiar with the Smith grants in order to recognize the individual parcels without specifically identifying them. It is also surprisingly non-specific, given the extensive verbiage and “legalese” found in all other deeds involving the property up to this point. It is also only an approximation of the actual acreage being transferred, since lacking specific bearings and descriptions it would be impossible to calculate the actual acreage being conveyed. In fact, without a map of the area it would be impossible for someone without a map of the area to approximate where this 100,000 acre tract’s boundaries are. This is most likely intentional.

(Title Map of the Coal Field of the Great Kanawha Valley)

The map printed above may help explain the seemingly vague description of the land being conveyed to Sacchi. This map, dated 1867, purports to show the boundaries of many of the land grants made in what is now West Virginia during the 1700's. Smith’s 31,000 acre tract, 33,000 acre tract and the 120,000 acre tract (Exhibit #’s 2, 3, and 1, respectively) are clearly visible, as is the Elijah Woods 100,000 acre grant (on the east side of the Smith 120,000 acre grant, it faintly resembles the letter “C” (both are outlined in red)). Note the large tracts outlined in blue that seem to overlap both Smith’s and Woods’ grants. These are portions of land granted to “Beech & Norton”, and have dates of survey dated January 2, 1795. Thus, the Beech & Norton grants apparently preceded both the 100,000 acre Elijah Woods grant (survey dated February 12, 1795) and Smith’s 120,000 acre grant (survey dated July 8, 1795) as well as Smith’s 31,000 acre tract
(survey dated October 12, 1795). Henry McFarlan and Lyman Denison (Edgar J. Barton was now deceased) as the remaining trustees of the Guyandotte Land Company may have been aware of these (and other) apparent conflicts and feared that an actual field resurvey of the boundary would reveal this apparent overlap. (Indeed, the overlap between the Smith 120,000 grant and the Elijah Woods 100,000 grant will be discussed later). We know that a deed recorded in Cabell County Deed Book 10, at page 190 refers to an unidentified “agreement” between the Guyandotte Land Company and the North American Land Company, as successors to Levi Hollingsworth. This agreement, which is not described, was apparently arranged in order to resolve overlap issues between the Smith Grants and the Hollingsworth grants. Beech & Norton may have been involved with the North American Land Company and thus the grants are shown as Beech and Norton’s. Levi Hollingsworth received many thousands of acres in “small tracts”, usually 1,000 acres, which aggregated into many thousands of acres. No known map exists (at least on public record) purporting to show the Levi Hollingsworth grants. By simply referring to Woods 100,000 acre grant, the implication is that is does indeed extend to the Woods’ 100,000 acre grant and that the apparent overlap issue has been resolved. After all, Smith’s deed calls for the Elijah Wood’s 100,000 acre grant as being its easterly limit, clearly establishing that Woods’ grant is senior. Unfortunately, without further information we simply can’t know for sure.

Fortunately, a map DOES exist that can definitively show the lands conveyed to Gustavus A. Sacchi, as shown below:

(Map of the “Twelve-pole and Part of the Guyandot Basins…Of the Guyandot Coal Land Assoc.”)

On the map, the area outlined in red and identified as “Lands of the Prentice Coal Land Association – 100,000 acres” is intended to represent the lands that were at one time conveyed to Gustavus Sacchi. We are left to wonder why the trustees of the Guyandotte Land Association elected to sell a sizable portion of their holdings in the Smith Grants to someone else. Perhaps this portion was deemed less valuable, and the offer of $205,000 was too good to pass up (incidentally, adjusted for inflation this would be at least $3,950,000 in 2004 dollars).
The deed also states, no less than three times, that the property is owned by the Guyandotte Land Association in fee simple, and is a conveyance of said property in fee simple. “Fee” ownership means that all aspects of the property are included. In other words, fee ownership includes mineral rights, timber rights, surface rights etc. A fee simple conveyance transfers all rights to the property to the new owner. Since the Guyandotte Land Association had taken careful steps to insure that they did indeed own the property in fee (the original grants from the state of Virginia were fee conveyances) we can be confident that they felt they had the legal right to do so. Thus Sacchi had every reason to believe that he was receiving exactly what was promised, the 100,000 acres of land with no identified encumbrances. It is very important to note, however, that the Grantors (the Guyandotte Land Company) do not warrant the title to the property. In other words, the Guyandotte Land Company makes no claims to the validity or the accuracy of the title to the property they are conveying to Gustavus Sacchi. They are leaving all responsibility for any future legal action that may arise to Gustavus Sacchi.

This may have played a part in this conveyance. This portion of the Smith Grants contains the best farmland within the whole tract. The extensive bottomlands adjoining the Mud River and the Middle Fork of Mud River had already attracted many settlers who were living in the area that would become parts of Lincoln and Putnam counties. I believe that this fact made the Guyandotte Land Association “motivated” sellers. Perhaps they foresaw the extensive legal battles that would occur if they attempted to remove people that had been dwelling and conveying property in this area (since at least 1855, when Griffithsville was founded) and chose to instead transfer the problem to someone else and focus on protecting their interests in the sparsely populated portion of the property west of the Guyandotte River, where coal outcrops of several different seems were know to exist and large stands of timber were still untouched. Although coal was present (and being mined to some extent) within the boundaries of this 100,000 acre conveyance in 1865, perhaps it was felt that this area would be less productive than that area west of the Guyandotte River.

The exact details of what happened are unknown. It appears that Gustavus Sacchi immediately transferred his ownership to that of a corporation formed to manage the lands. “The Patent Oil, Coal and Lands Association of the Guyandotte” was his land-holding corporation. No conveyances are on record showing that this corporation ever conveyed any property. We do know that Sacchi apparently had a mortgage on this property and, approximately one year later he defaulted on his payments and the land reverted to the holders of his mortgage, who apparently formed the Lincoln County Land Association in order to manage the property. This entire conveyance (except for a small portion in the northern part of the tract) was in Lincoln County. Unfortunately (although very fortunate for some) the Lincoln County Courthouse burned to the ground as a result of arson in 1909, destroying all deeds and other records that had been recorded up to that date. The only deed relating to Gustavus Sacchi is a deed that was re-recorded after the fire and conveys all interests, due to default, to George L. Estabrook and Sabin W. Colton, Jr., as trustees, apparently for the Lincoln County Land Association, although as will become apparent Estabrook and Colton were also involved in other properties and other trusts. Suffice to say, legal title to approximately 100,000 acres of the Smith Grants located east of the Guyandotte River, after briefly passing through the hands of Gustavus Sacchi, reverted back to a land company.

The remainder of the Smith Grants was still held by the Guyandotte Land Company, at least for a few more years. What follows is based solely upon what is recorded in Wayne County Deed
Book 31, at page 205 and dated January 6, 1890. The purpose of this deed is to vest title from Abiel A. Low, et al. to Jed Hotchkiss. However, in order to do that to the satisfaction of Jed Hotchkiss, a well renowned Civil War soldier, cartographer and land speculator who acquired vast tracts of coal lands on the New River after the Civil War. This deed recites the history of how Abiel A. Low et al. came into possession of a westerly portion of the Smith Grants through deeds and trusts that were not made public record until the day this final deed (Deed Book 31, at page 205) was recorded. This leaves a title that can be very confusing to follow, with many deeds filed simultaneously conveying interests from one trust to another trust and then to a third trust; while each trust is composed of the same people. The deed itself “jumps around” within the several trusts, as well, leading to more confusion about who is granting what to whom. I will attempt to clarify what happened and why.

By a deed dated November 18, 1868, Henry McFarlan, now acting as receiver of the Guyandotte Land Company; conveyed to Gustavus A. Sacchi:

“…all those four certain tracts or parcels of land which were granted to Samuel Smith by the Commonwealth of Virginia, by four several patents…”

This deed conveys the westerly portion of the Samuel Smith Grants to Gustavus Sacchi. This would be all of the land contained within the Smith Grants that is west of the Guyandotte River. Basically, he received the remainder of the Smith Grants, vesting in Gustavus Sacchi sole ownership of the Smith Grants in two separate parcels, a 100,000 acre portion (everything east of the Guyandotte River) and a 200,000 acre portion (everything west of the Guyandotte River). The deed continues:

“…and also all those several tracts or parcels of land lying within the limits of the said four surveys, or of any of them, which have been from time to time conveyed by different persons to the trustees of the Guyandotte Land Company aforesaid by sundry deeds of conveyance duly recorded…”

Other parties had conveyed any interests they had in the Smith Grants to the Guyandotte Land Company, and this deed purports to convey these interests, as well, to Gustavus Sacchi. This apparently refers to the interests conveyed by Eunice Chapman, Peter Clark and others to the Guyandotte Land Company in 1849 and 1850. The deed continues:

“…and also all such mineral rights and privileges on lands lying within the limits of the said four surveys or of any of them as have been from time to time conveyed by different persons to the trustees of the Guyandotte Land Company aforesaid, or reserved by the said Trustees on lands conveyed by them by sundry deeds of conveyance duly recorded…”

This portion of the deed conveys all mineral interests owned by the Guyandotte Land Company to Gustavus Sacchi, as well as any mineral interests conveyed by other parties to the Guyandotte Land Company. This portion of the deed was technically unnecessary, as the Guyandotte Land Company had not conveyed any mineral interests to any other parties nor received any mineral interests, at least according to available, public records. This simply serves to re-iterate that the conveyance from the Guyandotte Land Company to Gustavus Sacchi is a fee conveyance and includes all rights that the Guyandotte Land Company is entitled to. The deed continues:
“...and also all those several tracts or parcels of land lying within the limits of the said four surveys or of any of them, which have heretofore become vested in the trustees of the Guyandotte Land Company aforesaid, or in any of the persons from or through whom the said trustees have derived title to the land hereby conveyed, or to any part thereof, by the operation of the several acts of the General Assembly of Virginia, relating to delinquent and forfeited lands...”

This portion of deed conveys all interests that the Guyandotte Land Company, or any of its trustees, have received as a result of legislation enacted by the Virginia General Assembly. This is a direct reference to the laws adopted to allow the state to sell any of the large land grants made in the 1700’s on the basis of non-payment of taxes. This refers to the actions by Marvin McNulty and George Chapman, acting through James McCormick, taken to purchase the property from the Commonwealth of Virginia for non-payment of taxes in the late 1830’s. Again, this reference is included to ensure that all rights and interests that vest in the Guyandotte Land Company, through any and all deeds of conveyance to the Guyandotte Land Company, are transferred to Sacchi.

The above mentioned interests, which occupy 2 ½ pages in Wayne County Deed Book 31, are summed up as follows:

“...it being the intentions of the said parties of the first part (the Guyandotte Land Company) to convey to the said party of the second part all the lands and mineral rights and privileges lying within the limits of the said four surveys or of any of them, to which they are in any way entitled in law or equity at the time of the delivery of this indenture...”

The Guyandotte Land Company is conveying any and all interests it has in the four Samuel Smith Grants to Gustavus Sacchi; but the deed continues:

“...excepting and reserving from the said conveyance...”

The deed now lists all those that have received property from the Guyandotte Land Company over the intervening years. Since this property no longer belongs to the Guyandotte Land Company, it has no legal right to sell it. This concept is very basic and makes perfect sense: you can’t sell something you no longer own. The Guyandotte Land Company then identifies several tracts that have been sold from within the boundaries of the Samuel Smith Grants. These include the 100,000 acre tract discussed previously conveyed to Gustavus Sacchi and a 2,000 acre tract conveyed to Thomas Price and Helen Price, his wife. This tract was subsequently conveyed by the Prices to the Cincinnati and Guyandotte Manufacturing and Mining Company and is generally believed to be timberlands adjacent to the Guyandotte River south of West Hamlin, in Lincoln County. These are the only conveyances expressly named within the body of the deed, which also includes any other conveyances made by the Guyandotte Land Company to other individuals or corporations as may be found on public record. The deed further explains that Gustavus Sacchi is receiving this land in trust in exchange for the sum of $320,000 dollars. This figure acts as a “mortgage” on the property, ensuring that if Sacchi fails to pay the full sum the property will revert back to the Guyandotte Land Company. What follows within the body of the deed is very confusing, as it seems to indicate that Henry McFarlan, in his capacity as trustee of the Guyandotte Land Company, will not be held personally responsible or liable for paying the money. The deed reads:
“...but without any personal responsibility or liability on the party of the first part, (assumed to be referring to Henry McFarlan in his capacity as trustee of the Guyandotte Land Company) his heirs or assign for the payment of the said sum of three hundred and twenty thousand dollars or the interest on the same or any part thereof, or for any other charges or payments whatever...”

As mentioned earlier, Gustavus Sacchi apparently defaulted on paying the sum of $320,000 (specific reference is made to 640 stock certificates valued at $500.00 each as evidence that the sum was not paid), which, according to the trust agreement between the Guyandotte Land Company and Gustavus Sacchi required that the property be sold. Now we have Henry M. Alexander acting as trustee (presumably for the Guyandotte Land Company, but this is not specifically noted) who:

“This...and whereas the said Henry M. Alexander, trustee, thereupon proceeded to execute said trust by duly advertising the time, terms and place of sale in the New York Evening Post, a newspaper published in the City of New York, three times a week for six weeks, and did also in lake manner advertise the time, terms and place of sale, which place was therein declared to be in the City of Wheeling at the front door of the Court House of the County of Ohio, in the city of Wheeling and State of West Virginia, the time of sale being fixed for September 12, 1872, and the terms thereof cash, according to the requirements of the laws of the State of West Virginia...”

Thus Henry Alexander, after advertising in the New York Evening Post for six weeks the time and place designated for the sale (Wheeling, Ohio County, West Virginia; on the Court House steps) prepared to auction the property to the highest bidder. One immediately wonders why it wasn’t sold in Charleston or Guyandotte (which in 1872 was a thriving town), which would have enabled investors or private land owners that lived in the area to bid on the property. It would seem that the land was sold in Wheeling to allow as many people from New York City and Philadelphia, Pennsylvania to attend while simultaneously preventing anyone from southern West Virginia, the area wherein the property was located, from attending the auction. This was a common tactic for many of these so-called public auctions of West Virginia land. Wheeling at this time was the most populous city in West Virginia, a thriving port city, as it was at the terminus of the National Road and also linked to Baltimore via the Baltimore and Ohio Railroad. Thus investors from the eastern seaboard could reach Wheeling relatively easily, while anyone from southern West Virginia faced a lengthy (and expensive) journey by foot or horseback or by steamboat to reach Wheeling. The property would be sold:

“This...specially subject to all outstanding or conflicting valid titles or valid adverse possession, and to all arrears of and current taxes, whether state, county or municipal, proposing to sell only such title as he (Henry Alexander, as trustee) had as such trustee and none other and without warranty expressed or implied for any purpose...”

It would seem that claims were already being made by squatters and others who had been living upon the property, in some cases for many years. The sale at auction was thus being made with no warrants of title and in spite of any legal actions that may be ongoing or pending. The auction was only conveying the interests that Henry Alexander, acting in his capacity as trustee, was entitled (and thereby able based upon previous conveyances) to sell to any potential buyer.

It is somewhat standard practice to commence an auction of this type at noon. While we don’t know the exact time the auction started, we do know that it continued until “late in the afternoon”, when:
“...William H. Aspinwall and Abiel A. Low, parties of the second part being the highest bidders purchased the said real estate subject to all the limitations, conditions, and obligations herein before declared and set forth, at and for the sum of thirty-five thousand dollars, which sum was then and there paid to the said Henry M. Alexander, trustee, by the said Aspinwall and Low...”

William H. Aspinwall and Abiel A. Low were two of the wealthiest men of their time. Both were the head of their respective shipping houses and were related by marriage. Aspinwall had pioneered the use of “Clipper” ships, designing the Sea Witch, which set the record for fastest round trip to the Orient. To move freight from the Orient to the east coast. He had also been awarded a contract to deliver mail from the east coast to the west coast by the U. S. Government. This contract, which had been offered to other shippers and was considered to be a waste of money; consequently Aspinwall was the only bidder. Upon winning the contract he began the work of constructing a rail line across the Isthmus of Panama while his clipper ships began delivering the mail to California by traveling around South America, almost bankrupting his company in the process. However, when his rail line was finished he was in the perfect position to take full advantage of gold fever that began as a result of the discovery of gold in California in 1848. His route was the fastest way to get from the east coast to the west coast and in conjunction with his shipping route transported many thousands of hopeful individuals to the region. Abiel A. Low was also a shipping magnate who, according to some sources, made his money by smuggling opium as well as transporting legitimate cargo. He knew the far-east trade well, having spent three years in the Orient as a young man working for a shipping company. It goes without saying that both men had the means to pay not only the outstanding debt on the property but also the fees involved in any impending litigation.

Thus a deed (dated September 12, 1872) was soon drafted that conveyed all interests in the Samuel Smith Grants vested in Henry M. Alexander, as trustee, to William H. Aspinwall and Abiel A. Low for the sum of $35,000. This deed was admitted to record in Cabell County on October 25, 1872. This explains how the property became vested in Aspinwall and Low. However, there was still the matter of the conflicts that existed between those with adverse possession claims and Aspinwall and Low as owners (and trustees) of their portion of the Samuel Smith Grants. Wayne County Deed Book 31, at page 205 continues:

“...and whereas, since the receipt and acceptance of said deed by said William H. Aspinwall and Abiel A. Low, they have, or they and their successors in the title have executed and delivered by their attorney in fact from time to time various deeds for the purpose of compromising, quieting and settling adverse claims to parts of the premises so conveyed to them...

Aspinwall and Low took the immediate step of appointing power of attorney to James I. Kuhn (Wayne County Deed Book “P”, at page 66) in order to facilitate the manufacture and transfer of deeds to individuals who were adversely claiming land within the boundary of the Samuel Smith Grants. This was a fortuitous decision, as William H. Aspinwall died unexpectedly in 1875, leaving Abiel A. Low and William H. Aspinwall’s heirs to manage the property. Kuhn operated brilliantly, agreeing to survey and sell the surface of the individual lands within the boundaries of the Samuel Smith Grants claimed by various people while simultaneously reserving all rights to the minerals lying beneath the surface. These were uneducated people who had no idea that many of them could have gained legal title to the land they were living on by claiming it under adverse possession. Kuhn was able to not only retain the most valuable portions of the property (the
mineral rights) for Aspinwall and Low, but to also alleviate some of the tax burden they (Aspinwall and Low) would have been required to pay on all the acreage they owned. A search of the Grantor Books for “Aspinwall and Low” in Wayne, Logan and Mingo Counties will reveal many listings. In Wayne County alone, Aspinwall and Low, through James Kuhn, sold the surface of at least 214 separate tracts that contained, in aggregate over 23,000 acres (Wayne County Grantor Book “A”). Kuhn was sure to retain the mineral rights to each of these separate parcels. As mentioned earlier, the Lincoln County Courthouse burned in 1909, so very few conveyances from Aspinwall and Low are present. That is, except for those that is among the first deeds re-recorded after the fire, bearing dates from 1872 that act to re-establish the chain of title for the Samuel Smith Grants. Perhaps the best display of his work is the map already cited above that purports to show “the Location of the Coal, Oil, Gas and Timber Lands of the Guyandot Coal Land Association”, dated 1892. The Guyandot Coal Land Association is a successor in title to the Smith Grants. On this map, areas shaded with red hatching indicate fee ownership. Areas shaded with blue hatching indicate mineral ownership. Areas that have red cross-hatching indicate areas where only surface interests are owned.

Wayne County Deed Book 31, at page 205 continues, indicating that by deed dated December 11, 1883 Abiel A. Low et. al (the others being Low’s wife, Anna and the heirs of William H. Aspinwall and the trustees of his estate) conveyed all their interest in the Smith Grants to Abiel A. Low, John A. Aspinwall and Benjamin F. Butler to act as de facto trustees for the benefit of each other as well as the unnamed members of the trust (which were the other heirs and assignees of William H. Aspinwall), this action did not revoke the Power of Attorney given to James I. Kuhn,
and he continued his work as before. This deed was signed and witnessed in May of 1884, but was supposed to have been recorded simultaneously with the deed found in Wayne County Deed Book 31, at page 205.

By yet another deed dated December 11, 1883 Abiel A. Low, John A. Aspinwall and Benjamin F. Butler convey all of their interests, as trustees, in the Samuel Smith Grants to Abiel A. Low et Al in order to confirm that they are the legal owners of the land conveyed from Henry M. Alexander, trustee, to William H. Aspinwall and Abiel A. Low by deed dated September 12, 1872 (the deed they received after purchasing the property at auction). This deed continues, stating that the land is placed in trust:

“...And whereas the said real estate has been and to some extent still is in litigation, in the progress of which litigation a large number of judgments have been obtained and in relation to which certain terms of accommodation and settlement have been agreed on but remain to a great extent to be executed and carried out; And whereas, it is deemed necessary and proper, in order to facilitate the further and final settlement of the title to the whole of the said real estate and the execution of the said agreements of accommodations, that the legal and equitable title to the said real estate should be transferred to and vested in the parties of the first part in trust for the use and benefit of the parties of the second part...”

The deed continues, going into precise detail to explain how trustees are appointed. However, the real purpose of the deed is to vest all interests held by all the heirs and assignees of William H. Aspinwall and Abiel A. Low into the three trustees (Abiel A. Low, John A. Aspinwall and Benjamin F. Butler). Unfortunately, Benjamin Butler died sometime in 1885, leaving a title issue that had to be resolved by the New York Supreme Court. Fortunately, the deed found in Wayne County Deed Book 31, at page 205 concludes with one final deed, dated January 6, 1890, between all the heirs and legally appointed trustees (Abiel A. Low et al) conveying all of their interests in the Samuel Smith Grants to Jed Hotchkiss, of Staunton, Virginia for the sum of $75,000 paid that day while the grantors (Abiel A. Low et al) reserved a vendor’s lien against Hotchkiss for the additional sum of $375,000. Bringing the “grand total” paid by Hotchkiss for approximately 200,000 acres of the Samuel Smith Grants to $450,000 (approximately $8,677,000 in 2004 dollars). Thus Jed Hotchkiss had all legal (and therefore marketable) title and rights to all land within the Samuel Smith Grants located on the west side of the Guyandotte River that had not been conveyed to anyone else to settle claims against Aspinwall and Low.
CHAPTER VI

History of the Samuel Smith Land Grants: 1890-Present

Jed Hotchkiss, for whatever reason, did not own the property for any length of time before he, too, conveyed his interests in the property to another. In fact, the records indicate that by the time the deed in which Hotchkiss received the property (Wayne County Deed Book 31, at page 205) had been recorded on May 8, 1890, he had already sold the property by deed dated January 15, 1890 and recorded in Wayne County Deed Book 29, at page 501. Thus, he apparently sold the property before he actually purchased it. Clearly, this is another instance where, in the confusion of multiple transfers between what various heirs and assignees of William H. Aspinwall and Abiel A. Low, the deeds of conveyance were simply recorded out of sequence. While this further complicates the work of anyone attempting to trace the history of the conveyances, the fact that the deeds were recorded acts to maintain the chain of title from Aspinwall and Low to Hotchkiss.

It is relatively safe to assume that Hotchkiss purchased the Smith Grants as an agent for the individuals he immediately sold the property to. Although Hotchkiss had invested heavily in coal lands on the New River after the Civil War, by 1890 he was working as a consultant for investors from Philadelphia, Pennsylvania. These investors were from the banking firm of E. W. Clark & Company. Enoch White Clark had founded his banking company early in the 1800’s, and made his fortune by inventing the method of selling bonds to finance various governmental efforts that is still in use today. His company managed these bond sales, for which he obtained a commission. This company managed, through several different corporations, vast acreages of West Virginia real estate in the late 1800’s and early 1900’s. E.W. Clark and Company controlled companies such as the Guyandotte Coal Land Association, Guyandot Land Association, the Lincoln County Land Association, the Flat Top Coal Land Association, the Pocahontas Coal Land Association and the Crozer Land Company, among others. E.W. Clark & Company was also heavily invested in both the Norfolk and Western Railway and the Chesapeake and Ohio through the Pennsylvanian Rail Road, which secretly had controlling interests in both the Norfolk and Western and the C & O. I believe that E. W. Clark & Company may have also controlled the Guyandotte Land Company from its inception as a subsidiary corporation.

Their method of operation was relatively simple. E.W. Clark & Company would create, through the West Virginia Secretary of State’s Office, a new corporation headed by three trustees who would manage the corporation. The corporations formed under the laws of the State of West Virginia could buy and sell land, as well as enter into contracts and do everything a resident was entitled to do. The trustees were attorneys who were members of Clark’s firm. From their offices in Philadelphia, they managed sundry properties in West Virginia through local attorneys hired to act as their agents. These “land companies” would then lease the rights to mine and develop portions of their properties to individuals or other companies who would actually handle the physical work of mining or, in the case of oil and gas operators, prospecting. In his book “The Smokeless Coal Fields of West Virginia”, William P. Tams, Jr., who was a coal land owner/operator in the Winding Gulf region of Raleigh County (at the headwaters of the Guyandotte River) described the way a “typical” coal lease was structured, based upon a lease with the Beaver Coal Land Company:
“… it called for the (1) the payment of all taxes by the lessee, (2) payment of 10 cents per gross ton for coal mined, (3) payment of $7.50 per acre minimum royalty per annum whether coal was mined or not, (4) use of timber under 10” diameter for mining purposes, and (5) an accurate survey by the lessee of the leased property.”

(Tams, Jr., 31)

It is likely that the Beaver Coal Land Company was also a subsidiary of E.W. Clark & Co., as well, as the company was headquartered in Philadelphia and managed by “trustees” (Tams, 30). Records seem to indicate that E.W. Clark and Company controlled in excess of 1.5 million acres of West Virginia real estate through various subsidiaries in the early 1900’s. This figure is based upon an analysis of various land grants that were conveyed to various corporations in the late 1800’s, corporations that were all formed and managed in eerily similar ways and in some instances by the same trustees.

What is known is that by deed dated January 15, 1890 (this is but nine days after the deed granting the Smith Grants to Jed Hotchkiss was authored) and recorded February 10, 1890 (almost three months before the deed that conveyed the property to Jed Hotchkiss from Aspinwall and Low was recorded), Jed Hotchkiss conveyed to Stephen A Caldwell, Edward W. Clark and William Justice, as trustees for the Guyandotte Coal Land Association (alternately called the Guyandotte Coal Land Association), all of his interests in the Smith Grants that he had received from Aspinwall and Low. This deed also places a figure on the conveyed acreage, indicating that it encompasses 200,000 acres, being the portion of the Smith Grants located west of the Guyandotte River. It appears that the Guyandotte Coal Land Association was proactive in defending its claims to the land (and more importantly, the minerals underneath). In 1892 the company produced a map that purports to show all the lands then owned by them. This map, referenced above in the discussion of the 100,000 acre easterly portion of the Smith Grants, is perhaps one of the finest examples of such a map ever produced. Through the use of shading and hatching, the map provides an easy to understand “overview” of ownership within the tract. It clearly illustrates that the company had benefited greatly by the settlement deeds and agreements made by James Kuhn, acting as attorney-in-fact for Aspinwall and Low. The vast majority of the tract, which stretches from the Guyandotte River to the headwaters of the West Fork of Twelvepole Creek as well as the headwaters of Laurel Fork of Pigeon Creek of Tug Fork, is hatched either red or blue. The blue hatching, indicates areas where the company owns mineral interests only indicate that residents were living in this area and agreed to buy, in exchange for relinquishing any mineral claims, the surface rights to the areas they were living in. Areas that the company owned in fee indicate regions that were not settled and thus the company was able to retain both surface and mineral rights in these areas. This map also indicates that the Guyandotte Coal Land Association owns “four-twenty-fifths” of the Prentice Coal Land Association, which may be construed as confirmation that, although listed as being owned by separate entities on public record, the same individuals have controlling interests in both corporations.

It is safe to assume that this map was not intended for public use or display. The only known copy of this map is found as part of the A. P. Sinnett Collection in the West Virginia Museum of
Culture and History in Charleston, WV. Abel Propst Sinnett was a surveyor who was involved in the retracement of many of the land grants in the Kanawha, New, and Guyandotte Valleys for various land companies in the mid to late 1800’s. He was personally involved in litigation, as surveyor for Aspinwall and Low, as they sought relief against various individuals who had acquired property within the boundary of the Smith Grants, unaware of their senior title. His maps and notes are a unique resource that, given the veritable “goldmine” of information contained therein, are rightly being protected by the Archives staff to prevent portions of the collection from being stolen or destroyed if access to the collection was not monitored.

Activity within the land owned by the Guyandotte Coal Land Association continued, and conveyances and leases were made throughout the late 1800’s and into the early 1900’s. It is important to remember that approximately ½ of the Smith Grants owned by the Guyandotte Coal Land Association was in Lincoln County. When the courthouse burned in 1909, all records of conveyances to and from the Guyandotte Coal Land Association (as well as the Guyandot Land Association and, more importantly, the Lincoln County Land Association) were destroyed. Only those that were re-recorded by landowners and/or the corporation are currently available. During this time the Guyandotte Coal Land Association was dissolved and re-incorporated as the Guyandot Land Association, with Herbert L. Clark, Edward W. Clark 3rd and George L. Estabrook as trustees.

The Lincoln County Land Association appears to have been relatively busy during this period; however few records of its actions exist. The 100,000 acres that it controlled (via the conveyance from Gustavus Sacchi) were largely settled in the mid-1850’s, which drove the company to seek ejectment proceedings against all those living upon property that the Lincoln County Land Association claimed. These actions were brought about because the Lincoln County Land Association (the plaintiffs) claimed that, due to the actions of the individuals named in the proceedings (the defendants) they (the plaintiffs) were suffering because the defendants were living on land owned by the plaintiffs. This land was, of course, the 100,000 acre portion of the Smith Grants.

A typical ejectment proceeding involved a representative of the plaintiffs attempting to gain entry to property being used by the defendants (but claimed by the plaintiffs). Just the presence of someone living upon the property is perceived by the courts as preventing the “lawful” owner from using the property as they see fit. The plaintiff could then make a claim of damages owed to them as a result of the defendants act of trespassing upon the property. If the court ruled that the defendant was indeed preventing the plaintiff from the free and unencumbered use of his property, the defendants would be liable for any damages sought by the plaintiff (and approved by the court), as well as surrendering the property in question.

In 1912, George L. Estabrook and Sabin W. Colton, Jr., as citizens of Pennsylvania and Trustees of the Lincoln County Land Association, brought a claim against Charles Honaker and 36 others seeking relief for trespassing upon their lands, specifically the 100,000 acre portion of the Samuel Smith Grants. This was not the only claim Estabrook and Colton sought through ejectment against individuals residing on portions of the Lincoln County Land Associations 100,000 acre portion of the Samuel Smith Grants. The pleading then describes the property, using the various versions of the property descriptions that had been used when the property was conveyed to them. It seems to be the intent of the pleading to treat each different version of the 100,000 acre tract as a separate parcel, as Estabrook and Colton place a value of $5,000 (this is
equivalent to $96,414.00 today) upon the “damage” they (the Lincoln County Land Association) have incurred due to the actions (trespassing) performed by the defendants. Three separate counts are entered against the defendants; each count corresponds to an alternate description of the property obtained from Gustavus Sacchi. The first count claims to be for trespassing upon a tract containing 110,000 acres. However, the description is identical to that listed earlier as a more accurate interpretation of the land conveyed to Gustavus Sacchi by Henry McFarlan and Lyman Denison. Count 2 involves trespassing upon a tract of 100,000 acres that is identical to the description used to convey the parcel from Henry McFarlan and Lyman Denison to Gustavus Sacchi. Count 3 involves trespassing upon the same tract described in Count 2, only with the addition of mentioning the adjoining grants at the boundary corners. As mentioned above, Estabrook and Colton each claim damages, from each defendant, in the amount of $5,000 dollars for each count (or $15,000 dollars per defendant). In 2004 dollars, this equates to $289,000 dollars per defendant for all three counts. Multiplied by the number of defendants (37) this would equal a sum of $10,701,954 dollars. A very large sum by today’s standards, and a king’s ransom in 1912.

Of course, the true intent of Estabrook and Colton was not to receive damages from each defendant but rather to allow the suit to be brought in order to “leverage” the defendants. The Lincoln County Land Association would then offer to sell each defendant the surface of property they were using (that is, the portion of the Smith Grants that the defendant was “trespassing” on) in exchange for a small sum (generally one dollar per acre). The Lincoln County Land Association then surveyed the property and drafted a new deed that conveyed the surface of the new parcel to the defendant. However, the Association reserved any and all mineral rights for themselves. When faced with the choice of being required to pay $15,000 dollars restitution or a few hundred dollars to receive clear title to land they were already using, most defendants acquiesced and “purchased” the property that they thought they already owned and surrendered the rights to any minerals.

This is where the destruction of the Lincoln County Courthouse by fire in 1909 is so important. Since all the deeds were destroyed, the legal chain of title for each property owner was also destroyed unless they could produce their original deed. The only documents to survive the fire were the Land Books. These books were used by the Assessor’s office to record tax assessments. They listed, by district within the county, each parcel and information about ownership and valuation for tax purposes. Thus, these records could have been used by citizens to verify that they had been paying taxes on the land they believed they owned and establishing that they had adversely possessed it by paying taxes upon it and improving it. Unfortunately, it seems that in most cases this was not accomplished.

As has so often been the case, little is known about George L. Estabrook. He is undoubtedly a lawyer employed by E.W. Clark and Company, but beyond this nothing else is known. He is also listed as a trustee of the Guyandot Land Association a few years later. However, we do know a good bit about Sabin W. Colton, Jr. because his son (Harold S. Colton, who was a pre-eminent archaeologist specializing in the Native American tribes of the American Southwest) authored a biography of his parents many years after their deaths. Sabin started working at E. W. Clark & Company in 1862 as an office boy. He later became a clerk (which was the equivalent of a lawyer) for the company. He purchased a seat on both the Philadelphia and New York Stock Exchanges. In 1879 he was invited to join E. W. Clark & Company as a partner. There is no information about all of the duties that he had, although it seems that in his capacity as a trustee for various land and railroad ventures on behalf of E. W. Clark and Company that he became quite wealthy.
When he elected to retire from the firm in 1909, according to his son, he calculated that his combined net worth was $4,637,019 dollars, which today would be the equivalent of $89,415,173 dollars. He continued to maintain an office in Philadelphia near the Clark offices in order to participate in continuing affairs he had with the firm (as evidenced by the above-referenced ejectment suits). (North of Market Street, Harold S. Colton)

It appears that these ejectment suits were further attempts to solidify the title to as much of the land contained within the Samuel Smith Grants as possible. This large tract, with acreages varying from 379,000 acres, 300,000 acres and 215,000 acres had been composed of four separate tracts. 100,000 acres was conveyed to Gustavus Sacchi in 1865, who by default conveyed it to the Lincoln County Land Association. The remaining 200,000 acres (so described) passed into private hands before it returned to corporate hands. Finally, in 1916 the two separate parts of the Samuel Smith Grants were “reunited”. By deed dated May 25, 1916 (and recorded in Wayne County Deed Book 101, at page 111) Herbert L. Clark, Edward W. Clark 3rd and George L. Estabrook conveyed all of their interests as trustees of the Guyandot Land Association to the Huntington Development and Gas Company, which was a formed as a Delaware corporation for tax purposes and was authorized to do business in West Virginia. This deed was recorded on June 27, 1916. Another deed, dated June 1, 1916 and recorded in Wayne County Deed Book 101, at page 168 conveys all interests (although without warranty of title) from Herbert L. Clark, Edward W. Clark 3rd, and George L. Estabrook; as Trustees of the Guyandot land Association and also conveys all interests from George L. Estabrook and Herbert L. Clark as Trustees of the Lincoln County Land Association to the Huntington Development and Gas Company and was recorded June 30, 1916

“...all that certain tract or parcel of land situate in the Counties of Lincoln, Putnam, Cabell, Wayne, Mingo and Logan in the State of West Virginia bounded and described as follows...

The deed then describes, by what appears to be a relatively recent (at that time) resurvey, a new and unified description of all four tracts of the Samuel Smith Grants. It starts at the mouth of Big Creek on the Guyandotte River and in all purport to encompass 330,000 acres. Once again, we find an acreage number that is inaccurate. It would appear that this deed is referencing the combined acreage calculation of all nine parcels that were owned by Samuel Smith at the time of his financial difficulties in 1820, not the four tracts that are actually being conveyed and that the Guyandot Land Association and the Lincoln County Land Association had title to.

The Huntington Development and Gas Company would take an aggressive approach to development on the Smith Grants. They actively drilled many gas wells and continued the practice of selling surface interests while retaining any and all mineral rights. Mining also continued on both the Guyandotte River and on both forks of Twelvepole Creek. The installation of the Guyandot Branch of the Chesapeake and Ohio Railroad in 1903 had the effect of opening the entire Guyandotte River Valley coalfields, and soon coal trains began hauling vast quantities of coal down the Guyandotte Valley for shipment to other parts of the country, and even the world, a process that continues today.

In 1946, in a corporate restructuring move, the Huntington Development and Gas Company was dissolved and conveyed all of its interests (which included much more than “just” the Samuel Smith Grants) to the United Fuel Gas Company by deed dated December 26, 1946 and recorded December 27, 1946 in Wayne County Deed Book 234, at page 318. The United Fuel Gas Company continued the drilling and exploration legacy started by the Huntington Development
and Gas Company, although they did not continue the practice of selling surface interests as had been done previously.

In 1970, the United Fuel Gas Company was dissolved and all assets were transferred to Columbia Gas of West Virginia, Inc. by deed dated October 1, 1970 and recorded in Wayne County Deed Book 398 at page 12 on October 6, 1970. This conveyance transferred all lands and interests to Columbia Gas. A later deed from United Fuel Gas Company to Columbia Gas Transmission Company (dated June 30, 1971 and recorded on August 4, 1971 in Wayne County Deed Book 403 at page 569) conveyed all transmission assets including pipelines, compressor stations and other physical plant structures.

Columbia Coal Gasification would be created in the late 1970’s to purchase coal lands in Wayne and Lincoln Counties. Many of these properties were purchased using the “straw party” technique in an attempt to prevent drawing undue attention. The name of this subsidiary indicates the purpose of these coal purchases. Due to the oil crisis during the 1970’s, all attempts were made to develop new ways to produce gasoline. Coal was looked at as one alternative. The original intent was to acquire lands that adjoined Columbia’s fee and minerals lands. In conjunction with the additional purchases made the Columbia Coal Gasification, the coal would then be extracted and used to develop gasoline. However, the oil crisis lessened the potential for profits in this sector, and Columbia Coal Gasification, which was apparently operating in conjunction with Exxon, sold their mining interests to Rocksprings Developments (Energy Information Administration, 1993). The company retained all of its property purchases that were not involved in this one, limited interest. Later, Columbia Coal Gasification was merged with Columbia Gas of West Virginia to create Columbia Natural Resources, Inc. These areas, as well as adjacent areas within the boundary of the Samuel Smith Grants in Lincoln, Wayne, Mingo and Logan counties have been and continue to be extensively mined utilizing both underground and surface mining techniques.

Later, Columbia Natural Resources, Inc. and Columbia Gas Transmission (both part of the Columbia Energy Group) were purchased by Nisource, Inc. in the mid 2000. This was a rocky marriage, since many at CNR felt that Nisource did not operate the company’s exploration and production group effectively. Eventually, Nisource sold Columbia Energy Resources, the holding company for Columbia Natural Resources, to Triana Acquisitions, LLC in 2003. Triana Energy was formed with venture capital from Morgan Stanley, and is headed by many former Columbia Natural Resources, Inc. corporate officers. The future seems bright for CNR, Inc. now, as the company has taken measures to streamline production and begin aggressive exploration in areas of proven reserves.

But, the future for the many citizens that live within the boundaries of the Smith Grants is less certain. Extensive surface mining in the southern portion of the tract continues, advancing south and west. Columbia Natural Resources, Inc. now focuses on natural gas production/exploration, having sold their surface interests to the Forestland Group, among others, as well as selling their coal assets to others. The local citizenry receives some benefit from this, as local individuals work at the various coal mines and are employed in other extractive industries like timbering and natural gas development. However, this area continues to be one of the poorest in the state, with subpar schools and living conditions. While they are told that the immediate development of “their” natural resources is important to the state of West Virginia and the nation, the sad fact is that once these resources are gone, all opportunity for using a fair portion of these proceeds to improve the educational system in this area will be gone, too.
(View from the Vance Cemetery, looking south, at the head of Andy Branch, in Mingo County. This area is currently being surface and contour mined by Argus Energy WV, LLC)

View from the Vance Cemetery, looking south toward Alex, Andy, and Mare Branches. The two hilltops in the distance have been cleared of all valuable timber in advance of surface mining operations.
(View from the Vance Cemetery, looking north, at previously mined and reclaimed areas at the heads of Copley Trace Branch and Laurel Branch, in Lincoln County).

(View of the Vance Cemetery, from coal mine haul road visible in the previous photograph).
CHAPTER VII

Economic Considerations

Perhaps the most obvious result of this system is that surface owners are unable to benefit from the mineral wealth that is beneath their surface property. This wealth can be considerable, especially as the demand for coal, oil and especially natural gas continues to rise almost exponentially. But, until the late 1880’s mineral production and natural resource development within the Samuel Smith grants was limited by a lack of reliable transportation of large quantities of bulk commodities like coal and timber. The first coal to be mined commercially within this region was in 1855 (West Virginia Geological Survey, 17). The only method available to transport this coal was via flatboats on the Guyandotte River. The coal industry in this region did not begin to be extensively developed until the introduction of the C & O Railroad in 1903. After the railroad became fully developed, coal and timber were shipped out while goods and citizens were transported into what would become the West Virginia coalfields.

Development of oil and gas resources within the Samuel Smith grants began to occur in the early 1900’s, when gas wells were drilled near Dunlow and Branchland (West Virginia Geological Survey, 281). The information found in the 1913 West Virginia Geological Survey – Cabell, Lincoln and Wayne counties contains very descriptive information about the various strata involved in oil and gas production within much of the study area. However, since the development of the field was very much in its infancy, records were limited. Fortunately, cooperation with private companies was good at this point in West Virginia’s history, and they willingly provided well logs and other information produced during well drilling and exploration to the state for inclusion and further analysis. Each well log was recorded in the book produced for Cabell, Lincoln and Wayne counties. The well records include information such as name of the well, the owner/developer of the well and geological information such as depths and well elevation. This information correlates very well with previous analysis of surface and mineral ownership within the Smith Grants.

The individual well records begin in Cabell County. The reader finds a good variety of individual land owners and drilling companies. Generally, one landowner appears to have drilled as many wells as possible on his/her property, in conjunction with a driller or oil and gas company. The predominate well developers are the Harshbarger Oil and Gas Company, the Great Kanawha Oil and Gas Company, the Charley Creek Oil and Gas Company and several others. The majority of these wells are shown to be in Grant District (128 out of 149 wells listed, or 86%). Generally, these wells are ~2,000’ deep and were targeting the Berea formation. Grant District encompasses much of eastern Cabell County in the area around Milton, and most of these early wells were seeking oil, not gas, however the majority of these early wells produced both. Other wells drilled in Cabell County at this time were evenly distributed, with a majority in McComas District, which encompasses the southeastern tip of the county in the Salt Rock area (West Virginia Geological Survey, 289-295. Many of these wells were dry, and produced neither oil nor gas. As mentioned previously, several different companies are listed as having interests in the various wells that were drilled upon individual landowners property.
A very different distribution is evident in Lincoln County. The most noticeable difference is the number of wells drilled in Lincoln County (625) versus the number drilled in Cabell County (149). There are two reasons for this disparity. The first involves the oil boom that swept the Griffithsville area of Lincoln County in the early 1900's. This led to the drilling of many wells within the Duval district (magisterial district that contained the Griffithsville oil field) within a very short time. The 1913 West Virginia Geological Survey report lists 422 wells (68%) drilled in Duval District, with the large majority producing oil. But, an interesting trend is readily apparent. The majority of these wells are owned by companies. Also, many are drilled in close proximity to each other on the same surface tract.

The predominant companies within the Duval oil field were The Big Creek Development Company and South Penn Oil Company (the predecessor to Pennzoil). Other companies operating in the region, although relatively minor players were the Holley Oil and Development Company, the Ohio Fuel Oil Company and the United Fuel Company. As the Yawkey and Freeman Coal Company had been proactive in acquiring coal lands in the area, they were uniquely well-positioned to exploit the discovery of oil in the region, which necessitated the creation of a second company to prospect and develop the oil and gas. This company, the aforementioned Big Creek Development Company (named for lands located on Big Creek of Guyandotte River) was extremely successful in this endeavor. Much of the lands that Big Creek Development Company had acquired in the years preceding the discovery of oil were originally part of the Elijah Woods 100,000 acre grant. As mentioned previously, the Lincoln County Land Association was attempting to claim mineral ownership to the common boundary line between the Samuel Smith 120,000 acre grant and the Woods 100,000 acre grant. This line cuts through the middle of the Griffithsville Oil Field, however the larger portion is to the east of this line and thus outside the
property of the Lincoln County Land Association. That is, unless this line could be moved further east, as the Lincoln County Land Association claimed it should be, despite pre-existing documented proof of ownership and occupation by others. Of course, when the Lincoln County Courthouse was destroyed by fire in November 1909 most of these records were destroyed.

The second factor in well development in Lincoln County is a direct result of the large parcels of land owned by the Guyandot Land Association and the Lincoln County Land Association. Specifically, an analysis of the other wells that were drilled prior to 1913 indicates a clear relationship between the location of wells drilled and specific landowners. The individual listings of well names indicates that corporate ownership is prevalent in the western and southern portions of the county. Many wells are found on the lands of the Guyandot Coal Land Association on various separate tracts. In fact, more than ½ of Harts Creek District is owned, either in totality or in mineral interest only, by the Guyandot Coal Land Association. A similar trend is also visible in Laurel Hill District. As mentioned previously, no known maps exist that identify specific tracts of mineral and fee ownership within the boundaries of the Lincoln County Land Association. However, by examining the names of various owners, we see several names repeated over and over. Specifically, United Fuel Gas Company, Columbia Gas and Electric, Duval Oil Company (who controlled a large lease just south of Griffithsville on a portion of the Elijah Woods 100,000 acre grant) and the Big Creek Development Company.

These companies were prospecting not only lands owned by them, but were also drilling wells on privately owned property in exchange for lease agreements where the landowner received a monthly royalty payment in exchange for allowing the drilling company to produce, market, and transport the gas or oil to end users. The royalty payment may have been no more than free gas for the landowner to use in their home. Or, a combination of free gas and a royalty payment. However, some companies, not wanting to deal with providing free gas to a landowner that could otherwise be sold, only provided royalty payments. Of course, this only applied if the landowner owned both the surface and mineral rights to their property. If they only owned the surface, however, the landowner would be extremely lucky to receive anything at all. Since the land company owned the minerals and the right to access them, there was no requirement to financially compensate the surface owner for the removal of these resources. The unfortunate result of this situation was that a landowner may have productive well on their property, yet they received none of the financial benefits from it. This is a situation that continues today, as Columbia Natural Resources, Inc. controls most of the natural gas rights within the Smith Grants west of the Guyandotte River, and a large (although impossible to determine based solely on public records) portion of the minerals within the Smith Grants that lie east of the Guyandotte River.

While the 1913 West Virginia Geological Survey is very informative, it is also very dated. To gain a better understanding of the issue today, more work is required. I chose to focus solely upon gas well production. This data is available through the West Virginia Department of Environmental Protection (WVDEP). Through the use of Geographic Information Systems (GIS) and publicly available datasets, in conjunction with shapefiles that I created I have attempted to provide a brief synopsis of the value these wells have today.

The first step in this analysis was to determine how many wells are within the study area. Although paper maps exist at WVDEP, these maps are not updated frequently. Also, they are based upon USGS 7.5’ quadrangle mapping and would have required the purchase of 24 separate
maps to cover the entire study area. WVDEP also realized the problem this presents and have recently produced a GIS dataset that contains information about all the wells drilled in West Virginia. This data set contains records on 136,881 individual well and includes locational information for each well, well name, and the responsible party in charge of maintaining and controlling the well. After creating a shapefile that shows the outer boundary of the Samuel Smith Grants, I used this shapefile to “clip” the larger, statewide well dataset into a more manageable layer that included only those wells that were within the Smith boundary. Through the use of GIS, this is a simple process. The new layer (patent_clip) eliminated all wells that were not in the study area. This reduced the total number of wells to a more manageable 4,112 gas wells within the study area.

<table>
<thead>
<tr>
<th>County</th>
<th>Census Tract</th>
<th>Population</th>
<th>Mean Household Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cabell</td>
<td>105</td>
<td>4,004</td>
<td>$28,735</td>
</tr>
<tr>
<td>Cabell</td>
<td>106</td>
<td>5,372</td>
<td>$36,000</td>
</tr>
<tr>
<td>Tract Average</td>
<td>N/A</td>
<td>4,688</td>
<td>$32,368</td>
</tr>
<tr>
<td>Cabell County</td>
<td>N/A</td>
<td>96,784</td>
<td>$28,479</td>
</tr>
</tbody>
</table>

| Lincoln | 9554      | 6,096      | $27,292               |
| Lincoln | 9555      | 3,594      | $25,825               |
| Lincoln | 9556      | 5,088      | $23,429               |
| Lincoln | 9557      | 3,507      | $21,193               |
| Lincoln | 9558      | 3,823      | $16,706               |
| Tract Average | N/A  | 4,422      | $22,889               |
| Lincoln County | N/A  | 22,108     | $22,662               |

| Logan    | 9561.01    | 6,840      | $26,284               |
| Logan    | 9561.02    | 3,040      | $26,705               |
| Logan    | 9562      | 3,972      | $20,282               |
| Tract Average | N/A  | 4,617      | $24,424               |
| Logan County | N/A  | 37,710     | $24,603               |

| Mingo    | 9571      | 4,281      | $22,831               |
| Mingo    | 9572      | 3,565      | $26,667               |
| Tract Average | N/A  | 3,923      | $24,749               |
| Mingo County | N/A  | 28,253     | $21,347               |

| Putnam   | 207       | 4,534      | $42,705               |
| Tract Average | N/A  | 4,534      | $42,705               |
| Putnam County | N/A  | 51,589     | $41,892               |

| Wayne    | 205       | 4,948      | $33,036               |
| Wayne    | 208       | 4,484      | $27,337               |
| Wayne    | 209       | 3,058      | $23,308               |
| Wayne    | 210       | 3,544      | $21,264               |
Further analysis utilized this basic dataset. Additional datasets from the United States Census Bureau identified separate census tracts within each county that are used to track information including population and mean household income (MHI). This data provides basic information about the economics of each census tract, as shown above.

For analysis, each county was subdivided into its various census tracts. Only those tracts (or portions thereof) that were contained within the boundary of the Smith Grants were included for further study. The baseline information for each census tract (population, mean household income, and acreage within each tract) was obtained. Acreage values for each tract (that is, the size of each tract) were compared to the acreage for the portion of that tract that is within the boundary of the Smith Grant. This produced a value that was then multiplied by the population of each tract to derive a population value for that portion of a particular census tract within the Smith Grant, termed the “Smith Population”. For example, Cabell County Census Tract 105 has a population of 4,004, according to the 2000 census. Tract 105 covers an area of 24,925 acres, 8,209 acres of which are within the boundary of the Smith Grants. By dividing the value (8,209 acres) of the land area within the Smith Grants by the value (24,925 acres) of the entire tract, a percentage is derived (33%). By combining this value with the population of the entire tract I derived a theoretical number for the population of that portion of the census tract. In this case, 33% of 4,004 is 1,319 individuals. This number was used for later calculations relating to respective portions of individual census tracts within the Smith Grants.

As mentioned previously, I determined that 4,112 gas wells are within the boundary of the Smith Grants. However, not all of these wells are active. Many have been plugged or abandoned. Fortunately, the WVDEP database describes the status of each well. The database was also used to determine how many wells were in each county, as well as in each tract, and how many wells were within the boundary of the Smith Grants. These numbers were then used to determine the value of each well.

Of the 4,112 wells within the study area, only 2,077 (51%) are active and producing gas. 623 wells (15%) have been plugged and are no longer connected to any distribution system. 333 wells (8%) have been abandoned. The abandonment process can vary greatly. The well may have been shut down and disconnected from a distribution system. Or the well casing may have been cut off at or below ground level and plugged. Many of these wells were some of the first wells drilled in the county. They may have been “dry” holes, that is, no gas was produced in marketable quantities so the well was simply abandoned. 54 wells (1%) are listed as never drilled, which indicates they were permitted by WVDEP but for some reason were never drilled for production or exploration. 85 wells (2%) have a status indication of “N/A” which means that no information was available or that it was not applicable. 940 wells (22%) have no status indication, most likely because they were drilled before the requirement for well plats and permitting was enacted.

Only the wells that were listed as actively producing gas were used for analysis. By utilizing production records from WVDEP, I was able to calculate an “average” yearly production value (in Mcf – Thousand Cubic Feet, the usual measurement used for metering and marketing natural gas).
I created a dataset that listed only the active wells in each individual census tract. Examination of production records for a sampling of these wells were then used to derive an average yearly production, which was applied to each well in that particular census tract. This, in conjunction with the current market value of natural gas at the wellhead ($5.59 as of February, 2005) was used to create a yearly dollar value for gas production within each census tract. The severance tax (0.047 cents per Mcf) was then applied to the production value. This produced a value for the amount of tax paid upon the aggregate number of active, producing wells within the census tract. By subtracting the amount of tax from the initial production value, a net production value, in dollars, was derived. This number was then applied to the theoretical population within that portion of the Smith Grant to derive a value, in dollars, if each individual person received an equal share of the net production value. This was done in an attempt to quantify just how much money is produced by these wells and how this could impact the community, if the money was provided to each individual in order to use as they saw fit. I will now discuss each tract in detail, by county.

**Economic Analyses**

The portion of the Smith Grants within Cabell County is the third largest percentage of the six counties involved. 22,689 acres, divided between two census tracts (Tract 105 and Tract 106) compose a portion of the northwesterly part of the Smith Grants. This is approximately 6% of the total area within the Smith Grants. This area contains 311 wells that, by focusing on well status, can be broken down further into several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Tract</th>
<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
<th>N/A</th>
<th>&quot; &quot;</th>
</tr>
</thead>
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<tr>
<td>Cabell</td>
<td>106</td>
<td>193</td>
<td>85</td>
<td>54</td>
<td>42</td>
<td>0</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Cabell</td>
<td>105</td>
<td>118</td>
<td>37</td>
<td>14</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>62</td>
</tr>
<tr>
<td>County</td>
<td>N/A</td>
<td>1,092</td>
<td>422</td>
<td>259</td>
<td>110</td>
<td>11</td>
<td>39</td>
<td>251</td>
</tr>
</tbody>
</table>

The average yearly production of natural gas per well, in Mcf, for **Census Tract 105** was determined to be 1,005 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 105, this equates to a yearly production of 37,185 Mcf, with a dollar value of $207,864.15 and a yearly tax of $1,747.70. This creates a yearly net production (dollar value less severance tax) of $206,116.46. When the estimated population (2,166 individuals) of the portion of Census Tract 105 within the Smith Grant is multiplied by this number it produces an average of $874.28 per person.

The average yearly production of natural gas per well, in Mcf, for **Census Tract 106** was determined to be 2,447 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 106, this equates to a yearly production of 207,995 Mcf, with a dollar value of $1,162,692.05 and a
yearly tax of $9,775.77. This creates a yearly net production (dollar value less severance tax) of $1,152,916.29. When the estimated population (1,319 individuals) of the portion of Census Tract 106 within the Smith Grant is multiplied by this number it produces an average of $95.14 per person.

The portion of the Smith Grants within Lincoln County is the largest percentage of the six counties involved. 206,769 acres, divided between 5 census tracts (Tract 9554, Tract 9555, Tract 9556, Tract 9557, and Tract 9558) compose over half (57%) of the total area within the Smith Grants. Indeed, the area contained within the boundary of the Smith Grants comprises 74% of the surface area in Lincoln County. This area contains 2,710 wells that, by focusing on well status, can be broken down further into several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Census Tract</th>
<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
<th>N/A</th>
<th>&quot; &quot;</th>
</tr>
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<tbody>
<tr>
<td>Lincoln</td>
<td>9554</td>
<td>195</td>
<td>10</td>
<td>14</td>
<td>37</td>
<td>0</td>
<td>1</td>
<td>133</td>
</tr>
<tr>
<td>Lincoln</td>
<td>9555</td>
<td>566</td>
<td>139</td>
<td>73</td>
<td>52</td>
<td>3</td>
<td>4</td>
<td>295</td>
</tr>
<tr>
<td>Lincoln</td>
<td>9556</td>
<td>470</td>
<td>214</td>
<td>83</td>
<td>30</td>
<td>9</td>
<td>11</td>
<td>123</td>
</tr>
<tr>
<td>Lincoln</td>
<td>9557</td>
<td>378</td>
<td>293</td>
<td>39</td>
<td>28</td>
<td>4</td>
<td>8</td>
<td>6</td>
</tr>
<tr>
<td>Lincoln</td>
<td>9558</td>
<td>1,101</td>
<td>595</td>
<td>142</td>
<td>64</td>
<td>23</td>
<td>35</td>
<td>242</td>
</tr>
</tbody>
</table>

The average yearly production of natural gas per well, in Mcf, for Census Tract 9554 was determined to be 2,751 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (10) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9554, this equates to a yearly production of 27,510 Mcf, with a dollar value of $153,780.90 and a yearly tax of $1,292.97. This creates a yearly net production (dollar value less severance tax) of $152,487.93. When the estimated population (521 individuals) of the portion of Census Tract 9554 within the Smith Grant is multiplied by this number it produces an average of $292.84 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9555 was determined to be 2,201 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (139) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9555, this equates to a yearly production of 305,939 Mcf, with a dollar value of $1,710,199.01 and a yearly tax of $14,379.13. This creates a yearly net production (dollar value less severance tax) of $1,695,819.88. When the estimated population (3594 individuals) of the portion of Census Tract 9555 within the Smith Grant is multiplied by this number it produces an average of $471.85 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9556 was determined to be 8,688 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (214) in order to determine total production within the
Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9556, this equates to a yearly production of 1,859,232 Mcf, with a dollar value of $10,393,106.88 and a yearly tax of $87,383.90. This creates a yearly net production (dollar value less severance tax) of $10,305,722.98. When the estimated population (5,088 individuals) of the portion of Census Tract 9556 within the Smith Grant is multiplied by this number it produces an average of $2,025.50 per person. This is the only Census Tract located entirely within the Smith Grants boundary.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9557 was determined to be 9,897 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (293) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9557, this equates to a yearly production of 2,899,821 Mcf, with a dollar value of $16,209,999.39 and a yearly tax of $136,291.59. This creates a yearly net production (dollar value less severance tax) of $16,073,707.80. When the estimated population (3,488 individuals) of the portion of Census Tract 9557 within the Smith Grant is multiplied by this number it produces an average of $4,608.06 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9558 was determined to be 7,766 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (595) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9558, this equates to a yearly production of 4,620,770 Mcf, with a dollar value of $25,830,104.30 and a yearly tax of $217,176.19. This creates a yearly net production (dollar value less severance tax) of $25,830,104.30. When the estimated population (3,063 individuals) of the portion of Census Tract 9557 within the Smith Grant is multiplied by this number it produces an average of $8,362.80 per person.

The portion of the Smith Grants within Logan County comprises a small portion of the total land area within the Smith Grant. 12,407 acres, divided between 3 census tracts (Tract 9561.01, Tract 9561.02, and Tract 9562) comprise only 3% of the total area within the Smith Grants. This area contains 217 wells that, by focusing on well status, can be broken down further in to several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Census Tract</th>
<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
<th>N/A</th>
<th>(No Information)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Logan</td>
<td>9561.01</td>
<td>207</td>
<td>167</td>
<td>17</td>
<td>14</td>
<td>4</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Logan</td>
<td>9561.02</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Logan</td>
<td>9562</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>County</td>
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<td>1,533</td>
<td>868</td>
<td>277</td>
<td>138</td>
<td>49</td>
<td>156</td>
<td>45</td>
</tr>
</tbody>
</table>
The average yearly production of natural gas per well, in Mcf, for Census Tract 9561.01 was determined to be 11,982 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (167) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9561.01, this equates to a yearly production of 2,000,994 Mcf, with a dollar value of $11,185,556.46 and a yearly tax of $94,046.72. This creates a yearly net production (dollar value less severance tax) of $11,091,509.74. When the estimated population (1,550 individuals) of the portion of Census Tract 9561.01 within the Smith Grant is multiplied by this number it produces an average of $7,154.57 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9561.02 was determined to be 8,197 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (1) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9561.02, this equates to a yearly production of 8,197 Mcf, with a dollar value of $45,821.23 and a yearly tax of $385.26. This creates a yearly net production (dollar value less severance tax) of $45,435.97. When the estimated population (76 individuals) of the portion of Census Tract 9561.02 within the Smith Grant is multiplied by this number it produces an average of $596.96 per person. The reason for such low numbers is that only a small portion (221 acres) of this Census Tract is within the Smith Grants. This area is extremely rugged, which makes well development and exploration prohibitively expensive.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9562 was determined to be 7,254 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (8) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9562, this equates to a yearly production of 58,032 Mcf, with a dollar value of $324,398.88 and a yearly tax of $2,727.50. This creates a yearly net production (dollar value less severance tax) of $321,671.38. When the estimated population (246 individuals) of the portion of Census Tract 9562 within the Smith Grant is multiplied by this number it produces an average of $1,310.20 per person.

The portion of the Smith Grants within Mingo County comprises a small portion of the total land area within the Smith Grant. 21,745 acres, divided between 2 census tracts (Tract 9571 and Tract 9572) comprise only 6% of the total area within the Smith Grants. This area contains 152 wells that, by focusing on well status, can be broken down further in to several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Census Tract</th>
<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
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<th>(No Information)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mingo</td>
<td>9571</td>
<td>128</td>
<td>110</td>
<td>9</td>
<td>5</td>
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<td>4</td>
</tr>
<tr>
<td>Mingo</td>
<td>9572</td>
<td>24</td>
<td>18</td>
<td>5</td>
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<td>0</td>
</tr>
<tr>
<td>Mingo</td>
<td>N/A</td>
<td>1,630</td>
<td>954</td>
<td>236</td>
<td>180</td>
<td>34</td>
<td>146</td>
<td>80</td>
</tr>
</tbody>
</table>
The average yearly production of natural gas per well, in Mcf, for Census Tract 9571 was determined to be 13,359 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (110) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9571, this equates to a yearly production of 1,469,490 Mcf, with a dollar value of $8,214,449, and a yearly tax of $69,066.03. This creates a yearly net production (dollar value less severance tax) of $8,145,383.07. When the estimated population (1,145 individuals) of the portion of Census Tract 9571 within the Smith Grants is multiplied by this number it produces an average of $7,113.24 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 9572 was determined to be 11,178 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (18) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 9572, this equates to a yearly production of 201,204 Mcf, with a dollar value of $1,124,730.36, and a yearly tax of $9,456.59. This creates a yearly net production (dollar value less severance tax) of $1,115,273.77. When the estimated population (259 individuals) of the portion of Census Tract 9571 within the Smith Grant is multiplied by this number it produces an average of $4,304.13 per person.

The portion of the Smith Grants within Putnam County comprises a small portion of the total land area within the Smith Grant. 11,568 acres, entirely within one census tract (Tract 207) comprises only 3% of the total area within the Smith Grants. This area contains 104 wells that, by focusing on well status, can be broken down further into several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
<th>Census Tract</th>
<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
<th>N/A</th>
<th>(No Information)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Putnam</td>
<td>207</td>
<td>104</td>
<td>36</td>
<td>11</td>
<td>17</td>
<td>2</td>
<td>0</td>
<td>38</td>
</tr>
<tr>
<td>Putnam</td>
<td>N/A</td>
<td>1,328</td>
<td>747</td>
<td>266</td>
<td>124</td>
<td>33</td>
<td>21</td>
<td>137</td>
</tr>
</tbody>
</table>

The average yearly production of natural gas per well, in Mcf, for Census Tract 207 was determined to be 1,190 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (36) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 207, this equates to a yearly production of 42,840 Mcf, with a dollar value of $239,475.60 and a yearly tax of $2,013.48. This creates a yearly net production (dollar value less severance tax) of $237,462.12. When the estimated population (1,324 individuals) of the portion of Census Tract 9571 within the Smith Grant is multiplied by this number it produces an average of $179.31 per person.
The portion of the Smith Grants within Wayne County comprises a large portion of the total land area within the Smith Grant. 86,768 acres, divided between four census tracts (Tract 205, Tract 0208, Tract 0209 and Tract 0210) comprising 24% of the total area within the Smith Grants. This area contains 618 wells that, by focusing on well status, can be broken down further into several subcategories, as follows:

<table>
<thead>
<tr>
<th>County</th>
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<th>Wells</th>
<th>Active</th>
<th>Plugged</th>
<th>Abandoned</th>
<th>Never Drilled</th>
<th>N/A</th>
<th>(No Information)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wayne</td>
<td>205</td>
<td>29</td>
<td>16</td>
<td>7</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Wayne</td>
<td>208</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Wayne</td>
<td>209</td>
<td>348</td>
<td>182</td>
<td>104</td>
<td>20</td>
<td>6</td>
<td>6</td>
<td>30</td>
</tr>
<tr>
<td>Wayne</td>
<td>210</td>
<td>237</td>
<td>166</td>
<td>47</td>
<td>16</td>
<td>2</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Wayne</td>
<td>N/A</td>
<td>2,067</td>
<td>1,049</td>
<td>576</td>
<td>225</td>
<td>49</td>
<td>76</td>
<td>92</td>
</tr>
</tbody>
</table>

The average yearly production of natural gas per well, in Mcf, for Census Tract 205 was determined to be 3,908 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (16) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 205, this equates to a yearly production of 62,528 Mcf, with a dollar value of $349,531.52 and a yearly tax of $2,938.82. This creates a yearly net production (dollar value less severance tax) of $346,592.70. When the estimated population (308 individuals) of the portion of Census Tract 205 within the Smith Grant is multiplied by this number it produces an average of $1,123.97 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 208 was determined to be 0 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (0) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 208, this equates to a yearly production of 0 Mcf, with a dollar value of $0 and a yearly tax of $0. This creates a yearly net production (dollar value less severance tax) of $0. When the estimated population (260 individuals) of the portion of Census Tract 9571 within the Smith Grant is multiplied by this number it produces an average of $0 per person. It is worth noting that this Census Tract, due to rugged terrain, has experienced very little natural gas development/exploration, and all four wells in this Census Tract that are within the Smith Grants have been plugged.

The average yearly production of natural gas per well, in Mcf, for Census Tract 209 was determined to be 3,315 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (182) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 209, this equates to a yearly production of 603,330 Mcf, with a dollar value of $3,372,614.70 and a...
yearly tax of $28,356.51. This creates a yearly net production (dollar value less severance tax) of $3,344,258.19. When the estimated population (2,278 individuals) of the portion of Census Tract 209 within the Smith Grant is multiplied by this number it produces an average of $1,468.29 per person.

The average yearly production of natural gas per well, in Mcf, for Census Tract 210 was determined to be 18,605 Mcf based upon WVDEP production records. This number was then multiplied by the number of active wells (166) in order to determine total production within the Census Tract. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. For Census Tract 210, this equates to a yearly production of 3,088,430 Mcf, with a dollar value of $17,264,323.70 and a yearly tax of $145,156.21. This creates a yearly net production (dollar value less severance tax) of $17,119,167.49. When the estimated population (1,261 individuals) of the portion of Census Tract 210 within the Smith Grant is multiplied by this number it produces an average of $13,572.88 per person.

By far the largest single company with natural gas operations within the Smith Grants is Columbia Natural Resources, Inc. (CNR). A total of 4,112 wells are found within the Smith Grants. Only 51% (2,077 wells) of this total can be positively identified as actively producing gas. CNR operates 1,192 wells (57%) of this total. The average yearly production of natural gas per well, in Mcf, for the Smith Grants was determined to be 7,109 Mcf based upon the averages used previously that were derived from WVDEP production records. This number was then multiplied by the number of CNR’s active wells (1192) in order to determine an approximate total production within the Smith Grant. It is important to remember that these numbers are averages of several averages, and is almost certainly much lower than the actual amount. When this is applied to the current West Virginia severance tax of $0.047 per Mcf it generates the amount of severance tax paid on this total, yearly production. This equates to a yearly average production of 1,029,029 Mcf, with a dollar value of $47,368,841.07 and a yearly tax of $48,364.37. When the average estimated population (27,946 individuals) of the Smith Grants is multiplied by this number it produces an average of $1,693.28 per person.

CNR clearly benefits from its large mineral and fee interests. It is important to note that only active wells that are identified by WVDEP as being operated by CNR were used for this analysis. Of course, operation and maintenance of various pumping facilities and general well-tending operations cut into this amount. The average Mean Household Income (MHI) within the Smith Grants is $24,978.00 per year. This number may be artificially high, however, as relatively high MHI’s in Putnam and Cabell Counties somewhat offset the generally low values throughout the rest of the study area. Unfortunately, once the initial infrastructure for oil and gas development has been installed, it generally requires little maintenance or upkeep that could provide steady construction or other jobs to the local community. Pipeline rights of way are cleared, and well charts are maintained, but since the majority of the pipelines and other structures are underground, they are relatively safe from most environmental damage or vandalism. The pipelines generally have a “life expectancy” of 50 to 60 years, with many in the region currently older than that. What this means is that the company(ies) that reap the benefits of production of gas from this region do not need to invest much capital to maintain their cash flow. In other words, the large sums of
money generated from these wells are not recycled into the local community where it is first produced, but rather stays in the coffers of the company.
CHAPTER VIII

Discussion of the D. G. Courtney – Lincoln County Land Association Boundary Dispute

The Samuel Smith Grants are by far not the only large tracts of land in the Guyandotte and Mud River watersheds that were granted by the Commonwealth of Virginia to individuals. Several tracts are mentioned in the surveys conducted for Smith. However, the only deed that makes extensive mention of adjoining tracts is the 120,000 acre grant. The deed for this tract identifies adjoining tracts including the Elijah Woods 100,000 acre tract (located immediately to the east), the Richard Stockton 58,000 acre tract (located immediately to the southeast), the William McCleary 100,000 acre tract (apparently immediately to the south and east, sources vary upon the exact location) and the James Patton 50,000 acre tract (immediately to the west). These adjoining tracts, with the exception of the Elijah Woods tract, are not mentioned in any of Smith’s other deeds (the exception being the 31,000 acre tract granted to Smith on June 29, 1797). Clearly, they are mentioned in Smith’s 120,000 acre tract because these adjoining tracts are all senior in title to Smith’s 120,000 acre tract. By calling for these adjoining lines, the surveyor is accepting them as senior and is therefore using them to define Smith’s 120,000 acre tract.

This would later create a situation that is still a common occurrence; a boundary dispute. Disputes over boundary lines can be based upon many issues. Due to negligence or neglect, boundary line markers or monuments may be destroyed or “lost” over time. Later attempts to remonument this boundary with new markers may be in error, creating an incorrect retracement of the boundary. Adjoining landowners may also disagree upon the original location of a common boundary line, thus creating animosity that can be perpetuated for generations. Without the original monuments or boundary markers, surveyors must go “further afield” to locate monuments on adjoining surveys that can be used to calculate the correct position of the now missing original monuments for replacement. Adjoining deeds may create a conflict, however, and in this case the surveyor must carefully weigh the validity of each found monument in regard to all others, as well as to adjoining surveys, in order to perform his/her duty with due diligence.

Although public records concerning the Lincoln County Land Association are practically non-existent, we DO have a partial record of a boundary dispute involving the Smith 120,000 acre grant and the Elijah Woods 100,000 acre grant. The implications of this dispute are far reaching and currently impact activities upon the two respective tracts. This may also provide some insight into why it was beneficial to some parties that the Lincoln County Courthouse was destroyed. This involves briefly discussing the history of the Elijah Woods 100,000 acre grant. Much of the following documentary evidence comes from the report dated June 1, 1910 entitled “Survey of the Holmes 10,000 Acre Tract”, produced by Romine and Snider, Civil and Mining Engineers, for D.G. Courtney. The Romine and Snider report is an incredibly fascinating document which is over 200 pages in length and describes a resurvey of the D.H. Holmes 10,000 acre tract, which is claimed to be a portion of the Elijah Woods 100,000 acre grant. The Report includes a title history of the Elijah Woods 100,000 acre tract, as well as detailing all adjoining and adverse claims within the Holmes Tract.

The Elijah Woods 100,000 acre grant was originally granted by the Commonwealth of Virginia to Robert Young, who was acting as the assignee of Thomas Wilson, who was the Attorney-in-fact for Elijah Wood on November 26, 1795. This land was described as “being in the county of Kanawha on the lower side of Coal River, including some branches of Mud River” (Romine and
Snider, 1). The Report then lists the legal description of the tract and makes reference to a plat that is lost to posterity. Robert Young then conveyed this property, by deed dated January 21, 1796, to James Swann, who died “seized of this and other properties, which became forfeited to the Commonwealth” (Romine and Snider, 4). The report continues: “By a special act of the General Assembly of Virginia, dated March 15, 1838, the Commonwealth vested its title in John Peter Dumas, of Paris, France. Dumas, in turn, appointed James F. Meline, of Cincinnati, Ohio, his attorney-in-fact, to convey to Jean D. Homergue 20,000 acres of land in one single piece or lot to be taken out of a tract of 100,000 acres situate and being in the county of Kanawha, in the State of Virginia, on the lower side of Coal River, and on the Mud River…” (Romine and Snider, 4-5).

Homergue retained the property for several years, selling it in by deed dated December 16, 1844 to Eugene Levassor (Romine and Snider, 6); a French émigré who had fought under Napoleon and later became a successful Cincinnati businessman. Historical accounts indicate that Levassor retired from his business ventures in 1845; however he owned rental properties and several tracts of land, not only in Virginia but in the south and the west, as well. In 1847, however, Homergue learned from the Kanawha County surveyor that his 20,000 acre portion of the Elijah Woods grant was in fact overlapping portions of several older surveys (Romine and Snider, 6). Dumas then arranged to re-convey the 20,000 acre tract to Homergue utilizing an updated description that recognized the presence of these other surveys (Romine and Snider, 7-8). Homergue then re-conveyed the tract to Levassor utilizing the new description, as well. However, before the overlap was discovered, Levassor had already conveyed ½ interest in the 20,000 acre tract to Benoit Oscar Vignaud and Camilla Vignaud. Levassor then re-conveyed this ½ interest to the Vignauds utilizing the new description provided to him by Dumas (Romine and Snider, 6-8).

Now that the title issues were settled, Levassor and Vignaud could partition their mutual 20,000 acre tract. Since each owned a 1/2 interest in a 20,000 acre parcel, the logical step was to split the tract in half, with each party receiving a 10,000 acre tract as their ½ interest. John S. Cole, the Kanawha County surveyor at that time (and a very competent surveyor) was hired to perform the work of splitting the tract (Romine and Snider, 9). Romine and Snider do not provide the date of this partition survey. Two separate parcels were created and designated “Lot 1” and “Lot 2”. Eugene Levassor received “Lot 1”, while Vignaud received “Lot 2” (Romine and Snider, 9). As these were new surveys, they made reference to the adjoining parcels of other lands with senior titles, primarily the 50,000 acre Beech and Norton tract. “Lot 2” would become the “Holmes Tract” (Romine and Snider, 10), which was the purpose of Romine and Snider’s resurvey. The Vignaud heirs conveyed an undivided ½ interest in a tract of 20,000 acres to D.H. and D.H.J. Holmes by deed dated January 13, 1873 (Romine and Snider, 10). This conveyance utilized the old description for unknown reasons. Later, by deed dated February 24, 1884, the Vignaud heirs conveyed the 10,000 acre tract to the Holmes via the new, surveyed description (Romine and Snider, 10).

In 1887, the Holmes (who lived in Covington, KY and Cincinnati, OH, respectively) appointed E. D. Willett as their attorney-in-fact to represent their interests with regard to the 10,000 acre tract (Romine and Snider, 11). Upon inspecting the property, Willett discovered occupants upon the tract who were claiming to own portions of the property through various deeds. Willett proposed that severance deeds be conveyed to those who were adversely claiming portions of the Holmes 10,000 acre tract (Romine and Snider, 11). Romine and Snider’s report includes an example of one of these severance deeds. Typically, the Holmes would quit-claim the surface
portion of their property that the individual landowner was purporting to own, in exchange for keeping the minerals. The Holmes permitted the landowner to mine coal for home/domestic use, as well, but not for sale. According to Romine and Snider’s report, severance deeds were signed with 16 individuals that were claiming property adversely against the Holmes (Romine and Snider, 11-15). The Holmes conveyed the 10,000 acre tract (less the surface parcels conveyed in 1887) to D. G. Courtney by deed dated January 10, 1903. Courtney then employed C. H. Antill to “superintend” the property. Antill discovered additional individuals claiming property within the boundary of the Courtney (formerly Holmes) 10,000 acre tract (Romine and Snider, 16). Compromise/severance deeds in a similar fashion to those crafted in 1887 were utilized again to settle outstanding claims with several of these individuals. However, others refused and/or continued to claim fee ownership within the Courtney boundary. At this point, Romine and Snider resurveyed the Courtney tract, including all parcels that were adversely claiming a portion of the property. Their report first describes their re-survey of the work performed by A. C. Hilbert in 1887, providing detailed information about what monuments they recovered and the general condition of the field markings of the property boundaries. Then, their report contains the descriptions of each individual severance or compromise deed, as well as areas where disputes were unsettled. One of these disputes involved the Lincoln County Land Association.

This dispute was based upon differences of opinion concerning the original location of the common boundary between the Smith 120,000 acre grant and the Elijah Woods 100,000 acre grant. This line, which by deed is 6,330 poles long (104,761.5 feet, which is equivalent to 19.84 miles) originally extended “… from a poplar in a flat by a small branch of Mud River, corner to a survey of 100,000 acres made for Elijah Woods…” (Smith 120,000 acre grant and Woods 100,000 acre grant) to “…three black oaks on a ridge, corner to said Woods and also a corner to a survey of 58,000 acres made for Richard Stockton (also known as the “Benoist Survey”) (Smith 120,000 acre grant and Woods 100,000 acre grant). Of course, by the mid-1800’s these monuments had been destroyed or otherwise lost. Thus, the only way to determine the original boundary was to find at least one (but preferably more) corner(s) on either tract in order to calculate, as closely as possible, the original position of the missing deed monuments based upon the relative position of any recovered, adjoining tract monuments.

Romine and Snider, in a separate section of their report, discuss this dispute. They first include a copy of the original Smith 120,000 acre tract description, for comparison to the Elijah Woods 100,000 acre tract. They are identical in regard to the common line between the two tracts, as printed above. The Report also explains how the Lincoln County Land Association determined where their version of the easterly line of the Smith 120,000 acre grant was located.

Two sycamores were called for in the original deed “… on the bank of Guyandotte river and at the mouth of a large creek…” (Smith 120,000 acre grant). Woods’ 100,000 acre grant does not call for these trees, since Woods and Smith only share one common line, and the above referenced corner is two “calls” away from the common southerly corner between Smith and Woods (the three black oaks called for previously). The sycamores were destroyed (quite possibly by the construction of the Guyandot Branch of the C&O Railroad in 1903-1904), so the Lincoln County Land Association surveyors simply began at the mouth of the “large creek”, which is generally accepted to be Big Creek and reversed the two calls between the sycamores at the mouth of Big Creek and the three black oaks called for at the common southerly corner (Romine and Snider, 198). They then calculated the “original” location of the three black oaks. It is clear from Romine and Snider’s
report that they dispute this location. They claim to have found a person who claimed to have witnessed the original corner “…Morgan Spurlock, who was a resident in the vicinity of Left Fork near the mouth of Flat Creek, is the only man who ever claimed to have seen the original corner.” (Romine and Snider, 198-199), but they don’t elaborate on what he was able to tell them. Romine and Snider then state that the common Smith/Woods line had been located “…about three times, and has in every event been located an appreciable distance further west than it is now claimed by the Lincoln County Land Association. Hilbert (A. C. Hilbert, the surveyor whose boundary retracement work performed in 1887 was being repeated by Romine and Snider) located this line several years ago, and we think that his location practically coincided with the west Holmes Line” (Romine and Snider, 199). Remember, the west line of the Holmes/Courtney tract is also claimed to be the west line (and thus the common easterly line of the Smith Patent) of the Elijah Woods 100,000 acre survey. Basically, Romine and Snider are accepting the work the Hilbert performed earlier, based (we can assume) on the line markings and other evidence they recovered. They go on to state: “By referring to the map (Plat B), the line as claimed by the Lincoln County Land Association is shown and marked “red line or easterly line of Samuel Smith 120,000 acre survey located by the Lincoln County Land Association “N 7°42 ′ E 18,139 Ft. This distance is the distance between the Holmes Line”) (that is, the distance between the two westerly corners of the Holmes/Courtney Tract, supposed to be in the Westerly line of the Woods 100,000 acre tract) (Romine and Snider, 199).

Romine and Snider then simply state: ‘We do not think that the Lincoln County Land Association has any claim whatsoever on any of the land within this interlock, with the possible exception of a small part of the Anthony Lawson 3300 acre patent, which, we understand, lies partly within the Holmes 10,000 acres. It will be noted from the description given in the Elijah Woods patent that the bearing of the line between it and the Samuel Smith survey is N 5°W 6330 poles. It will also be noted that the bearing of the line is given in the description…(of the Holmes/Courtney tract) is N 9°W. We are unable to account for this difference. (Romine and Snider, 199). Anthony Lawson was a land speculator/investor active in the mid and late 1800’s in southern West Virginia. He obtained a junior grant on a tract of 3300 acres, which was located partially within the boundaries of both the Smith and Woods grants. Since this tract had been occupied, and was later purchased (or perhaps leased) by the Lincoln County Land Association, they may have had valid title to any portion of the Lawson 3300 acre grant that was within the Holmes/Courtney tract boundary. Portions of this interlock have recently been resurveyed by Augusta Land Consultants, Inc. of Danville, WV and are shown in the following portion of the map styled “Plat of Survey showing A Proposed 27.79 Acre Parcel, Prepared For Ark Land Company”. This map is part of a large body of work currently being performed in this area to determine the easterly boundary of the Smith 120,000 acre tract, as it defines the limits of Arch Coal’s mineral holdings/mineable acreage in this part of Lincoln and Boone Counties.
PLAT OF SURVEY SHOWING
A PROPOSED 27.79 ACRE PARCEL, PREPARED FOR ARK LAND COMPANY
SITUATE AT THE HEAD OF GRIDER FORK OF CONNELLY BRANCH OF MUD RIVER
JEFFERSON DISTRICT, LINCOLN COUNTY, WEST VIRGINIA
SCALE 1" = 500'
MARCH 9, 2004
Unfortunately, just as the section of Romine and Snider's report dealing with the Lincoln County Land Association overlap/interlock is "getting good", a problem is revealed. Specifically, the rest of this section is missing (intentionally redacted?) from this copy of Romine and Snider's report. The copy that I have access to, and that I have used for this research, was missing this vital portion when it was provided to J. Bruce Hager, PS.

Another interesting omission is found in the description of the Holmes/Courtney 10,000 acre tract as resurveyed by Romine and Snider. After reciting the previous deeds and legal descriptions of the tract in the report of survey, Romine and Snider then provide a new legal description of the property, based upon their resurvey. Since the Holmes/Courtney tract is essentially a large rectangle, there are only four lines that form the outer boundary. The southerly line of the Holmes/Courtney tract is described by Romine and Snider as being 22,790.2 feet long, with passing calls at each major stream crossing. Also, at 17,242 feet from the beginning corner, this line crossed the easterly line of the Smith 120,000 acre grant, as surveyed by the Lincoln County Land Association in 1909 (Romine and Snider, 19-20). This is the interlock/overlap. Romine and Snider's description continues to the southwest corner, then with the west line (which is supposed to be the common boundary line between the Smith 120,000 acre grant and the Woods 100,000 acre grant); thence 17,950.6 feet with this west line to the northeast corner; then with the northerly line of the Holmes/Courtney tract 23,066.4 feet to the northeast corner. One would have expected this line to once again cross the Lincoln County Land Association's version of the easterly line of the Smith 120,000 acre grant, and that Romine and Snider would have dutifully recorded the distance from the northwest corner to the point where the "Red Line" as it was locally know, was crossed by the northerly line of the Holmes/Courtney tract. Unfortunately, the note typed in the margin accompanying this portion of the report reads as follows:

"Note. - This line crosses the line which was located by the Lincoln County Land Association in 1909, as the easterly line of the Samuel Smith 120,000 acre survey at ___________ ft." (Romine and Snider, 22)

Unfortunately, without the passing call distance, it is impossible for me to accurately position the Courtney tract in relation to the Smith 120,000 acre grant. In a report that is otherwise extremely well written and informative, it seems unlikely that this passing distance would have just been "accidentally" omitted. But, we simply left to wonder why these two omissions of one of the most important, from a mining and oil/gas exploration perspective, portions of the report are missing. It was almost certainly intentional, but on whose orders?

Conspiracy theories are always fun to speculate about, perhaps because they are so maddeningly difficult to prove, while every ambiguity seems to strengthen the validity of the conspiracy. Most Lincoln County residents hold one truth to be certain, that "the gas company" was responsible for burning the courthouse down in 1909. Although the arson suspects were captured, rumors persist that they paid to burn the courthouse down, thus destroying records and deeds that could be used by citizens to defend their land titles against the ejectment suits brought by the Guyandotte Land Association and the Lincoln County Land Association. And, due to the conflict of titles between the Smith 120,000 acre grant and the Elijah Woods 100,000 acre grant, the Lincoln County Land Association could only hope to benefit from the destruction of hundreds of deeds that may have referenced the west line of the Holmes/Courtney tract (the supposed common boundary between the Smith 120,000 acre grant and the Woods 100,000 acre grant) more than a mile inside the land claimed by the Lincoln County Land Association. Unfortunately, it seems that no one will ever
truly know the real reasons behind the Lincoln County Courthouse fire. It is interesting to note a
conversation that I had when I contacted staff in the Land Department at Columbia Natural
Resources, Inc., seeking access to whatever information they may be willing to share. After a
pleasant conversation, followed by an adamant refusal to provide any information “on the advice
of counsel”, the individual I was speaking to said “A lot of those people down there think that we
(CNR, Inc. and its predecessors) burned the courthouse down”. I replied with a noncommittal
“That’s what they say”, which generated laughter on both ends of the conversation, although I’m
sure we were both laughing about two very different perspectives on the same momentous event
in the history of Lincoln County, West Virginia.
CHAPTER IX

Summary and Conclusion

It is clear that the history of the Samuel Smith Land Grants is both complicated and fascinating. The diversity of owners and individuals who have been involved in these tracts is impressive and men who, despite great achievements, are all but unknown today. General Samuel Smith, a true patriot and Revolutionary War Hero who counted Thomas Jefferson, George Washington and Alexander Hamilton as friends and who, through his actions in 1812 played a huge role in defeating the British is all but unknown, even in his hometown of Baltimore, Maryland. William H. Aspinwall revolutionized shipping in the 1800s through the use of newly designed ships that he was partially responsible for inventing. He built the railroad across the Isthmus of Panama that connected the Gulf of Mexico with the Pacific Ocean and that would later spur the construction of the Panama Canal. Yet he is unknown today, not even in the town that once bore his name (Aspinwall) but has been changed to Colon. The faceless trustees that shepherded the tracts through legal battles and political wrangling too are all but forgotten. Yet, the land remains. Changed by extractive industries such as timbering, oil and gas exploration and mining to be sure, but like the spirit of the people who continued to live here even after their legal rights had been trampled on, the land endures.

I have attempted to provide a detailed history of these particular tracts in a way that would be easy for the lay-person to understand. The complexities involved in this type of research can be daunting, especially to those unfamiliar with the various types of research required to determine what exactly has occurred. That is, when it can be definitively ascertained. It is worth noting that, while the investigation of the history of the Samuel Smith tracts has been personally fulfilling and hopefully useful to future readers, these tracts are but one piece in the large land-ownership puzzle that encompasses southern West Virginia.
BIBLIOGRAPHY

Journal articles


Wise, Donald A.  “The Young Washington as a Surveyor”  *Northern Virginia Heritage* 1, no. 3 (October, 1979): 11-?

Reference Works


Books


Maps

Title Map of the Coal Field of the Great Kanawha Valley – West Virginia, United States of America (by John S. Swann, Attorney-at-Law, Kanawha County, West Virginia) Entered, according to act of Congress in the year 1867 by John S. Swann, in the Clerks Office of the District Court of the United States in Charleston, WV

This map is an incredibly significant find. It covers a large portion of West Virginia spanning from the Guyandotte River to Laurel Creek of New River and Piney Creek of Gauley River and purports to show the locations of many of the original land grants made by the Commonwealth of Virginia. Most likely, this map was created to ignite interest among northern speculators, as notations in the upper margin indicate that it was available for purchase from “Thomas Broun, 25 Liberty Street New York” the original purchase price was $10.00, but the information contained on this map was priceless. The map is rather large (58” by 53”) and, although the boundaries shown on it are approximate, this map would (and still is) be invaluable to land speculators and capitalists. (Source: United States Library of Congress)

General and Regional Map of that portion of the New River and Kanawha Coal Fields lying between the New, Kanawha and Guyandot Rivers and west of Piney Creek – Embracing about 3000 square miles in Fayette, Raleigh, Kanawha, Wyoming, Boone, Logan and Lincoln Counties, West Virginia (by E. V. d'Invilliers, Geologist and Mining Engineer, 506 Walnut Street, Philadelphia, Pennsylvania 1903-1904)

This map is also significant. Prepared at the request of the Chesapeake and Ohio Railway Company, it shows in extreme detail many of the various tracts and coal leases on the New River (which was being actively mined) as well as several key landowners on tributaries of the Guyandotte River (including the Lincoln County Land Association, the Guyandot Land Association and the Pardee Land Company) This map was produced just as the C & O Railway was rapidly advancing up the Guyandotte River valley to access these lands. (Source: United States Library of Congress)

Map of the Duval Oil Company’s Lease situate on the waters of Mud River Lincoln County, West Virginia (by Konrad & Romine, Civil and Mining Engineers, Charleston West Virginia Jan-July 1909)

This map was produced as part of the Romine and Snider Report of Survey of the D. G. Courtney 10,000 acre tract. It shows an area just south of Griffithsville, WV where the overlap between the Lincoln County Land Association and the successors to the Elijah Woods 100,000 acre grant. (Source: Private Collection)
Map of the Twelve-pole and Part of the Guyandot Basins, Showing the Location of the Coal, Oil, Gas, Iron, and Timber Lands of the Guyandot Coal Land Association, in Wayne, Cabell, Lincoln, and Logan Counties, West Virginia. (by J. C. Miller, Engineer and Superintendent, February 1, 1892)

This map was apparently prepared for internal use within the Guyandot Coal Land Association and was not for general public display. It shows the various lands owned by the Guyandot Coal Land Association west of the Guyandotte River, within the Samuel Smith Grants. (Source: West Virginia Archives)

Plat of Survey Showing A Proposed 27.79 Acre Parcel, Prepared For Ark Land Company situate at the head of Grider Fork of Connelly Branch of Mud River, Jefferson District, Lincoln County, West Virginia Scale 1” = 500’ March 9, 2004 (Prepared by J. Bruce Hager, PS – Augusta Land Consultants, Inc.)

This recent map shows the continued impact that the boundary lines of the Smith (and other) Grants continue to have upon the landscape of southern West Virginia. In this case, the east line of the Samuel Smith 120,000 acre grant forms the westerly limits of surface coal mining for the Hobet Mining Company, as they mine the D. G. Courtney 10,000 acre tract.

West Virginia Atlas and Gazetteer (Copyright 1997 DeLorme. Yarmouth ME)

This is a general topographic atlas of the State of West Virginia.

Public Records

United States Supreme Court

King v. Mullins, 171 U.S. 404 (1898); King v. Mullins et al. No. 157.

This case was part of protracted litigation that continued for many years as Henry C. King attempted to gain title to a 500,000 acre tract originally granted by the Commonwealth of Virginia to Robert Morris (as assignee of Wilson Cary Nicholas). King was ultimately unsuccessful, however this litigation cast a cloud over land titles within the boundary of this large tract for several years.

King v. State of West Virginia, 216 U. S. 92 (1910)

This case was part of protracted litigation that continued for many years as Henry C. King attempted to gain title to a 500,000 acre tract originally granted by the Commonwealth of Virginia to Robert Morris (as assignee of Wilson Cary Nicholas). King continued litigation for several years until all of his legal actions were adjudicated and his attempts to claim the Morris 500,000 acre tract were unsuccessful.

Clark v. Reeder, 158 U.S. 505 (1895)

This case is interesting because it deals with Edward Clark (of E.W. Clark and Co., who as mentioned earlier controlled vast acreages of West Virginia lands through his various subsidiaries) and problems with junior and senior grants. Basically Clark, through various deeds, obtained title to a tract of 50,096 acres (known as the “Dillon Grant” This case was part of protracted litigation that continued for many years as Henry C. King attempted to gain
title to a 500,000 acre tract originally granted by the Commonwealth of Virginia to Robert Morris (as assignee of Wilson Cary Nicholas).

Internet Resources


http://www.famousamericans.net/abielabbotlow - “Virtual” Biography of Abiel Abbot Low.


http://www.forestlandgroup.com – Webpage of the Forestland Group, landholding company that focuses upon timberlands and owns the surface of large portions of the Samuel Smith Grants that were acquired from Columbia Natural Resources, Inc.

http://www.access.wvu.edu/class/WVHistory/html/UNIT14.htm - This webpage, which is part of a class at West Virginia University, provides good, general information about absentee landowners in West Virginia.

http://www.trianaenergy.com – Webpage for Triana Energy, the holding company that owns Columbia Natural Resources, Inc.