



IN REPLY REFER TO:

## United States Department of the Interior

### BUREAU OF INDIAN AFFAIRS

Cherokee Agency  
Cherokee, North Carolina 28719

Michell Hicks, Principal Chief  
Eastern Band of Cherokee Indians  
P.O. Box 455  
88 Council House Loop Cherokee, NC 28719

Dear Chief Hicks:

Attached is signed Tribal Council Resolution/Ordinance No. 383 introduced on November 6, 2014 and Passed on November 6, 2014. Should you have any questions regarding this matter please contact me at (828) 497-3360.

Sincerely,

Superintendent

# AMENDED PASSED

Cherokee Council House  
Cherokee, North Carolina

**NOV 06 2014**

Date

RESOLUTION NO. 383 (2014)

WHEREAS, Kenneth Eugene Rogers, Sr., (Deceased April 25, 2012), enrolled member of the Eastern Band of Cherokee Indians left a Last Will and Testament, dated September 3, 1997, and

WHEREAS, Dianne Rogers Wells has qualified as the Executrix of the estate of Kenneth Eugene Rogers, Sr., and it is her desire that the Last Will and Testament of Kenneth Eugene Rogers, Sr. be recognized and confirmed by the Eastern Band of Cherokee Indians.

NOW, THEREFORE, BE IT RESOLVED by the Eastern Band of Cherokee Indians in Council Assembled, at which a quorum is present that the Tribal Council of the Eastern Band of Cherokee Indians does hereby confirm the Last Will and Testament of Kenneth Eugene Rogers, Sr. dated September 3, 1997.

BE IT FURTHER RESOLVED that Cherokee County Parcel No. 143 (Remainder of Parcel No. 95), containing 1.188 acre, more or less, be assigned to Kenneth Eugene Rogers, Jr., Subject to Life Estate for Joanne Sharp Rogers (Surviving Non-Enrolled Spouse).

BE IT FURTHER RESOLVED that Cherokee County Parcel No. 96-A (Part of Parcel No. 96), containing 1.742 acres, more or less, be assigned to Evelyn Diane Rogers Beaver, Subject to Life Estate for Joanne Sharp Rogers (Surviving Non-Enrolled Spouse).

BE IT FURTHER RESOLVED that Gary Charles Rogers, shall be recognized as First Generation Heir of Kenneth Eugene Rogers, Sr. and shall be assigned First Generation Heir rights in accord with the First Generation Heirs Ordinance (Cherokee Code § 28-2) to his possessory holding known as Cherokee County Parcel No. 96-B (Part of Parcel No. 96), containing 1.571 acres, more or less, Subject to Life Estate for Joanne Sharp Rogers (Surviving Non-Enrolled Spouse).

BE IT FINALLY RESOLVED that the Tribal Business Committee and the Bureau of Indian Affairs, Cherokee Agency, Division of Real Estate Services, are hereby authorized to carry out the intent of this resolution.

Submitted by: Bureau of Indian Affairs, Cherokee Agency, Division of Real Estate Services.

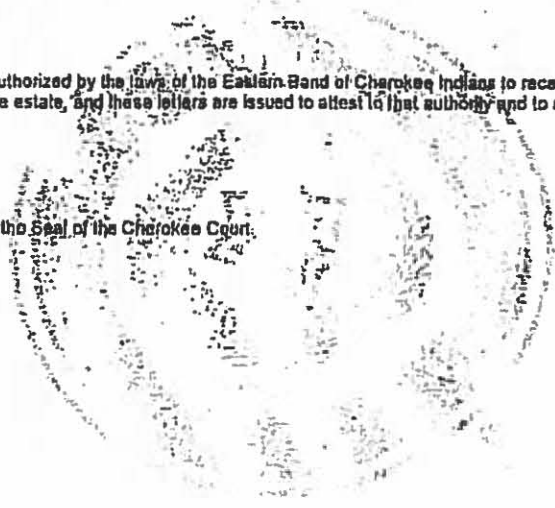
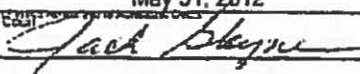

**ADDRESSES**

Evelyn Diane Wells Beaver  
RR#2247  
Post Office Box 807  
Murphy, North Carolina 28906

Kenneth Eugene Rogers, Jr.  
RR#2258  
1451 Vengeance Creek Road  
Marble, North Carolina 28905

Gary Charles Rogers  
First Generation Heir  
804 Lower Vengeance Creek  
Murphy, North Carolina 28905

EBCI  
CHEROKEE TRIBAL COURT

EASTERN BAND OF CHEROKEE INDIANS		MAY 31 AM 11:27	EST 12-028
Cherokee, North Carolina		FILED	The Cherokee Court Before the Clerk
IN THE MATTER OF THE ESTATE OF		LETTERS	
Kenneth Eugene Rogers, Sr.			
Date of Death: 4/25/2012		GS 2A-61	
<p>The Court in the exercise of its jurisdiction of the probate of wills and the administration of estates, and upon application of the fiduciary, has adjudged legally sufficient the qualification of the fiduciary named below and orders that Letters be issued in the above estate.</p> <p>The fiduciary is fully authorized by the laws of the Eastern Band of Cherokee Indians to receive and administer all of the assets belonging to the estate, and these letters are issued to attest to that authority and to certify that it is now in full force and effect.</p> <p>Witness my hand and the Seal of the Cherokee Court.</p> <div style="text-align: center; margin-top: 20px;">  </div>			
Name and Address of Fiduciary 1 Dianne Rogers Wells  PO Box 807  Murphy, NC 28906		Date of Qualification May 31, 2012    EX OFFICIO JUDGE OF PROBATE	
Name and Address of Fiduciary 2   <div style="text-align: center; margin-top: 20px;">  </div>		Date of Qualification Date of Issuance Signature of Clerk	
<div style="display: flex; justify-content: space-between;"> <span>423</span> <span>Original File</span> <span>Copy: BIA Ready</span> <span>Evermarz</span> <span>Bank</span> </div>			

Ind an Will Under the Act of June 25, 1910 (36 Stat 855-856)  
as Amended by the Act of February 14, 1913 (37 Stat 678)

FILED

**Last Will and Testament**  
of

KENNETH E. ROGERS, SR. R R # 2259 Age 65 - DOB: 07/17/32

I, KENNETH E. ROGERS, SR., of the Eastern Cherokee Tribe, of the State of North Carolina, being of sound and disposing mind, realizing the uncertainty of human life, do make this my Last Will and Testament hereby revoking all former wills by me made, in manner and form following, that is to say:

FIRST. - I desire that all my legal debts be paid, including the expenses of my last illness, funeral, and burial.

SECOND. - I give, devise, and bequeath Cherokee County Parcel No. 143 (Remainder of Parcel No. 95), containing 1.188 Acre, more or less, to my son, Kenneth E. Rogers, Jr., RR#2259, with a Life Estate to my wife, Joanne Sharp Rogers, DOB 04/06/35, with full authority to manage, occupy, and control during her lifetime.

THIRD. - I give, devise, and bequeath part of Cherokee County Parcel No. 96, that is located below the road where the south fork of Vengeance Creek runs through (See Attached Map), to my son, Gary Charles Rogers, DOB 10/30/61, who is a First Generation Descendant of the Eastern Band of Cherokee Indians, with full authority to transfer or sell the land to another enrolled member of the Eastern Band of Cherokee Indians, through a Tribal Council Resolution, if he so desires, with a Life Estate to my wife, Joanne Sharp Rogers, DOB 04/06/35, with full authority to manage, occupy, and control during her lifetime. If my son, Gary Charles Rogers should predecease me, then in that event, I give, devise, and bequeath this property to my son, Kenneth E. Rogers, Jr., RR#2258.

FOURTH. - I give, devise, and bequeath part of Cherokee County Parcel No. 96, that is located above the road where Cherokee County Parcel No. 81 is located, (See Attached Map), to my daughter, Evelyn Dianne Rogers Beaver, with a Life Estate to my wife, Joanne Sharp Rogers, DOB 04/06/35, with full authority to manage, occupy, and control during her lifetime.

FIFTH. - I give, devise, and bequeath all of the rest and residue of my estate, real, personal, and mixed to my three children, Kenneth E. Rogers, Jr., Gary Charles Rogers, DOB 10/30/61, and Evelyn Dianne Rogers Beaver, to share and distribute as they see fit.

FOURTH. - I hereby appoint my daughter, Evelyn Dianne Rogers Beaver, as Executrix of my Last Will & Testament, to see that my wishes are carried out and I desire that she serve without bond being required of her. In case she shall predecease me, or if she should be unable to perform these duties, then in that event, I appoint my son, Kenneth E. Rogers, Jr., as Executor of my Last Will & Testament, to see that my wishes are carried out, and I desire that he serve without bond being required of him.

A Diagonal Line Shall Be Drawn From the Last Devise to the Bottom of This Page

IF MORE SPACE IS NECESSARY TO DESCRIBE PROPERTY, AFFIX A SEPARATE SHEET

NO RIGHTS OF AN EXECUTOR ARE TO BE RECOGNIZED

I give, devise, and bequeath all of the rest and residue of my estate, real, personal, and mixed to: (SEE REVERSE HEREOF)

In witness whereof, I, Kenneth E. Rogers, Sr., have hereunto set my hand, sealed, published, and declared this to be my Last Will and Testament, this 3rd day of September, in the year of our Lord one thousand nine hundred and ninety-seven.

Witnesses:

Frank Hart  
Residing at Cherokee, NC

Kenneth E. Rogers SR (L.S.)  
KENNETH E. ROGERS, SR.

Virgil H. C.  
Residing at Cherokee, NC

The foregoing instrument of writing was here and now signed by Kenneth E. Rogers, Sr. in our presence, and at this request and in the presence of each other we have signed as witnesses and he has published and declared this to be his [her] Last Will and Testament.

Frank Hart  
Residing at Cherokee, NC

Virgil H. C.  
Residing at Cherokee, NC

United States  
Department of the Interior  
Office of the Examiner of Inheritance

Pursuant to the provisions of the Act of February 14, 1913 (37 Stat. 678), and the provision of 25 CFR 81, the within will is hereby \_\_\_\_\_ in accordance with the Order of even date herewith.

Done at the City of \_\_\_\_\_

\_\_\_\_\_  
Examiner of Inheritance

Instructions to Field Officers

1. The testator may sign by thumb mark. The witnesses must be able to write, and should not be interested as heirs or devisees.
2. Inquire carefully into the immediate family of testator. If a husband, wife, child or grandchild who is an heir is given nothing, the reason must be set out.
3. Witnesses and testator must sign in the presence of each other. Read the will carefully to testator and be sure that he understands it and that it expresses his wishes.
4. Whenever possible, include the name, allotment number, if any, age, residence, tribe, and relationship of each devisee, specific description of lands devised, and in case of inherited interests the name and allotment number of original allottee and interest of testator therein.
5. Explain fully to testator that fractional interests are of little or no value to a devisee if further divided, and that the entire interest in a specific piece of land is much more valuable than a fractional interest. The testator does not have to give the residue to "my heirs at law," he can give the residue to one person if he wishes. If he gives the residue to one person it prevents further divisions; if he gives it to several persons or to his "heirs at law," a further division takes place. He may also give all his estate or the residue to the Tribe (naming it) if he wishes.

United States  
Department of the Interior  
Bureau of Indian Affairs

State of North Carolina

ss. Affidavit to Accompany Indian Will

County of Swain

I, Kenneth E. Rogers, Sr., being first duly sworn, on oath, depose and say: That I am an enrolled member of the Eastern Cherokee Tribe of Indians in the State of North Carolina; that on the 3rd day of September, 1997, I requested Frank West and Virgil G. Crowe to act as witnesses thereto; that the said witnesses heard me publish and declare the same to be my last will and testament; that I signed said will in the presence of both witnesses and they signed the same as witnesses in my presence and in the presence of each other; and that said will was read and explained to me (or read by me), after being prepared and before I signed it; and it clearly and accurately expresses my wishes; and I further state that no person has influenced me to make disposition of any part of my property in any other manner than I myself of my own free will desire and wish to dispose of it.

(\*)

Kenneth E. Rogers, Sr.  
KENNETH E. ROGERS, SR.  
R.R. # 2259

We, Frank West and Virgil G. Crowe each being first duly sworn, on oath depose and state: That on the 3rd day of September, 1997, Kenneth E. Rogers, Sr., a member of the Eastern Cherokee Tribe of Indian of the State of North Carolina, published and declared that attached instrument to be his (her) last will and testament, signed the same in the presence of both of us and requested both of us to sign the same as witnesses; that we, in compliance with his (her) request, signed the same as witnesses in his (her) presence and in the presence of each other; that said testator (testatrix) was not acting under duress, menace, fraud or undue influence of any person, so far as we could ascertain in our opinion was mentally capable of disposing of all his (her) estate by will; and that neither of us is named as a beneficiary in said will or in anywise interested in the distribution of the estate of said testator (testatrix).

Frank West  
FRANK WEST

Virgil G. Crowe  
VIRGIL G. CROWE

(\*) At this point should be inserted the tribe and allotment or other numbers of the devisees and beneficiaries and their relationship to the testator or testatrix (unless this information is shown in the body of the will), and the testator's or testatrix's reasons for making the devise, particularly when the immediate relatives are given little or none of the estate.

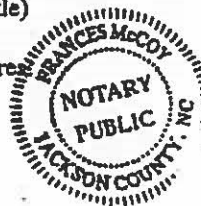
I, Diana C. Long, being first duly sworn on oath depose and say: That I am employed as a Realty Specialist at Cherokee Agency in the state of North Carolina; that on the 3rd day of September, 1997, Kenneth E. Rogers, Sr., an enrolled member of the Eastern Cherokee Tribe of Indians in the state of North Carolina, requested me to prepare his (her) last will and testament; that I prepared the attached will and read (or had read by the interpreter) said will to testator (testatrix) and he (she) then stated that said instrument was drawn in accordance with his (her) own wishes as previously stated to me; that said testator (testatrix) was not, so far as I could ascertain, acting under duress, menace, fraud or undue influence of any person, and in my opinion was mentally capable of disposing of his (her) estate by will; that he (she) signed and published and declared it to be his (her) last will and testament before Frank West and Virgil G. Crowe, whom he (she) requested to act as witnesses thereto, that there were present in the room with the testator (testatrix) at said time besides myself and the above named witnesses, the following named persons: wife, Joanne Sharp Rogers and daughter, Evelyn Dianne Rogers Beaver.

Diana C. Long  
DIANA C. LONG

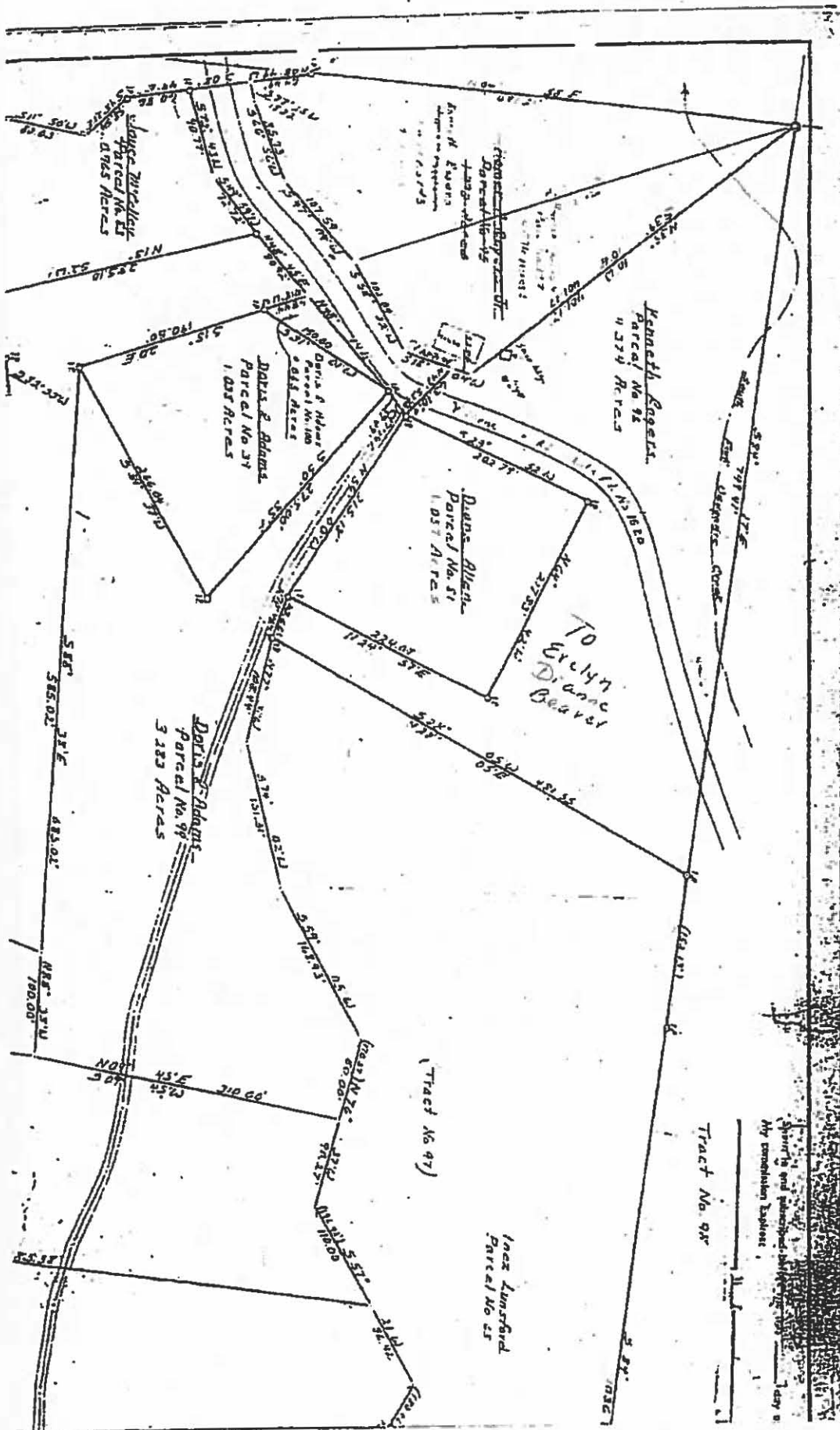
Subscribed and sworn to before me this 3rd day of September, 1997, by Kenneth E. Rogers, Sr., Frank West, Virgil G. Crowe, and Diana C. Long

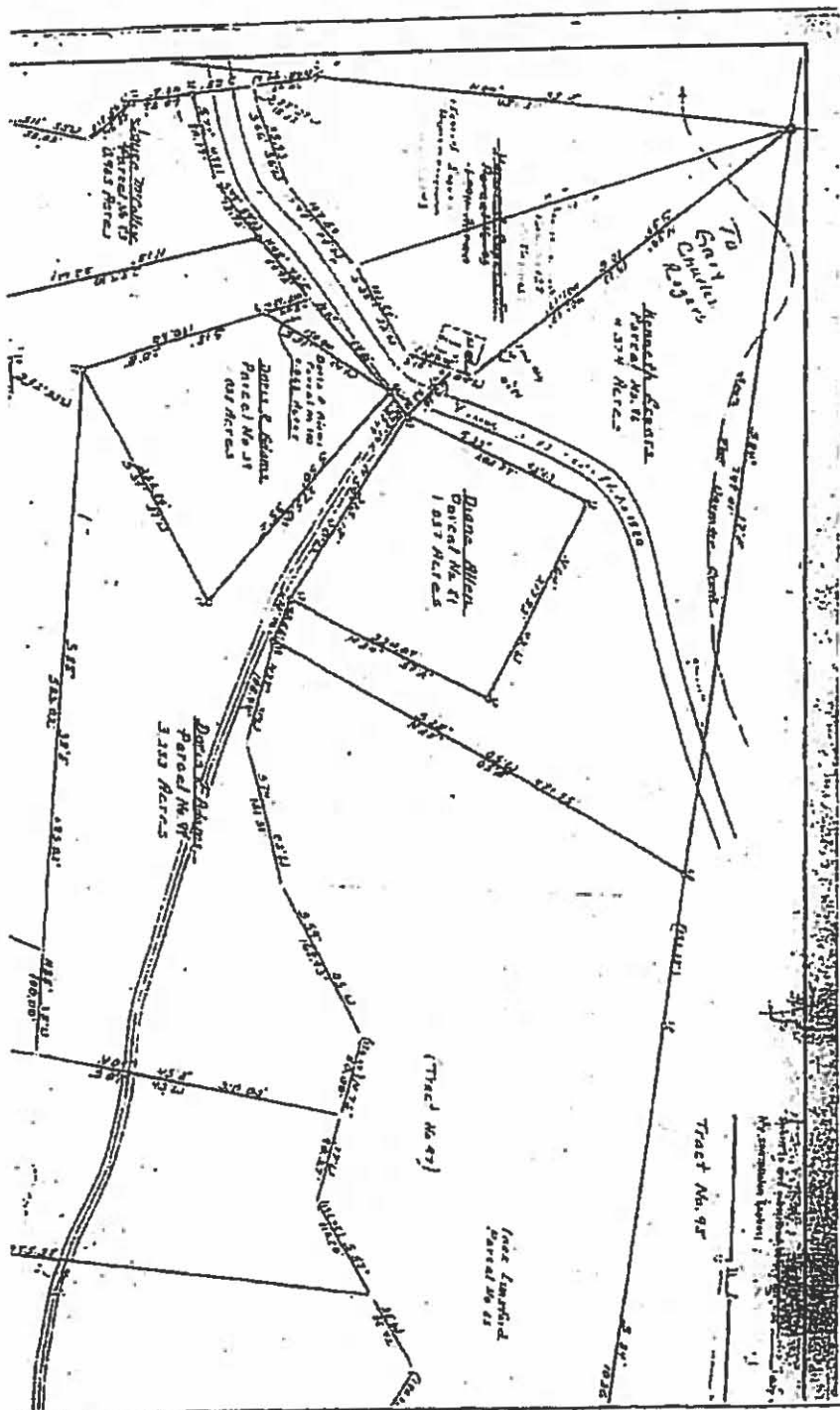
Frances McCoy  
Notary Public  
(Title)

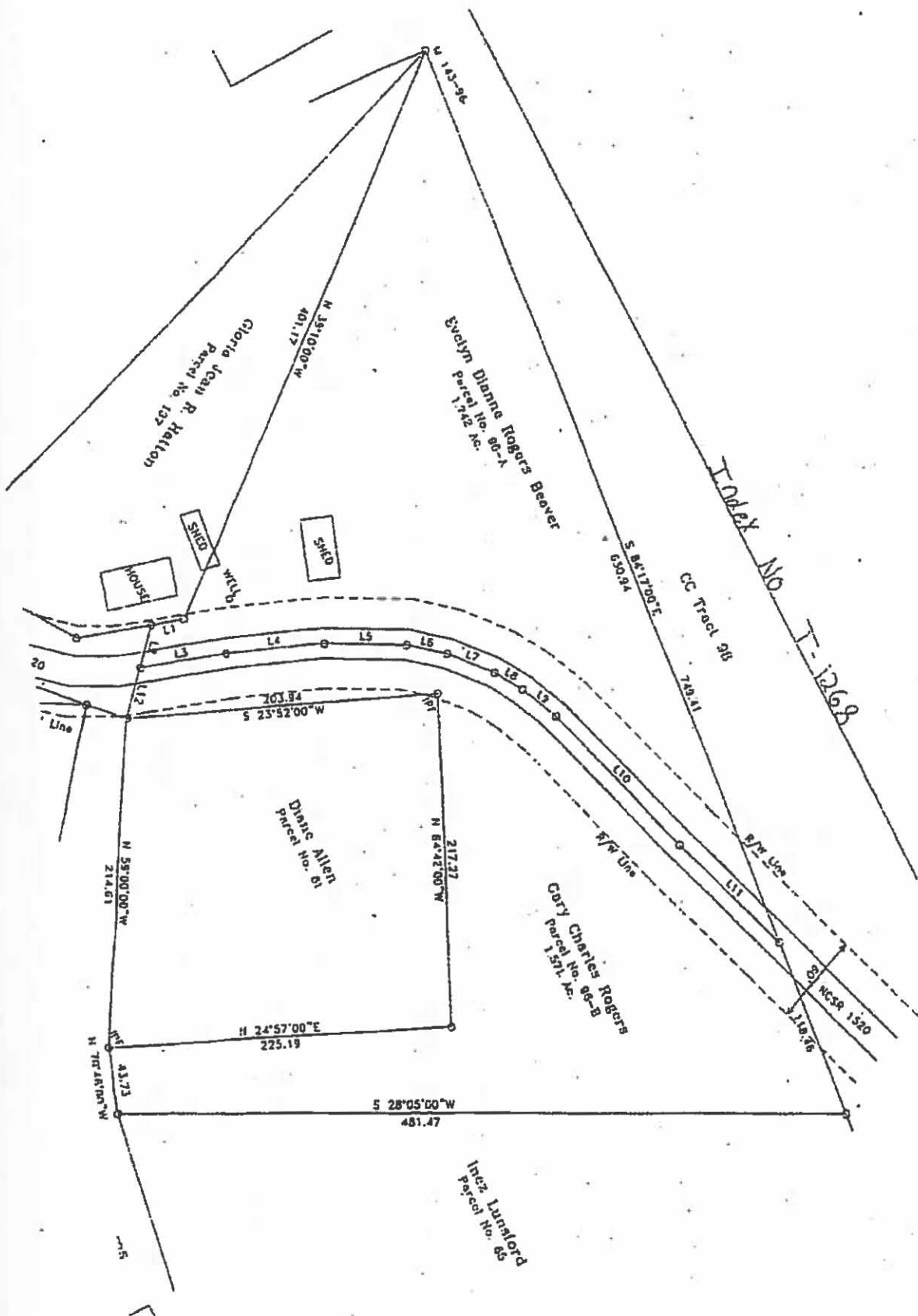
My Commission expires



My Commission Expires 4/6/2002







Amendment to Res. No. 383, 2014: Amend the second, "Be It Further Resolved," add an, "N," to, "Diane," for, "Dianne," and strike the word, "Beaver" and insert, "Wells," so that the resolution reads, "Evelyn Dianne Rogers Wells."

and ratified in open Council on November 6, 2014 by 100 voting for the act  
and 0 members voting against it as follows:

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
<b>Teresa McCoy</b>	x			
<b>Perry Shell</b>	x			
<b>Tunney Crowe</b>	x			
<b>B Ensley</b>	x			
<b>David Wolfe</b>	x			
<b>Bill Taylor</b>	x			
<b>Terri Henry</b>	x			
<b>Brandon Jones</b>	x			
<b>Adam Wachacha</b>	x			
<b>Bo Crowe</b>	x			
<b>Albert Rose</b>	x			
<b>Tommye Saunooke</b>	x			
	100	0	0	0

*Jessie Lewis*  
AL COUNCIL CHAIRWOMAN

Michelle Thompson  
ENGLISH CLERK

## PRINCIPAL CHIEF

APPROVED (✓)      VETOED ( )

VETO UPHeld ( ) VETO DENIED ( )

DATE: 11-17-14

**I hereby certify that the foregoing act of the Council was duly:**

**PASSED** *M*

**KILLED ( )**

and ratified in open Council after the same has been interpreted by the Official Interpreter and has been fully and freely discussed.

In testimony, whereof, I have hereunto set my hand and affixed the seal of the said Band of Indians. Superintendent, Cherokee Indian Agency.

INTERPRETED ( )

OMITTED ( )

