

History at Loss Creek Cove



Loss Creek Cove lies in the Cherokee National Forest just north of the Hiwassee River, an area rich with history predating the formation of the state of Tennessee. Along with public land owned by the Polk County School Board, Loss Creek Cove is completely surrounded by land controlled by the US Forest service as a part of the Cherokee National Forest.

In prehistoric times, the region was inhabited by the Woodland Indians. By 1541, Spanish explorer Hernando DeSoto recorded encounters with the Yuchi tribe when he passed through the region less than 20 miles north of Loss Creek Cove. By 1720, the remaining Yuchi had been pushed out of the area by Cherokee.¹

Cherokee presence continued until the region became the last area added to the jurisdiction of the State of Tennessee. The area around Loss Creek Cove remained Cherokee territory even as regions north and west were incorporated as counties in Tennessee following formation of the state in 1796. This area remained largely in Cherokee hands following the Treaty of the Cherokee Agency in 1817 and the Treaty of Washington in 1819.²



¹ <http://www.yuchi.org/>



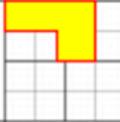
Those treaties established ways to address differing desires among Cherokees regarding emigration. Some Cherokees, mostly in the northern townships, favored emigration while most southern townships opposed it, preferring instead assimilating into the European culture of the white settlers, or “acculturation”. Under the treaties, those who desired to emigrate, mostly to the north, received certain benefits for doing so. Those who desired to stay, including most in the region of Loss Creek Cove, would be given land grants and the possibility of state citizenship.

In the decade that followed, the northern areas were surveyed, but the Cherokees in the south hindered surveying until the 1830s. It was not until 1833 that the jurisdiction of the State of Tennessee was officially extended to the southern border and included this region. The region remained unsurveyed until after the Treaty of New Echota in 1836, the treaty which resulted in the Trail of Tears, the forced evacuation of remaining Cherokee. Following that treaty, surveying began the newly established Ocoee Survey District.³

² http://en.wikipedia.org/wiki/Cherokee_treaties

³ <http://www.tngenweb.org/tnland/survdist.htm>

Initial surveying in the Ocoee District followed the Public Land Survey System as established in the Congressional Land Ordinance of 1785. This system described land, not by metes and bounds, but by survey “townships”, sections, and ranges designed to facilitate ease of conveyance without needing a metes and bounds description, which is much more difficult to survey. Each survey township was 6 miles wide and 6 miles long. Within each township were 36 sections, each 1 square mile, or 640 acres. Sections were numbered as shown in the grid at right.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20		22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Most surveys under this system were laid parallel to longitude and latitude, but in some sections of the country, ranges were turned to run parallel generally with ridges and rivers. The townships in the Ocoee District were laid at an angle roughly parallel to the Tennessee River and the mountain ranges in the area as shown in the aerial on the next page

The Public Land Survey System was proposed originally by Thomas Jefferson to facilitate the disposition of public lands. The system was adopted in 1785 following the American Revolution to make it easier to sell

large public lands to help pay off the debt incurred fighting the war.⁴ As noted earlier, because the system was based on a grid, land could be sold by general reference to sections, quarters, and sub-quarters within townships without knowing the metes and bounds description of a parcel. Jefferson's interest in public education no doubt influenced the practice under the system that the 16th Section of each township was to be reserved and devoted to public education purposes.

After the Treaty of New Echota in 1836, Land in the Ocoee District was open to "all enterers" at set prices



to "discourage speculators and to encourage honest settlement." This policy was in keeping with the purpose of the Public Land Survey System to put land in the hands of "yeoman farmers" while providing revenue to reduce the public debt. The starting price of \$7.50 per acre, and the price decreased every two months until it reached one cent per acre.⁵

The legal description in the deed for Loss Creek Cove property description in the

⁴ http://en.wikipedia.org/wiki/Public_Land_Survey_System

⁵ http://www.ajlambert.com/history/hst_lr.pdf

deed says that Loss Creek Cove lies in “Section 21 in the Fourth Range East of the Basis line and in the First [Survey] Township of the Ocoee District.” Section 21, containing Loss Creek Cove as shown in the grids, lies just south of the 16th Section, the one devoted to educational purposes.

But there was a problem with the system as applied to the township containing Loss Creek Cove. By the time the Ocoee District was surveyed, some settlers were already residing in what, with the survey, would become the education-designated 16th Section. Those citizens had purchased small parcels along Loss Creek from the Cherokee, not knowing that their land would ever be subject to Public Land System Survey. Those citizens were concerned about being forcibly removed without compensation, and they petitioned the Tennessee General Assembly for compensation for what they had paid to the Cherokee for the land and for what they had invested in improving it. Apparently, as an alternative to cash, those citizens affected by the survey system sought contribution of 40 acres somewhere in the district when the price of unsold land reached \$1 per acre.⁶

Among those citizens was John Hicks. “Hicks” was not an uncommon name in Monroe and Polk Counties in the middle of the 19th Century, and many were Cherokee.



⁶ <http://www.tngenweb.org/bradley/PET1a.htm>

Charles Renatus Hicks was an important Cherokee leader until his death in 1827. He became principal chief of the Cherokee Nation and advocated, along with his protégé John Ross (shown at right) for “acculturation” of the Cherokee with the European settlers.



Whether John Hicks had any direct family relationship to the Cherokee, John Hicks participating in the petition indicates that the Hicks family had a connection to property in the Loss Creek Cove area predating the creation of the Ocoee District following the Treaty of New Echota. That connection may have led to the Hicks family being the first recorded owners of Loss Creek Cove in the 1870’s.

John Hicks remained in Polk County at least as late as the 1870 Census.⁷ And his descendants remained in Polk County thereafter.⁸

Three generations of Hicks family owned the property which is Loss Creek Cove, and the family held it when, in 1910, this region supplied more than 40% of the nation’s lumber. In 1911, the Weeks Act gave the federal government the authority to buy up private forest land to create national forests to be

⁷ <http://genforum.genealogy.com/hicks/messages/11670.html>

⁸ <http://genealogytoday.com/pub/polktn.htm?A=Cousin>

preserved against unregulated logging. Public land in the region became part of one or another national forest. In 1936, President Franklin D. Roosevelt combined the Tennessee sections of the Unaka, Cherokee, and Pisgah National Forests, and the Cherokee National Forest took its present form: 640,000 acres entirely within the borders of Tennessee, from Bristol to Chattanooga, divided into two sections by the Great Smoky Mountains National Park.

All of this happened around the Hicks family's property, and around the School Board Property. Though no school was ever built in Section 16, the Polk County School Board has owned the land since formation of Polk County in 1839. To this day, Polk County School Board uses the land to generate forestry revenue. As shown by the topographic map, the land with white background, owned by the Hicks family (outlined in yellow) and Section 16 owned by the school board, remained private and did not become a part of the Cherokee National Forest, which is shown with a green background.



With harvestable forest land in the area scarce as a result of the formation of the Cherokee National forest, James Hicks sold what is now Loss Creek Cove to the West Lumber Company in 1948. West was

apparently a large lumber company in the southeast in the middle of the 20th Century, and held the property for nearly four decades.

Modern accounts from locals indicate that while West Lumber owned the land, “enterprising individuals” took advantage of the seclusion and the terrain offered by Loss Creek Cove to produce certain products for which the region is well-known, exemplified in the photo at right. In addition to seclusion, the property’s large supply of sourwood trees, known to produce little if any smoke, and the clear water of Loss Creek also would have attracted such enterprises to Loss Creek Cove. Accounts from locals indicate that Loss Creek Cove indeed housed its share of moonshine stills during the years that the property was owned by West Lumber Company.



West owned the main 144 acres property until selling it in November 1984 to Oliver Smith, from Knoxville, Tennessee. Smith acquired an additional 20 acres to the bringing the total to 164 acres. Smith cleared 19 acres of land along Loss Creek and created the orchard in the upper meadow planting nearly 450 trees including Chinese chestnut, wild plum, cherry trees, and apple trees. Though not maintained for revenue-generating production today, the trees still produce chestnuts, plums, cherries, and apples.



In 1992, Smith sold the property to the Madigan family, and they began constructing roads and buildings, and clearing the lower meadow. They formalized the easement from the Polk County School Board for Loss Creek Cove's entry road, which comes off of Fingerboard Road just in Section 16, just north of the section line which serves as the property's northern boundary. The Madigans built the picnic pavilion on the banks of Loss Creek, and they built the small cabin and the barn in the orchard. Finally, they built the 2,700 SF log home at the top of the eastern peak on the property. The home was featured in 2002 in a Log Home Magazine article entitled "Lovely at the Top."⁹ The Madigans also cut several roads

on the property, including one to Happy Top and the Saddle Road to the lower meadow to provide access to that within the property's boundaries.

In 2009, the Brant family purchased the property, using it as a family retreat. The Brants installed a propane generator and improved the infrastructure of the property, including geotextiles under the gravel roads to make them more durable and less susceptible to erosion. They also made a number of improvements to the home, including a new deck along the southern end of the home, providing the ultimate sunset observation spot in Loss Creek Cove with views across horizons beginning in Alabama and extending through Georgia into North Carolina. The Brants have maintained the property's pastoral and

⁹ <http://books.google.com/books?id=cA8AAAAAMBAJ&lpg=PP1&authuser=1&pg=PP1#v=twopage&q&f=false>

wooded lands, and enjoyed skeet shooting, hunting, hiking, and other recreational activities on the property.

Despite this long history, the beautiful and historic land has had only 5 owners. The next chapter will be written by the 6th owner of Loss Creek Cove.





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