

U. S. SPRUCE PRODUCTION CORPORATION & PORT ANGELES WESTERN RAILROAD:

CONVEYANCES TO RAILROAD COMPANIES FALL INTO TWO (2) CATEGORIES:

- (1) Those that grant "land." For example, grants and conveys a strip, piece, parcel or belt of land.
- (2) and those that grant "rights." For example, purports to convey a right-of-way or other right or privilege, with respect to using the property.

UNITED STATES SPRUCE PRODUCTION CORPORATION:

During the first world war the U.S. Government was interested in obtaining spruce timber from the west end of the Peninsula and decided that the only means of obtaining this timber in quantity was to construct a railroad from Disque Junction of the Chicago-Milwaukee Railroad west of Port Angeles to the vicinity of Forks, Washington on the west side of the Peninsula. This railroad skirts the north shore of Lake Crescent. The United States set up a governmental agency for this purpose under the name of United States Spruce Production Corporation which was administered by the Army.

In a letter dated August 5, 1918 to the Secretary of War from the Secretary of Agriculture it states that "the fee title to so much of the above described right-of-way as is located upon lands comprising a part of the Olympic National Forest is vested directly in the United States. The U.S. Spruce Production Corporation has certain rights thereto of use and occupancy...providing for the construction and maintenance of the said road over lands within the Olympic National Forest which rights were assigned to the U.S. Spruce Production Corporation by the Acting Director of Aircraft Production by an instrument in writing dated October 10, 1918."

It appears that the U.S. Spruce Production Corporation was only granted a right and not fee ownership to the railroad right-of-way. The fee ownership of the right-of-way was retained by the United States.

Shortly thereafter, the United States Spruce Production Corporation contracted with Siems, Carey, H.S. Kerbaugh Corporation for the construction of the railroad. The Sims-Carey Corporation performed the work of construction under the direction of the United Spruce Production Corporation. A survey of the right-of-way was made and bears this heading, "Spruce Production Division, Bureau of Aircraft Division, right-of-way and tract map of Clallam County Railroad Disque Junction to Lake Crescent, Office of Chief Engineer, Seattle, Washington, January 1919."

The United States Spruce Production Corporation, an agency of the Government, found the center line survey of the railroad to be adequate for description by metes and bounds.

It should be noted that the survey of the center line of the railroad right-of-way is tied in by station to the east and west boundaries of the subdivision. In January 1919 the Siems-Carey Corporation acquired title to the right-of-way as indicated and the description is by metes and bounds with reference to the centerline survey of the railroad. On March 31, 1919, the right-of-way thus acquired by the Siems-Carey Corporation was deeded to the United States Spruce Production Corporation, an agency of the Government.

PORT ANGELES WESTERN RAILROAD COMPANY:

On May 3, 1938, the Port Angeles Western Railroad Company filed a formal application for a right-of-way across Olympic National Forest. The application was approved on September 18, 1938, and it applies to an area from Disque Junction (10 miles west of Port Angeles) to Forks, Washington and involved a line of railroad as constructed. The application submitted by the Port Angeles Railroad was for a railroad right-of-way for a line of railroads constructed in 1918-1919 by U.S. Spruce Corporation. The application did not contain any description of the right-of-way but a map was attached which was done by L.E. Strahm, a civil engineer. Mr. Strahm traced the right-of-way through the park and this map is suppose to be on file in the U.S. Lands Office in Spokane under application of 9/18/39, Misc. No. Spokane 018232.

Apparently Port Angeles Western Railroad Corporation and Sol Duc Investment Corporation enter into another Conditional Sales, identified as No. SPC-557 dated March 31 (or 1?), 1937, recorded in Volume 129, Page 365 of Deeds and supplementals dated December 13, 1937, recorded in Volume 162, Page 368 of Deeds with the United States Spruce Production Corporation for the purchase of both real and personal property. The first conditional sales, identified as No. SPC-519 (June 17, 1922) was strictly foreclosed by the U.S. Spruce Production Corporation on January 20, 1937 in the Western District Court for the Port Angeles Western Railroad and Sol Duc Investment Corporation's failure to make payments.

DISSOLUTION AND LIQUIDATION OF U.S. SPRUCE PRODUCTION CORPORATION:

On July 20, 1946, under 60 Stat. 595, Congress directed "*...the Secretary of War shall take appropriate steps to secure the final dissolution and liquidation of the said corporation at the earliest practical date.*" The said corporation is the U. S. Spruce Production Corporation.

On November 30, 1946, the United States Spruce Production Corporation transferred and assigned to the United States of America both their real and personal property.

- (1) A deed was recorded on November 30, 1946, in Volume 225, Page 243.
- (2) Bill of Sales was recorded November 30, 1946, in Volume 9, Page 353.

The conveyances to the United States of America was subject to the Port Angeles Western Railroad and Sol Duc Investment Corporation's lien on the outstanding conditional sales, identified as No. SPC-557.

U.S.A. SELLS TO PORT ANGELES WESTERN RR & SOL DUC INVESTMENT CO:

On August 18, 1953, a Quitclaim Deed recorded under Auditor's File No. 279183 was executed by the United States of America, as successor and assignee of the United States Spruce Production Corporation and thereby executes, conveys and quitclaims to Sol Duc Investment Company and the Port Angeles Western Railroad Company for the complete satisfaction of all the terms and conditions of the Conditional Sales, identified as No. SPC-557 and supplementals. Port Angeles Western Railroad Company and Sol Duc Investment Company received real and personal property, except uranium, thorium and other materials under section 5(b)(1) of the Atomic Energy Act of 1946 (60 Stat. 761). The quitclaim specifically states:

It is expressly understood that the rights of the Grantor herein to so much of the right of way over and across the above described sections as is located upon lands comprising a part of the Olympic National Forest are limited to those rights thereto of use and occupancy acquired by virtue of that certain letter dated August 5, 1918, addressed to the Secretary of War by the Secretary of Agriculture providing for the construction and maintenance of the said road over lands within the Olympic National Forest, which rights were assigned to the United States Spruce Production Corporation by the Acting Director of Aircraft Production by an instrument in writing dated October 10, 1918, and further, to those rights acquired by the Port Angeles Western Railroad Company under a formal application for a right of way across the said Olympic National Forest, which was filed with the United States Department of the Interior on May 3, 1938 and approved September 18, 1939, subject to the terms and conditions of Section 24 of the Federal Power Act of June 10, 1920, which rights were acquired by Grantor herein under that certain indenture executed by the Port Angeles Western Railroad Company the 13th day of December 1937, which instrument is recorded in Volume 136 at Page 627 of the Deeds Records of Clallam County, Washington.

PUBLIC AUCTION OF PORT ANGELES WESTERN RAILROAD & SOL DUC INVESTMENT CO:

At 12 pm on December 15, 1953, under the Railroad Reorganization No. 39383, a public auction took place for the sale of the assets owned by Port Angeles Western Railroad Company as directed by the District Court of U.S. for Western District of Washington, Northern Railroad.

The law firm handling the job of disposing all of the assets of the Port Angeles Western Railroad and Sol Duc Investment Company was Wright, Innis, Simon and Todd located at 1411 4th Avenue Building in Seattle.

COMMERCIAL SALVAGE COMPANY:

Commercial Salvage Company purchased the assets of Port Angeles Western Railroad Company at the auction held on December 15, 1953.

A.R. Truax, Trustee in the bankruptcy action of Port Angeles Western Railroad Company and Sol Duc Investment Corporation records a Quitclaim Deed on April 1, 1954 under Auditor's File No. 279184 whereby it conveys and quitclaims to Commercial Salvage Co. the described real estate in the quitclaim deed.

A.R. Truax, Trustee also in behalf of the bankruptcy action of Port Angeles Western Railroad Company and Sol Duc Investment Corporation records a Quitclaim Deed on April 1, 1954 under Auditor's File No. 279185 whereby it conveys and quitclaims to Commercial Salvage Co.

"all real estate and interests in real estate standing of record in the name of Port Angeles Western Railroad Company situated in the County of Clallam, State of Washington, including, but not limited to those portions of that certain railroad formerly known as Spruce Production Railroad No. 1, and now known as Port Angeles Western Railroad."

1955 SOLICITOR'S OPINION:

In correspondences dated August 30, 1955 (Acting Assistant Solicitor) and March 26, 1957 (Secretary of the Interior) provides similar opinions about the Quitclaim Deed from Commercial Salvage Company covering portions of the abandoned Port Angeles Western Railroad right-of-way in Olympic National Park and Olympic National Forest.

- (1) "It is in their opinion that the Port Angeles Western Railroad Company acquired its grant under the acts of March 3, 1875 (18 Stat. 482) and March 3, 1899 (30 Stat. 1233) and that this grant constituted merely an easement for railroad purposes. (1) Moreover, any use inconsistent with the purposes for which the grant was made would render it subject to forfeiture. (2) Since the Port Angeles Western Railroad Company had abandoned the right-of-way, it is doubtful whether the purchaser at the public auction (Commercial Salvage Company) acquired any legal title insofar as the right-of-way over Government lands may be concerned. Therefore, the quitclaim deed executed by Commercial Salvage Company on July 30, 1954, to the United States of America *should only be viewed and treated as a relinquishment of the grant of right-of-way for the purpose of clearing the record.*"
- (2) "Where the railroad company acquired only an easement for railroad purposes across privately owned lands, it appears that upon abandonment of the right-of-way the easement merged with the fee title and the quitclaim deed by Commercial Salvage to the United States of America executed on July 30, 1954, could not convey real interest in such lands to the United States."

- (3) "As to the lands acquired and owned by the railroad company in fee, the deed from the Commercial Salvage Company would, of course, have ~~no effect~~ in conveying all of the right, title, and interest acquired by it at the public sale to the United States."

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1974 SOLICITOR'S OPINION:

The 1974 Solicitor's Opinion also supports the 1955 Solicitors opinion. In that, where the railroad company acquired a fee right-of-way on private property, the quitclaim deed from Commercial Salvage Company to the United States also transferred fee title of the right-of-way to the United States.

It can also be stated that where the railroad acquired only an easement on private property, upon abandonment, the easement passed to the fee owner. Therefore, the quitclaim deed from Commercial Salvage to the United States has no effect.