

# “A Privilege and a Challenge”: Valuation of Heirs’ Property by African American Landowners and Implications for Forest Management in the Southeastern U.S.

Sarah Hitchner<sup>1</sup>  · John Schelhas<sup>2</sup> · Cassandra Johnson Gaither<sup>2</sup>

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**Abstract** African Americans have historically struggled to retain land that has been held in their families for generations as heirs’ property, or land held collectively by heirs of the original owners without clear title. Ethnographic interviews with sixty landholding African American families in North Carolina, South Carolina, and Alabama reveal the cultural meanings associated with family land, forestland in particular, and the role of heirs’ property in inhibiting forest management, including the threat of land loss, intra-family conflict, and legal limitations on forestry activities. The majority of interviewees have a strong desire to pass family land on to their heirs, but they also need the land to be economically productive. Sustainable forest management offers both an incentive to obtain clear title to heirs’ property land and a means of paying property taxes and generating intergenerational wealth within families. The U.S. Endowment for Forestry and Communities is currently collaborating with local institutions in several states in an innovative program designed to help African American landowners navigate the legal system in order to obtain clear title and provide educational workshops about the financial and ecological benefits of sustainable forestry as well as site visits by consulting foresters. Analysis of the situations faced by African Americans with heirs’ property adds to the diversity of our understandings of the complex relationships between land tenure and forestry, with potential application for other minority communities in the U.S. and elsewhere.

**Keywords** African Americans · Forest landowners · Minority landowners · Family forests · Heirs’ property · Black land loss · Sustainable forest management

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✉ Sarah Hitchner  
slhitchn@uga.edu

<sup>1</sup> Center for Integrative Conservation Research, University of Georgia, Holmes-Hunter Academic Building, Room 321, 101 Herty Drive, Athens, GA 30602, USA

<sup>2</sup> Southern Research Station, USDA Forest Service, 320 Green Street, Athens, GA 30602, USA

## Introduction

In the past century, African American rural land holdings have declined precipitously due to a number of factors including outmigration; voluntary sales; foreclosures; lack of access to capital and credit; illegal takings; purposeful trickery and withholding of legal information; actual or threatened violence; and various forms of racism and discrimination by individuals, organizations, and government agencies (McGee and Boone 1976; Gilbert et al. 2002; Reid 2003; Dyer and Bailey 2008; Hinson and Robinson 2008; Butkus 2012; Zabawa 1991; Zabawa et al. 1990). The rate of black land loss has far exceeded losses for other racial and ethnic groups since the turn of the twentieth century (Gilbert et al. 2002; Dyer and Bailey 2008; Gordon et al. 2013).

In addition to loss of black-owned family land, African American participation in forest management has historically been low, and minority landowners continue to face management obstacles. Few have received technical assistance from state or local forestry agencies, and there is an ongoing lack of knowledge about government programs for landowners and limited engagement with forestry professionals, in addition to a perception of bias in program administration (Hilliard-Clark and Chesney 1985; Gordon et al. 2013). Another major barrier to forest management is ownership of family land as heirs' property, or land owned jointly by multiple (sometimes up to hundreds) heirs of the original landowners. As will be discussed in the next section, heirs' property status can be a legal impediment to forest management activities such as timber harvesting, participation in governmental forest stand improvement programs, and obtaining home and homestead improvement loans (see also Schelhas et al. 2016 for more specific information on forestry activities undertaken by African American forest landowners).

Despite these barriers, many African Americans have strong attachments to family lands and interest in managing forest lands (Hilliard-Clark and Chesney 1985; Schelhas et al. 2012; Gordon et al. 2013), and there have been a number of efforts, including extension workshops and other outreach programs to address African American forestry and land ownership issues (for example, Hughes and Monaghan 2001; Hughes et al. 2005). Non-profit organizations, often working with federal agencies, have developed innovative community-based programs that go beyond providing technical assistance to individual landowners and also include networking, coalition-building, and cooperative development with the goals of increasing land retention, building social capital, improving access to public and private services, and implementing land-based income-earning strategies (Hamilton et al. 2007; Diop and Fraser 2009; Christian et al. 2013).

Yet there remains a need for sustained and comprehensive outreach and assistance efforts across the southeastern United States, especially in cases where family members do not have clear title to family land. There are currently several advocacy groups working in this region, which includes the highest concentration of heirs' property, dedicated to helping African Americans keep their family land and also profit from it economically. A short list includes the National Black Farmers Association, Federation of Southern Cooperatives, Limited Resource Landowner Education and Assistance Network (LRLEAN), The Land Loss Prevention Project,

Center for Heirs Property Preservation, Georgia Appleseed Center for Law and Justice, Alabama Appleseed Center for Law and Justice, and the newly established Georgia Heirs Property Law Center, in addition to other organizations and state agencies and associations that also support these goals.

Since 2014, the U.S. Endowment for Forestry and Communities has partnered with several of these organizations operating in North Carolina, South Carolina, and Alabama to conduct baseline social science research that includes on-site qualitative interviews with landowners and to implement pilot projects that link understanding of how people define and experience heirs’ property with opportunities for sustainable forest management. The overarching goal of this collaboration is to provide potential for long-term income generation, protection for watersheds and wildlife, and preservation of landscapes with heritage value to families such as old homesteads, family cemeteries, and places that embody childhood memories. Analysis of the responses during these baseline interviews reveals that heirs’ property continues to limit forest management, and there is still some confusion among forest landowners about the legal definitions and consequences of heirs’ property status. This article presents qualitative research results that suggest the cultural importance of family land and highlight the specific challenges that African American heirs’ property owners face in participating in sustainable forest management activities, defined as those that simultaneously maintain or enhance ecosystem function and provide income for landowners from timber and non-timber forest products, on family land.

## **Background: Heirs’ Property**

One of the primary contributors to black land loss is the prevalence of “heirs’ property” (also called “heir property”) among rural, black populations (Dyer and Bailey 2008; Dyer et al. 2009; Deaton 2012; Georgia Appleseed Center for Law and Justice 2013). Heirs’ property or “tenancy in common” is inherited land passed on intestate, without clear title, typically to family members. While heirs’ property is private property, the associated rights and responsibilities also mimic those attached to common property, as each heir or owner has an “undivided, fractional interest” in the entire property (Baab 2011: 4). That is, each shareholder, no matter the amount of financial investment, contributions to land improvement, or proximity to the land, has the same shared rights to the full extent of the acreage.

At the same time, heirs’ property owners may be restricted by other heirs or shareholders from any reasonable uses of the land (Rivers 2006; Baab 2011), which could range from constructing residential or commercial buildings on the property to harvesting standing timber or planting trees for future harvests. Further, the lack of clear title severely limits heirs’ property owners’ ability to access credit, to participate in various land improvement programs offered by federal or state governments, or to sell land or natural resources; these limitations result in a diminution of wealth for affected families (McGee and Boone 1976; Rivers 2006; Dyer and Bailey 2008; Dyer et al. 2009; Geddings 2010; Chang 2012). Banks are reluctant to lend to owners unless borrowers have clear or marketable title. While

loans are possible for heirs' property owners, all heirs must assume legal responsibility for the loan. Such agreement may be next to impossible given the sheer number of heirs in some cases and the fact that many heirs may live very far from the property, may have no interest in assuming a loan, or may not even know one another. Family-held parcels of land are also lost due to delinquency in paying property taxes, usually because of the complexity of agreeing to an equitable payment distribution or organizing a number of heirs, many of whom do not live on the land or have a direct interest in maintaining it, to pay taxes on time (Reid 2003; Rivers 2006). Just as problematic is the false security that heirs feel when they do faithfully pay taxes on jointly owned land; tax bills are sometimes addressed to a specific estate or set of heirs, which heirs interpret as legal recognition of ownership (Geddings 2010). This false assumption can act as a disincentive to try to obtain clear title.

Many scholars and advocates believe that the greatest threat to heirs' property owners has been court-ordered land sales (Casagrande 1986; Craig-Taylor 2000; Mitchell 2001; Chandler 2005; Hinson and Robinson 2008). As all co-tenants have equal ownership of the entire parcel, if one heir wants to sell against the wishes of other family members, a court typically orders either partition in kind (i.e., actual land distributions with clearly delineated boundaries rather than cash) or a sale of the property (in which case the proceeds are split among heirs). In the case of a few known heirs who agree on land division, partition in kind seems a reasonable way to proceed (Chandler 2005; Baab 2011). If, however, there are numerous heirs, the process of land subdivision may become complex to the point of infeasibility. In such cases, a court typically orders a forced sale, working under the assumption that monetary shares of the land as a whole will be larger than the returns from individual parcels of partitioned land. However, as numerous scholars have shown, there are high transaction costs for heirs resulting from court-ordered land sales (such as attorney fees, court fees, survey fees, etc.), as well as many shady practices that further disadvantage land-rich and cash-poor African American families such as quick and poorly advertised "fire sales" that net much less than fair market value for the land (McGee and Boone 1976; Mitchell 2005, 2014; Rivers 2006; Geddings 2010). In many other documented cases, land speculators have acquired an interest in the land from a family member, and that outside entity (now a shareholder) initiates the sale with the ultimate aim of acquiring the total property in a closed bidding scenario that includes only heirs and the shareholder. Invariably, family members have been unable to outbid cash-rich real estate developers, and the family loses the land (Bartelme 2000, 2001, 2002; Chandler 2005; Rivers 2006; Baab 2011). Although most state laws governing property divisions privilege partition in kind over partition sale, far more sales occur because of the impracticality often involved in subdividing land with a large number of heirs (Baab 2011). As money is easier to split than land, courts usually make a decision based solely on economic valuation of land.

Despite the threat of land loss, sometimes there is deliberate reluctance of heirs' property owners to pursue clear title because of the cultural, social, historical, and symbolic meanings of the land. Family land left to them by their predecessors, who obtained the land during times of slavery or intense Jim Crow racism, and land that

often literally contains the bones of their ancestors, has more than sentimental value; ties to the land are deeply embedded in their identity as individuals, families, and communities (Merem 2006; Dyer and Bailey 2008; Dyer et al. 2009). For many landowners, land symbolizes autonomy and a political response to racism and discrimination, and they feel that their ancestors left the land to all the heirs to be held jointly by them in perpetuity as a shared resource and home place (Goluboff 2011; Copeland 2013). Goluboff (2011: 390) says that for many African Americans living on land owned by and attending churches established by their ancestors—often former slaves—“attests to the enduring importance of maintaining African American homeplaces.” Further, she states that:

These spaces were established originally as a challenge to racism – to repossess a sense of self, heritage, and family security. Their continual presence is a kind of remembrance, and the act of remembrance is itself political. It is the refusal to banish the history of tragedy and triumph into oblivion (Goluboff 2011: 390).

While many heirs’ property owners recognize the potential financial benefits of having clear title, it is not simply an economic calculation. As noted by Dyer et al. (2009: 211):

Landownership represents much more than the ability to open a line of credit. For many poor, rural African American landowners, heir property is family land that signifies hard work endured in places often entrenched in racism. The cultural significance associated with heir property cannot be quantified through any reasonable measures.

Obtaining clear title may be daunting or impossible to some heirs’ property owners, and others choose to keep their land in heirs’ property for social, cultural, and personal reasons without a full understanding of the legal issues this creates. The status of heirs’ property, whether by choice or default, places limitations on small-scale forest management options which could provide income to maintain and improve the land as well as build intergenerational wealth within families. However, opportunities to practice sustainable forestry provide incentive for minority landowners to obtain clear title, and the process of resolving heirs’ property issues can also bring families together as they make decisions to manage forested lands for long-term ecological and economic benefits.

## **Research Project and Methods**

### **Project Background and Rationale**

The U.S. Endowment for Forestry and Communities, in partnership with the Natural Resource Conservation Service and the USDA Forest Service, launched a 6-year program in 2012 to test the potential of sustainable forestry practices to help stabilize African American land ownership, increase forest health, and build economic assets in the southern Black Belt. The program began with 30-month pilot

projects initiated with partner organizations working in three multi-county regions: (1) Roanoke Rural Electric Cooperative and partners in northeastern North Carolina, (2) Center for Heirs' Property Preservation and partners in five coastal counties of South Carolina, and (3) Limited Resource Landowner Education and Assistance Network (LRLEAN) and the Federation of Southern Cooperatives (FSC) in the Black Belt of west central Alabama.

The pilot projects have built and coordinated systems of support for African American landowners involving non-profits, academic institutions, for-profit service companies, and government agencies. The main goals are to increase the economic value (i.e., generate added income and land asset value) of land through increased use of sustainable forest management and to help stem land loss among African Americans in the identified regions. To meet these goals, the program is currently addressing issues such as heirs' property and estate planning and providing assistance with loan and grant applications, financial management and business education, the identification of markets for timber and non-timber forest products, and access to forestry services and forestry education.

The program also includes a research component to establish baseline conditions for the pilot regions in order to understand current issues, measure progress, and enhance knowledge of the relationships among African Americans, land, and forests. While family forest owners in general have been extensively studied, there have been very few systematic studies of African American forest owners. To meet these research objectives, a semi-structured interview guide was developed covering a range of topics about landowners and land and forest management, including: (1) land and forest ownership characteristics (e.g., acreage held, uses, forest composition and stage of succession), (2) land and forest owner characteristics (e.g., demographics), (3) present and past land and forest management practices and forest conditions, (4) values and attitudes related to land and forests, (5) forms of ownership and heirs' property, (6) social relationships and forms of organization, (7) future plans related to land and forests, and (8) potential for increased income and asset value. This article examines the portions of the interviews related to heirs' property: people's values and understandings of heirs' property and the challenges that it presents for forest management, including the threat of land loss, intra-family conflict, and legal limitations on forestry activities.

## Research Methods

Because comprehensive data on African American forest owners does not exist, one of our main research objectives was to fill in the gaps of understanding in how African American forest landowners view, value, and manage their forests, and the particular obstacles they face when managing family forest land. Currently, the National Woodland Owners Survey (NWOS) (Butler et al. 2015) is the primary source of data on family forest owners in the U.S. However, the combination of low-intensity sampling (the NWOS has a target sample size of 250 responses per state) and known lower African American responses to mail surveys (Krysan et al. 1994) result in NWOS data providing limited insight into African American forest owners. Most individual studies of African American forest owners have used referral

sampling and been limited to one state (e.g., Dyer and Bailey 2008; Dyer et al. 2009; Gan and Kolison 1999; Gordon et al. 2013), or have randomly sampled only farmers or small geographical areas (Gan et al. 2005; Onianwa et al. 1999, 2004; Schelhas et al. 2012). The research presented here offers a more nuanced and holistic approach to understanding the needs and concerns of small-scale African American forest landowners that complements this body of existing data.

In collaboration with the project forester for the program in each state, the team of social scientists (diverse in terms of age, gender, and race) spent approximately three weeks in July–September 2014 conducting 20 in-depth ethnographic interviews in each site, for a total of 60.

Data were collected using a modified rapid appraisal technique. The research approach was inspired by interdisciplinary rapid appraisal techniques developed in association with international agriculture and agroforestry development programs to gain a broad understanding of complex social and agricultural systems in a short period of time as a precursor to project development (Collinson 1981; Hildebrand 1981; Conway 1985; Chambers 1992; Beebe 1995; Russell and Harshbarger 2003). Rapid appraisals are valuable for understanding different points of view and quickly learning about patterns and variability, although sampling is not adequate for generalization of quantitative data and field engagement falls short of ethnography (Russell and Harshbarger 2003). We designed our rapid appraisal approach to enable a broad, purposive sampling of landowners in the study area to: (1) collect baseline conditions for a diverse set of selected landowners; (2) enhance our knowledge of landowner outlooks, practices, and resources and limitations for project development and further research; and (3) provide a focal point for discussions among project personnel and outside advisors for development and improvement of the program.

Landowner visits ranged in length from one to three hours. Fifty-three of the 60 interviews were audio recorded with permission of interviewees, while several interviewees declined. Landowners were encouraged to have other family members (from multiple generations, including future heirs) present at the interview, and when possible the visit included a ride or walk around the property to see forest conditions. In some cases, family members living outside the locality were brought into the interview via telephone. Foresters made a separate visit to access forest conditions (see Schelhas et al. 2016 for more details on the forest data collected by the project foresters). Summaries of the interview notes and the forest conditions assessment were given to the landowners by the forester associated with each partnering institution after fieldwork was completed. Reports for each state and a comprehensive report including results from all states were presented to the funding agency as well as to each partnering agency. All publications resulting from this research will also be shared with partnering institutions and made available to all interested interviewees. The social scientists conducted qualitative analysis using NVivo software (Gibbs 2002). Notes and transcripts of interviews were coded using key themes established in the research design, as well as new themes that emerged from the data. The sections of this article reflect the major themes that emerged from this analysis.

The sample of participants involved in our research project was designed to capture diversity among African Americans with at least 10 acres of land (a minimum acreage

for most forest management activities) in the study sites. The project managers of the partnering community organizations selected participants to reflect the range of landowner characteristics, including diversity in (1) landownership sizes and forest conditions and (2) landowner age, gender, income or class, employment and occupations, management objectives, and experience with forestry<sup>1</sup> (see Tables 1, 2). All respondents were African Americans, and we spoke to a roughly equal number of men and women (including mixed gender groups). Over 90% of the interviewees were over 50 years of age (25% were over age 70), and over 60% were retired. Education levels were very high. All but two interviewees had some post high school education, with 70% having at least a 4-year degree; several had master's degrees and at least two had doctorates. Income levels varied, but around 25% of interviewees reported incomes less than \$50,000 per year, perhaps reflecting fixed retirement incomes. Many retirees had lived and worked in other parts of the country, and a number of interviewees had been born in other places (e.g., New York) to parents who had migrated from the South but maintained ties to family land. Many interviewees were now living on family land that they had some association with when growing up, either living on or visiting as children.

Eighty percent of interviewees had inherited land from family members. The sizes of the interviewees' landholdings ranged considerably: around 13% had less than 20 acres, around 25% had between 20 and 50 acres, around 27% had between 51 and 100 acres, and around 35% had more than 100 acres. All of the tracts contained forests, and the majority of these tracts are forest-dominant, although many acres were formerly agricultural fields or cleared homesteads. At the time of the interviews, around 40% of interviewees had heirs' property, while 60% had clear title to their land. However, several families had recently cleared title to what was formerly heirs' property, and others acknowledged that they too would have heirs' property if the previous generations had not already cleared title. All respondents were aware of the term heirs' property, and most knew families that were currently dealing with issues related to heirs' property. However, as discussed, there was some disconnect between legal definitions and common understandings of heirs' property and its implications for small-scale forest management.

Approximately half of the interviewees were already involved with the pilot project, and half were not involved or had only recently been in touch with the partnering institution. We found that 68% of interviewees had never participated in cost-share programs for tree planting (another 15% had only recently participated as a result of participation in the program funded by the U.S. Endowment for Forestry and Communities), and that while approximately half had thinned or harvested trees, most did not receive adequate compensation for the trees (Schelhas et al.

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<sup>1</sup> The short-term nature of the field work and the identification of interviewees through program foresters meant that interviewees tended to be more engaged in their communities, enthusiastic about new programs and income opportunities, and/or have at least a nascent interest in land management and forestry. Landowners with a legal stake in more than 10 acres are also likely to be wealthier, more educated, and more engaged. The Sustainable Forestry and African American Land Retention Program is designed to build the assets of African American landowners through forestry, and as such does not target the poorest landowners for whom forestry is unlikely to be viable. While we made efforts to include less wealthy and less educated forest owners, we were limited by these factors, and we were also reliant on our program foresters to choose.

**Table 1** Demographic characteristics of landowners interviewed

	Number	Percent
Age (in years)		
<50 <sup>1</sup>	5	8.3
51–70	40	66.7
>70	15	25
Gender		
Male	21	35
Female	23	38.3
Couple	16	26.7
Education (primary Interviewee)		
High School <sup>2</sup>	2	3.3
Some College	14	23.3
Bachelors	7	11.7
Post graduate	35	58.3
Nonresponse	2	3.3
Employment		
Part-time employed	3	5
Full-time employed	20	33.3
Retired	37	61.7
Income		
<\$25,000	8	13.3
\$25,000–\$50,000	8	13.3
\$50,000–\$100,000	13	21.7
\$100,000–\$250,000	5	8.3
>\$250,000	3	38.3
Nonresponse	23	38.3

<sup>1</sup> Four additional young people (age < 20) attended interviews with family members

<sup>2</sup> Three parents in multi-generation interviews had less than a high school education

2016). Also, before the initiation of the program, only around 11% of interviewees had created forest management plans (Schelhas et al. 2016). Most interviewees with heirs’ property had not yet participated in any forest management activities, and knowledge of opportunities for income-generating activities on the land was limited (Schelhas et al. 2016). However, interest in participation in small-scale forestry activities was high, and it served as a strong incentive for heirs’ property owners to pursue clear title to family land.

## Results: Importance of Forest Land, Land Loss, and Heirs’ Property

### Importance of Forest Land or “the Woods”

The importance of keeping land in the family was a central theme throughout our interviews in each location, and we found that the reasons for this importance reflect emotional, sentimental, and cultural attachments to family land. As noted, many of

**Table 2** Ownership characteristics of land for interviewees

	Number	Percent
Acres Held		
<20	8	13.3
21–50	15	25.0
51–100	16	26.7
101–500	21	35
Tenure		
Title	36	60
Heirs Property	16	26.7
Both	8	13.3
How land was obtained		
Purchase	11	18.3
Inherit	39	65
Combination	9	15
Nonresponse	1	1.7
Productivity		
Makes money	7	11.7
Costs money	32	53.3
About even	15	25.0
No response	6	10.0

the interviewees (or their parents) farmed portions of the land, and much of this former agricultural land has since grown into forest. However, most family land also originally contained forests, and many of our interviewees described the forests beyond the fields, typically referred to as “woods,” which were places where children and adults hunted, fished, collected medicinal plants, and simply spent free time outdoors. This time spent outside resulted in sentimental attachment to the land and to the lifestyle that a rural childhood allowed them; interviewees made statements such as:

There were ponds for fish. We would go mudding. Stir up the water, make the fish drunk, go pop! We don't do much of that now [SC10].

My mother was good about going into the woods and getting herbs. She knew every tree. She could go into the woods and get herbs that make you feel better [SC15].

There was a pond there. I caught my first fish out there, with a straight pin and piece of fatback [AL11].

We would walk the paths on the land. Kids then had a lot of independence to roam. I remember climbing trees. I used to hunt the woods [SC20].

Growing up as a kid, my dad took us out there to hunt there. He said his dad took him out there. You want to take your son out there and tell him the same story [AL1].

We went fishing, mostly at [name] Creek. There were rocks we’d jump off into the creek. We’d eat those persimmons. Swing along the vines through the woods [NC1].

These childhood experiences were reflected in the ways people thought about the land they had returned to as adults. They talked of how time spent in “the woods” instilled an appreciation for nature and a desire for their children to have the same experiences. Love of forest lands, as well as personal memories and family history literally embedded in family forest land, are non-quantifiable but key motivations for African American forest owners to maintain family forest land and prevent land loss by any means possible.

### Land Loss

The people we interviewed were all aware of the problem of land loss among African Americans. We heard many stories about how land has been lost, either within their own families or by other families. In some cases, family land was lost because of a failure to pay property taxes. As discussed earlier, there are numerous problems and misconceptions involving legal rights and responsibilities associated with paying taxes on heirs’ property land, and many families have had trouble getting the money from heirs to pay them or in trusting one person to make the actual payment. One man, a local political leader, said:

Being on council and seeing on a day to day basis what goes down, how property is lost to African Americans, it’s saddening. These parents who worked hard to own property or a house, and then a couple years after they’re gone, it’s almost like they had nothing. They didn’t think paying taxes was important or whatever. It’s sickening. I want to encourage people to own their land (SC10).

There have also been bureaucratic struggles in maintaining family land. These have taken multiple forms, and interviewees expressed distrust of the government, both in terms of directly taking land, or in withholding information from African American landowners. Referring to land that used to belong to his family and is now in a National Forest, one man explained that:

There has been a change to all land owned by the government. It used to be great. We could use it, but now we can’t. All our fishing holes.... no more. We used to could walk through the woods. Now the government don’t want you on it – they closed the road so you couldn’t get on it (SC13).

Another interviewee described losing forested family land to non-local elites, in this case to a private hunting club:

[Town name] is a conservation area. People that live here should be able to go there and hunt, but you can’t go unless you’re a member. It’s for wealthy legislators. It’s private – they made it private. The state paid for it, but only a few people have rights to go there. Doctors, lawyers, legislators. On tax-

exempt land – the county doesn't receive any taxes from it. My property adjoins the property (AL8).

One interviewee (NC20) mentioned a suspicion that some forest land was lost to a pulp and paper company, though another member of the family present at the interview interjected that they needed to let that go because they could not prove it. Several interviewees also mentioned development pressure and the resultant threats of eminent domain and rising land prices that are tempting people to sell family land. This is especially true for owners of forest land near bodies of water such as rivers or the ocean; while this land was formerly considered worthless or even uninhabitable because of mosquitoes and soil unfit for farming, it is now highly valued by developers and people seeking waterfront homes. One interviewee said:

This is a growing area. I've had contractors come by and look at the land. We have a quarter acre of waterfront. I've been told that if I don't improve it, there are laws that they can come in, eminent domain, so many ways that they could utilize the system to get the land (AL18).

Some families have had land stolen from them by other people who intentionally move the physical boundary markers and then have the land surveyed using the new markers. Several respondents mentioned the necessity of walking the land regularly and paying attention to boundaries and nearby activities to prevent being cheated out of land. We heard several stories about how land was stolen from, and then partially recovered by, their grandparents or great-grandparents. One interviewee told the story of his great-grandmother who inherited, and then lost (through an alleged lien on the land) 600 acres of land; she was later able to recover 122 of those acres in 1924 by essentially "buying back 100 acres of her own land, at 8% interest" (SC5).

Many families have also lost land through voluntary sales of land by various family members. Because some family members may want or need to sell their share of the land, the family as a whole may decide to partition the land and obtain clear title for individual parcels in order to prevent forced sales of the entire property. One interviewee explained this situation, also referring to another family who lost land to a large timber company:

It's not divided yet, but the surveyors are working on that now. Even if it's divided, we'll manage as one piece of land...I want it to stay in the family, never get sold. But you can't control that unless you have your own piece. That's the reason for the division – we want to make sure that one person can't force a sale. That happened to one of our neighbors. The people living on it had to move off it because they couldn't compete with the price. [*Paper company*] has it now. They lost the whole piece of land (AL5).

For many interviewees, selling family land is not considered to be an option, or at best, a last resort. Many emphatically said that their parents have told them to never sell the land and that they are passing the same message to their children. However, many interviewees were well aware of the possibility of losing family land if they are not able to clear up title issues and emphasize the need for assistance in learning

how to do so. Large acreages of forest lands removed from family hands could have profound impacts on the rural forested landscapes of the southeastern United States, particularly if the land is developed commercially. As prevention of black land loss is the main goal of the current program, understanding how small-scale forest owners define and manage heirs’ property is vital.

## Heirs’ Property

### *Defining Heirs’ Property*

While all respondents were aware of whether or not they had clear title to the land, some respondents expressed more clear distinctions between the legal definitions of land that is owned as heirs’ property and land with clear title. The interviews indicated that most people defined “heirs’ property” as land passed down from one generation to the next, regardless of whether clear title has been legally obtained. When asked to explain what the term “heirs’ property” means to them, most people began tracing the history of the land through the generations of their family that have inherited it. One person stated that heirs’ property is “land that’s passed down through generations” (AL20), and another said: “I understand it to mean something in the family which is passed from one generation to the next” (AL15).

Interviewees often described who the current heirs are, usually along the lines of one of the children of the original owners. Some interviewees were not sure of the exact history of the land, but they know it has been in the family for a long time. One woman described the 168 acres owned by her family:

The property belongs to the heirs of [name]. I’m not sure whose name is on the title. It is heirs’ property, but I’m not sure what the record reads... Back in the 1800s, we became involved.... As I understand it, it was purchased by our father. It has been in the family for I don’t know how many years. I’m not sure who the land was purchased from, but the land has been in the family a long time (NC20).

Others also mentioned how land was acquired in the mid to late 1800s, when slavery was still legal or shortly after emancipation. In many cases not all heirs to the original owner had clear title, and if they did not, the number of heirs expanded with each generation. For example, one interviewee described the historical circumstances that led to family land becoming heirs’ property with many legal co-owners:

We inherited this land from our parents – 4 girls and 5 boys. It was in 3 brothers’ names: [names]. The problem is that the older people buy land and leave it to their children, and it becomes heirs’ property. After a certain length of time, it gets complicated. You have 6 or 7 siblings and they all have four or five children, and then there’s 40 different owners (AL8).

One respondent clearly stated that although he and his siblings have clear title to the land that his parents owned, he still considers it heirs’ property because it is now owned by the heirs of the original owners (SC18). Another respondent clearly stated

that although she and her siblings do not yet have clear title to the land that his parents owned, they do not consider it heirs' property:

We have clear title... The land is still in my father's name. It's been probated, but we haven't had the deeds changed. We all inherited the land together, but it hasn't been partitioned yet... You can call it heirs' property (NC12).

These examples demonstrate a lack of alignment between legal definitions of heirs' property and understandings of it by family forestland owners where it culturally resembles a form of family-controlled common property. Though a few respondents felt that lack of clear title had not been a problem for them, many others told stories that demonstrate the legal ramifications of not having clear title: limitations on economic activities such as harvesting timber, the inability to apply for government funding for cost-share programs, or the possibility of losing the land through forced partition sales as a result of one or more heirs selling their shares to an outside party. Especially for the interviewees struggling to manage the land without the cooperation of all heirs involved, information about the legal processes, and information about financial resources to obtain legal services, is a necessary prerequisite for most forest management activities. When asked to define heirs' property, one woman simply stated: "It's a privilege, and it's a challenge" (SC19).

### *Managing Heirs' Property*

Interviewees described the current management structure of the land: who pays the property taxes, who currently makes decisions about how the land is managed, and potential involvement of the younger generations in land management decisions. While we did ask directly about who makes management decisions about the land (most typically either the interviewee alone or collaboratively with other family members, usually spouses or relatives that live nearby), the issue of who paid taxes, and how they were paid, revealed much about the decision-making structure regarding land management decisions for heirs' property or co-owned land. In some cases, different family lines of heirs (often with one representative for that line of descendants) each contributed an equal amount to the taxes, while in other cases, one person paid the taxes (usually a person living on the land or benefitting financially from some activity on the land, such as rent for a house or farmland). One man who lives on the family land, which is mostly forested, pays taxes on it, noting that other family members had the right to live on the land as well; they choose not to because "it's too quiet; there's nothing to do" (AL15). However, another man living on family land said that he purposefully did not pay the taxes (his aunts did), as this could be interpreted by other heirs that he was trying to take over the land (AL18).

Several interviewees expressed the difficulty of organizing the cooperation of all the heirs in paying the taxes and managing the land. One man expressed great frustration of being in a position where he had to collect money for property taxes from other heirs:

We got to pay it, and that’s it. But people get funny when you ask them for money. It’s got where some of them hate to see me. Boy, I sure am glad we don’t have 300 or 400 acres – I’d probably be dead (SC12).

In cases where people had clear title to the land, tax payments were more straightforward; the people who bought the land or inherited land already deeded paid the taxes, or tax payments were managed through a more formal legal structure such as a trust or LLC, or limited liability corporation in which heirs manage the land as they would a business.

In several cases, land that was still held in common—legally in heirs’ property status—had been divided into separate tax parcels. This sort of informal division allows family members to pay taxes and manage “their” portion of the land on their own. However, this may create a false sense of security. While the divisions are recognized by family members, the entire parcel of land is still legally held in common and is subject to all the disadvantages, such as forced partition, of any other piece of heirs’ property. In one case, there was confusion about how heirs’ property could be lost through outsider intervention; the interviewee (who was not yet part of the program) mistakenly believed that an outside party could buy a share of the land and place a house on any part of the land (SC17). These false assumptions and misunderstandings highlight the importance of education about the legal ramifications of not having clear title and assistance with resolving heirs’ property issues, even when landowners do not feel a sense of urgency. When asked about the importance of clearing title, several interviewees emphasized the need for more information about land ownership:

That’s the thing - you may think you know things that you don’t. You may think you have clear title, but you don’t. Clear title is important (AL19).

It’s not true that the person who pays taxes owns land. People think they own it, but they don’t. Education is the key (SC17).

It should be noted that the interviewees most likely to differentiate between the legal definition of heirs’ property and land with clear title were already working with the partner organizations in each state. They had been exposed to more information via workshops and direct contact with attorneys that have been able to both explain the legal implications of heirs’ property and assistance in resolving it. Some had already begun the process of clearing title, or knew what they needed to do to get started. The ones that were most overwhelmed by the prospect of the process had not yet met with attorneys and had only vague ideas about how to proceed. The most commonly cited constraints to pursuing clear title to the land were lack of information on the process, the lack of money to hire legal assistance, and a lack of family agreement and cooperation. One interviewee felt so overwhelmed with the prospect of addressing the family’s heirs’ property issue that he did not even want to start the process of trying to sort it out:

There are so many heirs. There’s a 20-acre plot with over 100 heirs. It’s easier to just step away (AL13).

Another also explained why some heirs' property owners are reluctant to bring attention to the issue; they are afraid that contacting some heirs or involving legal entities could lead to loss of commonly held land rather than ensuring that it stays in the family:

People have a natural fear when it comes to land. They'd rather sit on it, because at least they have it. Since we've held onto it since 1883, there may be people who say if it ain't broke, don't fix it (SC15).

The processes of dealing with heirs' property and working to obtain clear title to the land both reveal and influence internal family dynamics, and these processes can illuminate and exacerbate conflicts between family members. We witnessed and heard about many different family situations. Some close-knit families have come together to manage the land collectively and equitably, through formal structures such as an LLC or partnership (legal entities that permit and define joint ownership and management of land), or through informal agreements in which each person fulfills their obligations without pressure from other parties. One man stated that because all family members are in agreement about how to manage the family land that there will not be any disagreements and that they are working with the Federation of Sothern Cooperatives to formalize a legal agreement so that they "will not leave a mess for our children and our children's children (AL14)."

Other families are not in agreement about how the land should be managed; these families might have one or more people that are not willing to cooperate with others who would like to move forward on the process of clearing title. In one case, one family member had consulted a lawyer on pursuing title to heirs' property, but another family member refused to cooperate with that lawyer, insisting on getting her own lawyer (SC3). In another case, several heirs only recently found out that they were heirs and that one other heir had been profiting from the land while not paying taxes on it. These heirs stepped into make sure the land was not lost for failure to pay taxes, and they are now in the process of trying to clear title. One man described this situation:

It was through those conversations when [name] disclosed that the land was about to be lost because of taxes. I came back and shared that with the family. For us, it was an experience. For me, it was a very moving experience. It was like something was compelling me – we have to save this land. This is where my great-grandfather... to see those gravestones, and all that property. I was determined. We gotta save this property. It wasn't about whether we were heirs or not, it was just 'we have to save this property' (SC5).

In other cases, having and managing heirs' property can create new problems within families, or exacerbate existing issues. Several interviewees mentioned intra-family conflicts related to ownership of heirs' property, and one interviewee specifically mentioned how such conflicts could complicate forestry activities such as cutting timber on the land:

Some people are trying to claim some of the land, and that's why we have to get the survey. My cousins, my best buddy. They're the ones that do that. They

are saying you can’t cut that because it’s not yours. I just do what I want, though. I’m not afraid of them (AL15).

In this case, intra-family conflict did not prevent forestry activities, but the fact that he pursued these without consent of other heirs shows how heirs’ property status can provoke further conflicts among family members.

In other cases, families were in the process of simply trying to determine who the heirs are and where to find them. In cases where families had been successful in obtaining title to inherited land, interviewees noted that the task of tracking down all the heirs was a very difficult, or even the most difficult, part of the process. One person said: “We began by locating the heirs, as many as I possibly could... some have passed on (AL20), and another stated that: “It took 5 years to get it straightened out; tracking people down is the hardest part (NC16).” Another interviewee described the difficult process of finding heirs and convincing them to cooperate in a process that may seem totally irrelevant to their lives, as they have no current connection to the land:

We have to draw up a petition to take to the court and get each heir to sign to have their land divided. Each lawyer I’ve talked to has stated that’s the way you go about it. As of now, I’m needing some legal papers in my hand to take to the individuals I’ve been talking about to get them to sign. They’re in Mobile, Michigan, Ohio... It’s a tedious process. I’ve been successful in my career and my marriage, but this is different (AL18).

Trying to manage heirs’ property and clear title on behalf of many family members can take a lot of time, money, and effort, and it can produce a great deal of anxiety. One interviewee, currently experiencing great distress about the situation with his heirs’ property, is determined to obtain clear title in order to make things easier for his children, as he knows that the problem will become exacerbated with each passing generation. He said:

This here is heirs’... I have headaches out of this world dealing with [it]... I don’t want to pass this [situation] on to my sons. I want to take care of it. It’s the right thing to do. I want to straighten it out, so they’re motivated. They look at it as a problem. If I can’t fix it, what makes you think they can? (SC12)

Several interviewees stated that they do not currently have heirs’ property, but they are aware of the hassles involved with it, and they are grateful that previous generations obtained title so that they do not have to deal with these same “headaches.” One man stated:

We’ve heard horror stories... We haven’t had to deal with any cleaning up heirs’ property issues. People just feel it’s too much to deal with. I share information with them so they can maybe start to deal with it. It gives an appreciation, when I hear the horror stories. Our parents and grandparents cleaned things up so we don’t have these issues (SC14).

Several interviewees also noted that they had only recently obtained clear title to land that was previously heirs’ property. One woman explained:

We have a clear title now. We're moving on from that [heirs' property] now... The land was purchased in the 1800s: February 10, 1891. [Name] purchased it from [name] for \$200. It was purchased for the "heirs of," all the way down the line. They had a plan. The land is now owned by the LLC (SC7).

Also, many of the interviewees were heirs to land that is currently deeded to one of their parents; the land is not currently heirs' property, but it could become heirs' property if the intended ownership is not made clear in their parents' wills or if they do not title the land in their children's names before they pass. This situation reveals the tenuous nature of property ownership; one broken link in the chain of clear title can lead to heirs' property problems for multiple generations. Of the families we interviewed that are currently pursuing title, the most cited obstacles were lack of knowledge about the definitions and implications of heirs' property, lack of funds to pay for land surveys and legal advice, difficulty in reaching agreement with (or in some cases even finding) all heirs of the property, and procrastination and other life priorities.

### Forestry and Heirs' Property: Obstacles and Opportunities

Our research shows that there are still many African American families struggling with heirs' property issues in the southeastern U.S., and that legal and financial assistance is needed to obtain clear title or effectively manage the land as heirs' property. Obtaining clear title allows participation in government programs to improve and manage forest stands and relieves the pressure of multiple family members to agree on every management decision. Once title is obtained, land can either be partitioned and managed individually, or managed collectively through legal mechanisms such as LLCs and trusts. Many of the families we interviewed continue to fail to profit from their land because of issues related to owning the land as heirs' property (Schelhas et al. 2016), and several interviewees specifically mentioned limitations on small-scale forestry activities that could otherwise provide income for the family as a result of heirs' property status:

There are certain things that you have to get permission [from all heirs] to do, such as the forestry program. I can't just go ahead and have things done to enhance the land or increase the value of it. I have to get signatures... that's another story... You can't keep this, heirs' status (AL16).

No one person has the right to change anything without the permission of everyone. If you want to sell [timber], you can't sell because it's not yours to sell. You have to get permission [from all heirs] to cut timber or do anything else on the land (AL19).

One man discussed the frustration that he felt watching families who could not agree on how to manage forests that are held as heirs' property or who remained ignorant of their options and opportunities:

There’s a lot of timber around here, but it’s heirs’ property. You can’t buy it. It just sits there. You can’t get families to come to agreement, and it’s just going downhill. They’re losing money, and they don’t even know it. I showed some people, kinfolks, their land, and I told them they got beetles, and their trees are starting to fall, and I told them they’re losing money. That whole time that could have been cut and replanted, and in 20 years, he could have more money. He didn’t know. I tried to tell him, that’s all you can do (AL8).

Interview results also demonstrate the role that sustainable forest management can play in managing family land as an intergenerational asset for both economic and non-economic reasons, as they illuminate the many cultural, historical, sentimental, and symbolic valuations of land that affect forest management decisions.

As noted, historically low participation rates of African American landowners in government forestry programs have resulted in less active and less productive forest management. Recognizing these low participation rates and the low levels of awareness of timber markets and forest management techniques, combined with the legal limitations on heirs’ property owners, the “Sustainable Forestry and African American Land Retention” program initiated by the U.S. Endowment for Forestry and Communities, NRCS, and the USDA Forest Service seeks to offer assistance to landowners to obtain clear title to their family land and to begin sustainable forest management as a way to improve forest health and generate income. This project takes a multi-pronged approach to assisting families by simultaneously offering legal advice, providing genealogy assistance and family mediation services, educating family members about the benefits of establishing sustainable forestry practices on their land, and contributing technical assistance by local foresters. The positive impacts on both landscapes and on family dynamics can be profound.

Our research shows that the prospect of obtaining income from forestry activities when clear title is obtained is a great motivator for cooperation among family members, demonstrating the synergies between resolving heirs’ property issues and implementing sustainable forest management on family land. One interviewee noted that this process has encouraged her to reach out to relatives that she’s never met (NC4), and several others also noted positive impacts of this program on family dynamics and on potential income for current and especially future generations:

That [dealing with heirs’ property] helped move things forward in the best interest of everyone to work together as a team rather than work against each other. Otherwise, everyone loses. When it’s presented that way, everyone is more likely to work together (SC5).

My great-grandfather purchased the land quite a while ago. It’s been in the family over a century now. We didn’t have the knowledge to make the land work for us. Obviously we should have done it some time ago. But no one in the family could lay out a path for us. With all the people involved, there were conflicts and it was difficult to make progress, because it had to be unanimous. This program now – everyone realizes that it’s positive for everyone involved. It will certainly sustain us and our families for years to come (SC7).

Other families near here are hanging onto their land too. That's one reason why we're trying to do what we can to keep them encouraged and pass on opportunities for different things. At some point, we might be able to get other family members interested in doing something. You've got to have a carrot out there for them to get involved. If we get through the process and are able to generate some income, we might be able to draw in other family members (AL10).

Several interviewees spoke about the assistance that they have already received from the partnering institutions in each state while trying to manage their heirs' property or obtain clear title. One woman said:

It's all cleared now. I hired an attorney and presented them the deeds. [Shows us gifted deed from June 2014]. I have power of attorney for Mom. I've gotten good assistance from the county office. They worked with me to get farm commodities and farm tax numbers. I got an agreement with NRCS (NC1).

One interviewee noted that there was no special hurry to obtain clear title, although it is a long-term goal: "I'd prefer to have title. It's something we need to do. But there's no immediate need. It's probably a few years down the road (NC18)." Most interviewees, though, did feel an immediate need to address their heirs' property issue and saw the opportunities presented by sustainable forest management as an incentive to work toward clearing title. One interviewee stated:

The ultimate goal is to make some money and keep it for future generations. And keep a pristine view for next generations. ... The first thing I would like to do is go ahead and replant...and get some pines going. That's going to be several years down the line, but at least then we can put our heads together about development on the land that could produce some income for us (SC7).

This quote illustrates not only the synergy between clearing land title and sustainable forestry but also the temporal aspect of family land that respects both past and future generations. Because trees are a slow-growing crop whose demand in the future is nearly assured, forest management activities today present a unique opportunity for leaving a legacy of both wealth and family history literally planted in the ground. While many interviewees can envision this end goal, they stated very clearly the difficulties in obtaining it and gratitude for the U.S. Endowment's efforts to help African Americans both retain and profit from family land.

Our analysis shows that sustainable forestry, which results in long-term income for families, is not only a "carrot" that serves as an incentive to pursue clear title to forest land currently held as heirs' property; the process of initiating sustainable forestry practices on family land with clear title and clear management structures also has the potential to bring together and strengthen families. As our results show, this is often, though not universally, true; while some families faced difficulties in reaching agreement with multiple heirs during the process of trying to obtain clear title (and problems of even finding all family members in some cases), the majority have been able to reach agreement and move forward in ways that are productive, or are confident that they will be able to do so. Assistance from program foresters and

government agencies such as NRCS also helps minority landowners obtain access to funds and programs from which they have historically been excluded, thus serving as a small step toward redressing some of the past iniquities faced by African American landowners. Just as importantly, the program has increased awareness of the benefits of sustainable forestry and knowledge about how to manage forests for multiple benefits: income, aesthetics, recreation, hunting, wildlife observation, preservation of family legacy, and opportunities for their children to have experiences “in the woods” just as the ones that shaped their own love of forests.

## Conclusion

Retaining African American forest land in the southeastern U.S. begins with acknowledging and recording the individual histories of tracts of land that families have held for generations, often passed down as heirs’ property. As our research results show, there is currently a great deal of misunderstanding among African American forest landowners about the legal definitions and implications of heirs’ property, as well as misunderstanding among foresters and natural resource managers about the many different and often complex ways that heirs’ property (and other forms of family forest ownership) actually exists and is managed. The social science research presented here elucidates the ways that many African American forest owners currently value, define, and manage heirs’ property and the particular obstacles they face when trying to implement forest management strategies. Our results also show how the process of obtaining clear title to forest lands held as heirs’ property and the goal of preserving family forests for cultural and economic reasons can strengthen family ties and encourage cooperation among family members. Research into the specific intra-family dynamics and the household dynamics that affect family decision-making regarding family land, especially cross-generational communication and cooperation, would provide deeper insight into ways that collaborations among forest landowners, natural resource managers, government agencies, and private donor organizations like the U.S. Endowment for Forestry and Communities can be mutually beneficial and promote sustainable forest management among historically underserved populations.

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