

unmarked graves in the cemetery, one of whom is Shadrack Nolan, (1752-1841) and a veteran of the American War of Independence, and Ed Cresap, another veteran of the American War of Independence. No other graves have been identified in the cemetery. According to Hardin County genealogical records as shown on collective **Exhibit B** there are numerous descendants of Shadrack Nolan some of whom have been notified of this petition.

5. Pursuant to Tenn. Code Ann. § 46-4-103(b), necessary respondents in this proceeding are all “interested persons” (“Interested Persons”), which are defined in Tenn. Code Ann. § 46-4-102 as the following:

As used in this chapter, unless context otherwise requires, “interested persons” means any and all persons who have any right or easement or other right in, or incident or appurtenant to, a burial ground as such, including the surviving spouse and children, or if no surviving spouse or children, **the nearest** relative or relatives by consanguinity of any one (1) or more deceased persons whose remains are buried in any burial ground. (emphasis added).

6. In this case, due to the lack of information pertaining to the Cemetery, the potential heirs of the only person known to be buried at the Cemetery cannot be ascertained.

7. Accordingly, the Interested Persons are unknown. Petitioner requests that the Court cause notice to be made to all unknown Interested Persons by publication in a newspaper of general circulation in Hardin County, Tennessee, for four consecutive weeks. Tenn. Code Ann. § 46-4-103(b) provides, in part, that: “Nonresident and unknown defendants may be proceeded against by order of publication, and publication, in the manner provided by law.” *See also* Tenn. Code Ann. § 21-1-204 (detailing service by publication in Tennessee).

8. In addition, Petitioner is providing the requisite notice to the Tennessee Historical Commission pursuant to Tenn. Code Ann. § 46-4-103(c).

II. FACTS

9. The Cemetery appears to be abandoned and is in an abandoned and neglected state but has been protected and respected by the Petitioner and its predecessor since its acquisition for the construction of a paper mill in 1959.

10. The current location of the Cemetery hinders the Petitioner's plans for the Property. Specifically, Petitioner intends construct a new road in partnership with the Tennessee Department of Transportation for access to its paper mill and woodyard in such a way that the current location of the Cemetery would interfere with the location of the new road. A map showing the location of the proposed road and the graves is attached as **Exhibit C**.

11. Accordingly, the Cemetery is unsuitable as a resting place for the remains of the decedents in accordance with the conditions set forth in Tenn. Code Ann. § 46-4-101, which supports termination of the use of land as a cemetery when: “(1) The burial ground is abandoned; (2) The burial ground is in a neglected or abandoned condition; or (3) The existence of any conditions or activities about or near the burial ground that the court finds render the further use of the burial ground for the purposes mentioned in this section that are inconsistent with due and proper reverence or respect for the memory of the dead, or for any other reason unsuitable for those purposes.”

12. Petitioner respectfully requests permission from this Court to terminate the use of the Cemetery as a burial ground and to have the remains of the decedents removed from the current location of the Cemetery and reburied in a suitable new location on the Property as permitted by Tenn. Code Ann. § 46-4-103(a).

13. Petitioner is working to identify a suitable reinternment site for the Cemetery in another nearby public cemetery.

14. In undertaking to relocate the decedents, Petitioner will conduct the reinterment of the remains with due care and decency in accordance with Tenn. Code Ann. § 46-4-104. A proposal for inspection of the cemetery and supervision of the relocation of the graves by Cultural Resources Analysts, Inc. is attached as **Exhibit D**, and the Petition has engaged Shackelford Funeral Directors to relocate the actual graves to the new site, reinstall the existing monument and install an appropriate monument for the unmarked grave. If additional graves are identified from this study they would also be relocated with the two that are known.

15. Petitioner will relocate the existing monument and erect an appropriate memorial for the unknown grave at the new location. Going forward, Petitioner will arrange for future maintenance of the graves that are relocated in their new location.

WHEREFORE, Petitioner respectfully requests that the Court:

1. In accordance with Tenn. Code Ann. §§ 21-1-204 and 46-4-103, enter an Order authorizing notice to all unknown Interested Persons by publication in a newspaper of general circulation in Hardin County, Tennessee, for four consecutive weeks.

2. In accordance with Tenn. Code Ann. §§ 46-4-101 and 46-4-104, enter an Order finding that the current Cemetery is unsuitable as a resting place for the remains of the decedents because it is abandoned, it is in an abandoned and neglected state, and because the conditions and activities about or near the Cemetery (Petitioner's development of the Property) are inconsistent with due and proper reverence or respect for the memory of the dead;

3. In accordance with Tenn. Code Ann. § 46-4-104, enter an order approving the reinterment of the remains in the identified graves and in any additional graves that are identified in the process of removal in the manner and location proposed in this Petition; and

4. For such further and general relief as may be appropriate.

Respectfully submitted,

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