

## HA03

### William S. Willburn Homestead entry application

HA03 Map 7: T26N, R12W, S. 19

See HA01 for where Willburn was residing at the time he made this application. Since this tract was not listed and patent was not issued, it is plotted on the Base Map with dashed lines. It remained national forest lands. Sidney William Wilburn was the son of James S. Willburn (Sr.). See B05 for a family history of the extended Willburn family. His wife, Georgia Ann Willburn also declared entry (unsuccessfully) for a tract of land in this area—see HF16.

Homestead Records (HA03 Appendix 1) indicate that Sidney William Willburn acquired the Red Mountain House (RMH) parcel on May 19, 1904 (See HA01). In 1905, just before the TNF was established, Willburn then filed a homestead entry claim on a parcel of land just the northwest of RMH (HF01). After the TNF was established in 1905, under FS policy anyone already squatting on a parcel of land or who had filed for entry under the 1862 Homestead Act could prove up and still acquire ownership of the land. However, the new FS rangers were instructed to strictly adhere to their *Use Book* (Keter 2015) regulations and as a result many of the homesteads applied for on the MRRD--as in this case--were never approved. Much of the correspondence for this parcel of land is included in the attached appendix (see jpg images and hard copy file) as it provides a wealth of information and insight into the homestead application process and the effort by FS staff to insure that the laws and regulations were followed.

With the creation of the Trinity Forest and the 1906 National Forest Homestead Act, an evaluation of the homestead entry (E/2 of NW, NE of SW, and NW of SE, section 19, T26N., R12W.), with signed statements by Willburn, Augustus Russ, and Oscar Hays (in June of 1912), was made by John Gray, Trinity Forest Ranger at Ruth, on July 3, 1912. The statement by Russ indicates that Wilburn only spent about 3 months a year from June 1 to September 1 on the claim spending the rest of the year at the Red Mountain House.

According to the statements signed by Russ and Hays it appears that the Red Mountain House was his real residence, which according to Gray included "fences, house, barn and other out buildings". He owned about 15 cattle, 6 horses and a few hogs that grazed on open range. Gray indicated that on the homestead claim Wilburn had constructed a partially completed house 16' x 20', completed a picket fence around about 5 acres and cultivated 4 acres of this area.

The statements by Gray, Russ, and Hays indicate, however that the house was never completed, and that even in the summers he and his family usually could be found at the Red Mtn. House. It was apparent from the correspondence that Ranger Gray believed that the parcel applied for was chiefly useful for grazing and not homesteading and did not believe that Willburn had complied with requirements of the Homestead Act. Gray recommended against issuance of a patent on this land stating "as shown by his sworn statement here attached, he has camped or lived on the lands only three months during the year, during the remaining part of the year or for that matter during the whole year it is evident that he has maintained a home on nearby lands. I recommend that protest be made

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and that patent be not issued" (Homestead Record on file Six Rivers National Forest, Eureka).

The records in the homestead file are incomplete. It appears, however, that Willburn appealed the decision and that a hearing was set in the case (U.S. vs. William S. Willburn, H.E. 0911) before R. L. Carter county clerk at Weaverville on August 29, 1916, and a final hearing at the Land Office in Eureka on September 15, 1916. Subpoenas were issued for Hays and Russ. No decision for the hearings is recorded in the homestead records, however a letter from the Department of Interior, Central Land Office dated May 4, 1921 indicates that the decision to cancel the homestead entry was made closing the case. It is likely from the continuance of the court case until this time that Wilburn was still living at Red Mountain House at this time. No data could be located which indicated when Red Mountain House was abandoned.

## HA03 APPENDIX

These documents are included in the hard copy file

State Of California:  
County Of Trinity :ss..

701  
Wm. S. Willburn, whose postoffice address is Caution, California, being duly sworn, deposes and says; On May 4, 1905, I made H.E.#5330, Serial No. 0911, embracing the following lands; (1)  
E 1/2 NW 1/4, NE 1/4 SW 1/4 and NW 1/4 SE 1/4, Section 19, T 26 N, R 12 W, M. D. M.

I pitched camp on these lands with my family about the first of June 1905. Got out a set of framing timbers for a house during the summer also a few pickets for fencing purposes. During this season I cultivated about 1/4 acre of land, had it planted in corn, potatoes and garden truck, although did not get the lands fenced this season. About September 1, we moved back to my place on Red Mountain Creek (The Red Mt. House). This place is about 3/4 mile distance from my claim.

In the spring of 1906, we came back to the claim, this was about June 1, and I continued to live on the lands with my family untill about Sept. 1, of this same year. During this summer I completed a picket fence around, about 5 acres of land and cultivated 4 acres of this area, 3 or 3 1/2 acres planted in grain which was cut for hay and the remaining area in corn, potatoes and garden truck. The yield of hay this season was about 4 tons. After Sept. 1, of this year we returned to the Red Mt. House, my other place and we lived there untill about the first of June 1907, at this time with my family I moved back to my homestead claim and during this season I cultivated the same lands as during the year 1906, grew the same crops and the yield was very similar. This season I erected the frame of a house 16' x 20' and covered the frame with a roof of shakes, Snow during the following winter (1907) crushed down the frame of my house. After the first of September with my family, I again moved back to the Red Mt. House and we lived there untill about the first of June 1908, then as during previous years, moved on the claim with my family and camped during the summer. I cultivated the same area this season and grew the same crops as during the years 1906 and 1907. This season I again raised the frame of my house and got out of the woods some shakes to cover it with. As in former years, about Sept. 1, with my family moved back to the Red Mt. House and lived there untill June 1909 at which time we again returned to my homestead claim. This season I planted the same ~~XXXX~~ crops as during the years 1906, 1907, 1908. The same area was cultivated and the yield of hay on the land was about the same as in former years. The only improvements that I made during this year was to cover my house with shakes. As during previous years with my family, about the first of Sept. moved back to my place on Red Mountain Creek. Late in May or early June 1910, with my family I again moved back on my homestead claim, planted the same area, growing the same crops as during previous years. I did ~~not~~ little or no improvement work on the claim this season. About the first of Sept. 1910, I again moved down to my other place on Red Mountain Creek. During the Year 1911, as during previous years I moved back on the claim with my family about the first of June.

(d)

first of June. Planted the same crops and cultivated the same area as in former years. I this season got out some lumber for completing my house. Moved back to my place on Red Mountain Creek as in former years, about Sept. 1 st. and lived there during the winter or untill about the first of June 1912, at this time with my family we again moved back to my homestead claim and have lived here since that time working to complete my house.

During the year 1910, I stacked and fed the hay crop on the claim, during the other years I moved the crops and fed the same onmy ranch at Red Mountain Creek.

(signed) Wm. S. Willburn

Subscribed and sworn to before me this 27 th day of June 1912.

(signed) John T. Gray,  
Forest Ranger.

**The following day Ranger Gray interviewed Augustus Russ (IF02) and Oscar Hayes concerning Willburn's complying with the legal requirements to prove up.**

State Of California:  
County Of Trinity : ss..

Augustus Russ, whose postoffice address is Caution, California, being duly sworn deposes and says;

I am well acquainted with Wm. S. Willburn, have known him during the past twenty years. I am also familiar with the lands embraced in his homestead claim (H.E.#5330). During the life of this entry or since May 1905, I dont think that I have been on the claim more than about six (6) times, each of these times that I have been on the claim was during a different year. I dont think that I have been on the claim during the years 1910, 1911 or this season 1912.

On one of my visits to the claim, I saw the entrymans' family camped on the land but on all other occassions that I was there I found no one living on the land yeton some of these visits if not on all of them I saw bedding and a camp outfit in an open shed that served as a house.

During the year 1906, the entryman raised the frame for a house and roofed it over with shakes but to the best of my knowledge the house was never completed. This spring however, I know that the entryman had a man assisting him with the house, getting out lumber and shakes.

On my visits to the claim during the different years, I have saw crops of hay and gardens growing, what disposal was made of these crops I do not know. During the life of this entry, I have also saw the entryman at his place on Red Mountain creek, saw him there probably six different times during the different years. I stopped all night with him at this place on two different occassions. At those times it seemed as if he was living there.

(signed) Augustus Russ

Subscribed and sworn to before me this 28 th day of June 1912.

(signed) John T. Gray  
Forest Ranger.

State Of California:  
 County Of Trinity :

Oscar O. Hays, whose postoffice address is Ruth, California,  
 being duly sworn, deposes and says:

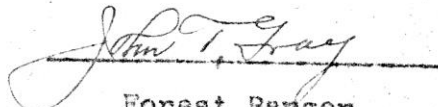
I am well acquainted with Wm. S. Willburn, having made his acquaintance some seven years ago. I have passed his homestead claim H.E. No. 5330, many times since the year 1909. The first time that I was at the point used as a camp on this claim was December 27, 1908 at this time I noted the frame of a house being built, this house to my knowledge has never been completed.

The last time that I was at this claim, the entryman and his family were camping there, the entryman being engaged in the construction of the house the frame of which was raised some years ago. He was siding the building, using lumber that had recently been made, the walls were most completed and the rough lumber floor was partially laid (the date of this visit was June 27, 1910) the cabin had no doors and as yet no preparations had been made for a stove or chimney. There was bedding in the cabin at this time and the camp was pitched under an open shed of simple construction near by, this shed was about 6'x 10', roofed over with shakes but had no walls. There was about 5 acres of land enclosed with picket fence and a crop of about 4 acres growing. There was no other improvements on the claim and no domestic fowls. The claim has every appearance of being used for a camp and not for a home.

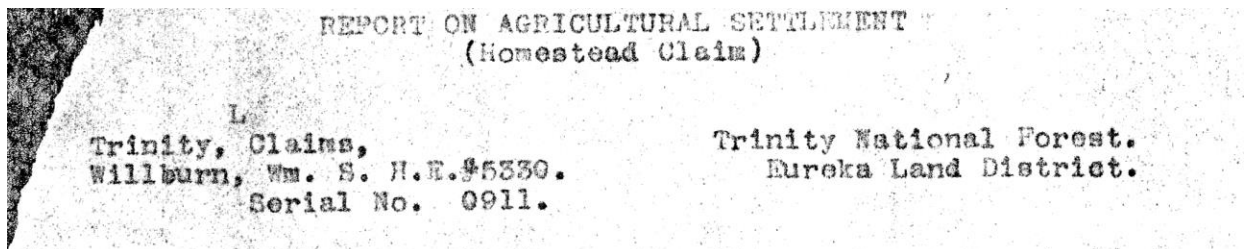
I have saw the entryman and his family living at the Red Mountain house (the entrymans ranch) many times since the year 1908, around this place I have each year saw evidence of habitation live stock, poultry, and gardens growing. Unless on one occasion (Oct. 14, 1910) I have always saw the entryman or his family at this Red Mountain house. The following record shows partially the dates on which I have been at or by this place. May 23, 29, 1909. June 6, 13, 20, 1909 (on this last date the 25 th I stopped all night at this place.) he and family were living here. May 24, 1910 June 6, 13, 24, 1910 Oct 13, 14, 22, 1910. I have known of the claimant hauling his hay crop from the claim to this ranch, where it was used (especially during the years 1909 and 1910.

(signed ) Oscar O. Hays

Subscribed and sworn to before me this 27 th, day of June 1912.

  
 Forest Ranger

Shortly after recording the depositions of Russ and Hays, Gray filed his report on July 3 recommending to the Forest Supervisor: "that protest be made and patent not be issued."



1. Claimant.

The postoffice address of Wm. S. Willburn, the entryman is, Caution, Trinity County, California. The entrymans' family consists of a wife and one child, a daughter about 16 years of age. The entryman and his family are now camping on the claim.

2. Description Of The Claim

Homestead entry No. 5330. Serial No. 0911. Covering lands described as follows; E 1/2 NW 1/4, NE 1/4 SW 1/4, NW 1/4 SE 1/4, Section 19, T 26 N, R 12 W, M.D.V. *Case* Filing was made on May 4, 1905. Proof to be offered at Covelo, California, on July 20, 1912.

3. Topography And Surface

NE NW, Section 19, is mountainous land, in most part too rough and broken for cultivation. The lands are on a general SE exposure. Its slope exceeds 20%. 15 acres open grass land, including the cultivated area. The remaining part of the area is covered with a scattering growth of

of young timber, Fir, Oak and Pine, only an occasional tree of commercial value. The cabin and field enclosed is in the East central portion of this tract.

SE NW Section 19, is mountainous land, in most part steep, rough and of little value except for grazing. A North exposure. Slope 20% or greater. The tract is covered with brush and scattering timber, Fir, Oak and Pine, the Oak timber prevailing.

NE SW Section 19, is mountainous land. A SE exposure. Its slope exceeds 20%. Is rough and broken and of little or no value for farming purposes, its chief value is for grazing purposes. The land is very rocky and is covered with scattering trees of Fir, Oak and Pine.

NE SE Section 19, is mountainous land. A SE exposure. Slope, 20% or greater. The surface is generally rough and broken and the land is of little value except for grazing purposes. A scattering stand of Fir, Oak and Pine occur over this area. On the whole claim if cleared, the arable land would not exceed 20 acres. The approximate altitude of this claim is from 2700' to 3400' above sea level.

#### 4. Settlement And Residence

The entryman, Wm. S. Willburn alleges settlement on these lands June 1, 1905 and states that he and his family continued to camp on the lands until Sept. 1, 1905 (A three months period) Sept. 1, 1905, he and family leave the claim and take up their residence on an improved ranch of 160 acres which the

entryman owns nearby or, adjoining his homestead claim. At this ranch they maintained their residence until the first of June 1906 (A period of nine months ). The entryman further states, that during each year thereafter his residence has been practically the same. He and family would camp on the homestead claim, three of the summer months or from the first of June to about the first of Sept. each year. The remaining part of the year or from Sept 1, to June 1, of the following year, he and family have maintained their residence on their nearby ranch property. States that from the fact his house on the homestead claim has been in an unfinished state, he was compelled to live on the other place until he could get his new house finished. (See the entrymans sworn statement here attached, covering residence and cultivation on this homestead claim, year by year since filing was made in 1905.

(Exhibit No. 2, here attached, a sworn statement made by one of the witnesses named for final proof. The witness Augustus Russ, owns a ranch and lives about 3 miles from this claim and has lived at this place during the past 10 years. For statements of other persons regarding the residence of this claimant, see paragraph 9, of this report. Found about 4 acres of land under cultivation, 3 acres in wheat and barley, 1 acre in corn and a small garden. No farming implements in evidence on the claim, at the entrymans' ranch is noted various implements such as plow, harrow etc.



On the claim is noted a few bed clothing, a cook stove in shed outside cabin, a few dishes and rough table made of split lumber with benches.

#### 5. Improvements.

A frame house (unfinished) 16' x 20' walls 12' made of split and shaved weather boards, laid 4" to the weather, the siding has just been shaved and is not all yet on the building, one gable yet to finish. The studding or frame of the house is old in appearance, having stood through several winters. The building is partially faced with split undressed lumber, 4' lengths. Has two double windows and openings for two doors but no doors as yet. The roof is covered with split shakes, 8 rows to the side. One large room, no partitions. In its unfinished state the building is not habitable at all seasons. The house is probably worth \$125.00 as it now stands.

There is also a small open shed 6' x 10' walls 6' roofed with split shakes. It is just a frame formed by posts set in the ground and covered. Probable value \$10.00 On the claim there is about 140 rods of nailed picket fencing. I note a small pile of shake bolts near the cabin, in numbers about 150. The claimant also has logs cut to make a barn 16' x 20'. There is no other improvements on the claim. Water for domestic use is obtained from a small gulch North of the cabin 50 paces. The existing improvements were all built by the present claimant.

### 6. Cultivation

At the present time, on the claim there is 4 acres of land under cultivation. There is 3 acres sown in wheat and oats and one acre planted in corn with a small truck garden. About 20 small trees, apples and plums planted in the season 1911, have the appearance of being sprouts taken from some old orchard and transplanted. There is no slash on the claim and no land has been cleared. No water available for irrigation therefore, no ditch. During the summer of 1905, the claimant grew a small garden on the claim, approximately 1/4 acre. In the year 1906 and during each year following the claimant has cultivated 4 acres of land, 3 acres annually sown in grain and the crop cut for hay. 1 acre annually planted in corn and garden truck. The hay crop as an average yield has been about 4 tons. The season 1910, the claimant fed all or a part of the hay on the claim during all other years, he has moved the crop to his ranch which is located about 3/4 mile distance and fed the crop in connection with the crop grown on this place, to his cattle and horses.

### 7. Grazing

The claimant now owns 15 head of cattle and 8 head of horses he also owns a few head of hogs. The stock graze at large under Reg G-19 and Reg G-2. The entryman owns about one dozen chickens, the chickens are not on the claim but on his ranch at Red Mt. Creek.

8. Timber

Timber of commercial value on this claim is very scattering.

A total for the whole claim, Douglas Fir and Yellow Pine is, 590 M ft. B. M. and is worth at lowest figures \$750.00. In addition to the above mentioned timber there is 600 cords of cordwood, of Oak species chiefly. Over 30 to 90 acres in the Western part of the claim there is a fairly good stand of Douglas Fir and Yellow Pine saplings and poles. All timber cut on the land has been used for improvements on the claim, this amount will not exceed 25 M ft. B.M. The claimant has sold no timber or material made on the claim and I believe has at no time negotiated the sale of timber.

9. Additional Information

The claimant states that he has never made a homestead filing elsewhere. States that he owns 180 acres described as follows; SE SE Section 19, NE NE Section 30 and W 1/2 NW, Section 29, T 26 N, R 12 W, M.D.M. The entryman states that he also owns an undivided 1/3 interest in a tract of 185 acres of land on the Round Valley Indian Reservation. His wife and daughter owning the other 2/3 interest in these lands. The entryman is unable to furnish a description of these lands but the numbers may be had by taking the matter up with the Indian Agent at Covelo, California. The entryman is a half blood Indian, his wife is also a half blood. He is a man of some education and as a non-reservation Indian exercises all rights of a white man.

The claim has not been sold or mortgaged that I can ascertain. The nearest wagon road to these lands is at A. Russ' ranch, 3 miles distance, to reach the claim it is necessary to travel a trail this 3 miles, although a fairly good mountain trail. The only persons living near this claim, H. D. and A. F. Willburn, whose postoffice address is Caution, California, brothers of the entryman, will bear out his statements regarding his residence and cultivation on the claim. For a further statement of conditions surrounding this claim see STATEMENT NO. 3, made by Assistant Forest Ranger Oscar O. Hays, of Ruth, California. In discharge of official duties Mr. Hays has spent considerable time in the neighborhood of this claim, during the past four years.

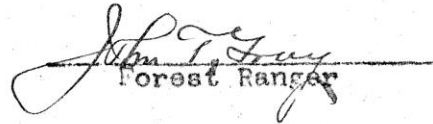
Statement of John T. Gray Forest Ranger, Ruth, Calif. The cabin on this homestead claim is located about 1/4 mile from the traveled trail which passes the entryman's ranch house on Red Mountain Creek, I have traveled this trail many times since and during the year 1908, on an average of 4 times each year. I have been at the camp or cabin on the homestead claim on five different occasions, the first time was Dec. 28, 1908, in June 1909, once in Sept. 1910, June 7, 1911 and in June 1912 twice. Except in June 1912, I have at no time saw any person living on these lands and no evidence of a camp. On each visit I have saw land under cultivation, hay crops growing or evidence of one having been harvested.

1. Recommendations

It is very apparent that the entryman has not in any measure complied with the homestead laws, as to the residence on his homestead claim. As shown by his sworn statement here attached, he has camped or lived on the lands only three months during the year, during the remaining part of the year or for that matter during the whole year it is evident that he has maintained a home on nearby lands. I recommend that protest be made and patent be not issued.

Ruth, California.

July 3, 1912.

  
Forest Ranger

There are several letters in the HA03 homestead hard copy file related to the appeal. As noted in the text, the appeals process went on for several years and although the decision letter was not in the Willburn homestead file, he lost his appeal and the land remained as part of the TNF.