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STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)	IN THE COURT OF COMMON PLEAS Civil Action No.: 2025-CP-10-06053
John J. Britton, MD, David E. Dukes, George William Owen, Claudius E. Watts, IV, Whitney Powers, Halsey M. Cook, Jr., Katherine Ann Close, Benjamin T. Zeigler, James C. Crawford, III, Carlos Evans, and Richard LeNoble Wilson, all in their capacity as Trustees of The Belle W. Baruch Foundation Trust, Plaintiffs, v. The State of South Carolina, Defendant.	**ORDER TO QUIET TITLE TO MARSHLAND**

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SC Court of Appeals

This action involving title to tidelands located in Georgetown County was originally filed in the Court of Common Pleas for Georgetown County. After remand from the Court of Appeals from an appeal of an intervention order, venue of the action was transferred to Charleston County under the provisions of S.C. Code §15-7-100 by the Order of the Chief Judge for Administrative Purposes for Georgetown County entered October 28, 2025. After transfer, the case was assigned the above Charleston County Case Number. By Consent Order of Reference filed on November 10, 2025, the case was referred to this Court to "exercise all the power set forth in Rule 53(c), SCRCP, including, but not limited to, directing entry of final judgment in this action."

As asserted in their Amended Complaint filed February 6, 2026, Plaintiffs, Trustees of the Belle W. Baruch Foundation Trust ("Plaintiffs" or "Trustees"), bring this non-jury action against

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the State of South Carolina (the "State") under S.C. Code Ann. § 48-39-220[1] for a determination that they possess legal title to tidelands by virtue of sovereign grants made to their predecessors in title. In its Answer, the State asserts its presumptive title to tidelands under the public trust doctrine and counterclaims, alleging a prescriptive easement in the public in those tidelands and implied dedication of them to the public.

By Consent Order of Bifurcation dated March 11, 2026, the case was bifurcated into two phases for trial: the first trial being Plaintiffs' claim to title to tidelands alleged in their Amended Complaint and the second trial being the State's Counterclaims.

The Court conducted the trial of Plaintiffs' claims to tidelands on March 24, 2026. Plaintiffs presented three witnesses: George Chastain, the executive director of the Belle W. Baruch Foundation Trust; Doreen Larimer, a title abstractor with extensive experience researching historical grants and titles; and Elliotte Quinn, a licensed surveyor with extensive experience interpreting historic grants and plats and geolocating property descriptions in historic plats on current geographic features. Plaintiffs qualified Ms. Larimer and Mr. Quinn as experts in their respective areas, and the Court found them so qualified, without objection from the State.

The State did not call any witnesses, but cross examined the Plaintiffs' witnesses. The State relies on its presumptive title to tidelands and raises questions whether the grants under review intended to convey marshes and other tidelands to mean low water and whether the boundaries of the lands as depicted in the granting plats can be determined with reasonable accuracy on today's

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1. "(A) Any person claiming an interest in ***tidelands which, for the purpose of this section, means all lands except beaches in the Coastal zone between the mean high-water mark and the mean low-water mark*** of navigable waters without regard to the degree of salinity of such waters, may institute an action against the State of South Carolina for the purpose of determining the existence of any right, title or interest of such person in and to such tidelands as against the State…." S.C. Code Ann. § 48-39-220 (A)(double emphasis added).

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geographic features. The State does not concede ownership of any of these tracts and insists that Plaintiffs must meet their burden of proof that they have sovereign grants in their chain of title that cover the properties that they claim today.

The parties stipulated into evidence all Plaintiff's trial exhibits.

Based on the testimony, exhibits, and applicable law, the Court makes the following findings of fact and conclusions of law. In each instance where the Court makes a finding, the Court determined that Plaintiffs proved the fact by the preponderance of the evidence even if not expressly stated. The classification of a conclusion of law under the heading of Findings of Fact or a finding of fact under the heading of Conclusions of Law shall not be of any consequence as to that particular finding or conclusion.

FINDINGS OF FACT

Hobcaw Barony, Bernard M. Baruch, Belle W. Baruch, and the Foundation Trust

Hobcaw Barony is comprised of approximately 8,000 acres of highland. Hobcaw Barony is generally located at the southern end of the peninsula known as the Waccamaw Neck. It is bounded on the east by the Atlantic Ocean and North Island, on the south by Muddy Bay and Winyah Bay, on the west by the Waccamaw River and Winyah Bay, and on the north by the residential community known as Debordieu Colony.

The Trustees assert the tidelands in question are part of the entire real property owned by them in trust. The tidelands claimed by Plaintiffs, including identified marsh islands, are adjacent to or close by the highland of Hobcaw Barony. These tidelands also total approximately 8000 acres. They are comprised of marshes, tidal creeks, mud flats and marsh islands.

The Trustees base their claim of legal title to these tidelands on six grants from the King of England (inclusive of the initial grant from the Lord's Proprietors) and six grants from the State

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of South Carolina. Each grant annexed a plat. The Trustees assert that each grant and respective plat, when considered together, clearly demonstrate the intent of the grantor to convey title to the tidelands included within the legal description and plat to mean low water and that the boundaries of the grant can be identified with reasonable precision on today's geographic features.

Born in Camden South Carolina, Bernard M. Baruch, was a highly successful business man in New York and advisor to Presidents. He purchased the property now constituting Hobcaw Barony in three separate conveyances of title in 1905, 1906, and 1907, and often entertained dignitaries there over the years. Some of the notable guests of Mr. Baruch at Hobcaw Barony included Edith Wilson (widow of the former President and South Carolinian Woodrow Wilson), Winston Churchill and his daughter, and President Franklin D. Roosevelt who spent a month in 1944 convalescing on the property.

Mr. Baruch's oldest daughter was Belle W. Baruch ("Belle"). Mr. Baruch conveyed the entirety of Hobcaw Barony to Belle by three separate conveyances in 1935, 1943, and 1954. At the time of Belle's death in 1964, she still owned Hobcaw Barony. In the Twentieth Article of her will that was probated in New York, she demised Hobcaw Barony to a testamentary trust that she named in honor of her father, The Bernard M. Baruch Foundation Trust. (Plaintiffs' Exhibit 21). Mr. Baruch successfully petitioned the Attorney General of New York to change the name to the Belle W. Baruch Foundation Trust soon after Belle's death.

According to the Twentieth Article of Belle's Will, the Trust property and income are to be used for the purposes "of teaching and/or research in forestry, marine biology, and the care and propagation of wild life and flora and fauna in South Carolina, in connection with colleges and universities in the State of South Carolina." (Plaintiffs' Exhibit 21). Over the last 60 years, the Trustees have fulfilled these purposes with universities and colleges in South Carolina that have

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conducted extensive studies and research on the property, including those pertaining to coastal and marine sciences. Much of this research and study takes place in the tidelands of Hobcaw Barony.

The Grants

The Grants in 1718 and 1736 for Hobcaw Point

In 1718 the Lords Proprietors granted John Lord Carteret, who himself was a Lord's Proprietor, a barony of 12,000 acres known as Hobcaw Point.[2] The 1718 grant was not recorded when made, and no immediately contemporaneous record of this grant has been located.

In 1730, John Lord Carteret sold and conveyed Hobcaw Point to John Roberts. In 1733 a memorial was executed and later recorded confirming the grant in 1718 by the Lords Proprietors to John Lord Carteret with the details of that grant including the property description. The Memorial also included a re-grant of Hobcaw Point to John Lord Carteret. (Plaintiffs' Exhibit 1B). The memorial further confirmed the details of his 1730 conveyance to John Roberts. This deed from John Lord Carteret to John Roberts memorializing the 1730 conveyance is recorded in the Register of Deeds for Charleston County at Book L, Page 230.

In 1733, a re-survey of the land subject to the original grant to John Lord Carteret was commissioned for John Roberts that showed the boundaries of 12,000 acres. This re-survey was recorded in 1734. (Plaintiffs' Exhibit 1C).

Under the laws in effect at that time, another re-survey of property subject to a grant was permitted, if requested, to determine the exact boundaries and acreage. This second re-survey of Hobcaw Point was conducted in 1736, to remeasure the lands and their boundaries of the original grant, resulting in a much more detailed plat and the determination that the lands comprising

2 The word "Hobcaw" is derived from the Native American term for the land between the waters. It is helpful to note that in 1720, South Carolina went from being governed by the Lord Proprietors to a royal colony. See Walter Edgar's *South Carolina: A History*, USC Press (1992).

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Hobcaw Point were actually 13,970 acres, not 12,000 acres. (Plaintiffs' Exhibit 2B). The 1736 survey shows watercourses constituting boundaries of the property and includes tidal creeks penetrating the property and stippling indicated marsh areas within those boundaries. (Plaintiffs' Exhibit 2B). The water courses defining the boundaries of the barony are shown as the Waccamaw River, Winyah Bay, North Inlet Creek and the Atlantic Ocean or, as stated in the 1736 plat: "…bounding and butting to the north west on Waccamaw River, to northeast on lands of George Pawley, to the southeast on the sea, and to the south and southwest on the creek of the North Inlet and Bay of Winyah," all currently easily identifiable.

In 1736 King George II issued a grant to John Roberts for these 13,970 acres that annexed the 1736 plat. (Plaintiffs' Exhibit 2A). This grant is entirely in longhand. No part of it is on a form. The handwritten description of the lands conveyed in the 1736 grant includes the following: "…Contains in the whole thirteen thousand nine hundred and seventy acres of land and upon the resurvey thereof hath such butting and bounding and such shape form marks and descriptions as are mentioned set down described…Together with all Woods Underwoods Timber and Timber Trees Lightwood Pitchings Lakes Ponds Fishing Waters Water Courses Pastures Feedings ***Marshes***, Swamp Ways…." (double emphasis added) (Plaintiffs' Exhibit 2A, page 114).

The Court finds that the clear intent based on the wording of the 1736 grant and the detail of the 1736 plat was to convey the marshes and tidelands to the low water mark for all the lands within outer boundaries of the Waccamaw River, Winyah Bay (now in part called Muddy Bay), and North Inlet Creek as well as the marshes and tidelands to the west of the DeBordieu beach peninsula ending at North Inlet, all as depicted on the 1736 plat. No only are these marshes clearly shown on the 1736 plat and referenced in the grant itself but also, as Mr. Quinn testified, the inclusion of these expansive marsh areas is essential for the land to add up 13,970 acres.

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Both the 1733 plat and the 1736 plat clearly depict four islands in Winyah Bay immediately to the West of the mainland of Hobcaw Point near the current location of Hobcaw House, a location that was coincidentally also marked by a dwelling in the 1733 plat. (Plaintiffs' Exhibit 1C). These islands are shaded in the 1733 plat and stippled with the markings for marsh in the 1736 plat. Three of these four islands are in a cluster with a small island just below them to the southeast. The three islands were referenced in the trial as the Rabbit Island-Hare Island cluster (the "Rabbit-Hare Cluster). The fourth, smaller island to the south was identified as Horse Island.

Based on the two original grants and their granting plats, Ms. Larimer testified to a reasonable degree of abstracting certainty that the grant from the Lords Proprietors to John Lord Carteret and the later grant from King George II to John Roberts included the Rabbit-Hare Cluster of marsh islands. Mr. Quinn who geolocated the plats on a current aerial testified to a reasonable degree of surveying and geolocating certainty that the 1736 plat annexed to the 1736 grant included the Rabbit-Hare Cluster of marsh islands. (Tr. 59:24 – 60:13) (Tr. 67:2-8) (Tr. 129:9-15) (Tr. 164:7-20) (Tr, 170:16-171:2). The State did not offer proof to contradict their testimony of these two experts that is fully supported by the depictions on the two plats.

The Court finds that Plaintiffs proved by the preponderance of the evidence that the 1718 grant and the 1736 grant included the marsh islands referenced as the marsh islands comprising the Rabbit-Hare Cluster down to mean low water. Even though Horse Island is clearly depicted on these plats and the Court could find from these plats that it was also included in the original two grants, the Court will separately address this island as it is subject to a later specific grant.

The 1847 Grant to Alston of Horse Island

In 1847, the State made a grant to John Ashe Alston of 19 acres known as Horse Island. (Plaintiffs' Exhibit 11A) Horse Island is a lone marsh island that is close to, but not part of, the

group of islands described as the Rabbit-Hare Cluster. It is to the southwest of the mainland location of Hobcaw House.

The granting provision of this 1847 grant reads as follows: "… We have granted and by these presents do grant onto John Ashe Alston, Esquire, his heirs and assigns the plantation or tract of land containing 19 acres being an island surveyed for him the 27th day of January, 1847 situate in Georgetown District and known by the name of Horse Island, bounded on the southeast by Waccamaw River and on the northwest by Winyah Bay and have hereunto a plat annexed representing the same." The annexed plat from 1847 clearly shows the entirety of a 19 acre island. (Plaintiffs' Exhibit 11B). The geo-overlay of Mr. Quinn shows that this marsh island has diminished in size over the last 179 years but has remained in the same location and largely the same shape, though slightly smaller.

The Court finds that the plain intent of this grant when considered in conjunction with the annexed plat was to convey the entirety of Horse Island, a marsh island, to mean low water. I find the boundaries of this marsh island are readily identifiable.

The Rabbit-Hare Cluster

After the original grant of the Rabbit-Hare Cluster in 1718 and 1736, there were five later grants that conveyed portions of these marsh islands, including one that conveyed two small marsh islands immediately below them that no longer exist. The other five grants are as follows:

- The Masters Grant (1736)(36 acres being an island of marsh) (Plaintiffs' Exhibits 3A–3C);
- The Cogdell Grant (1765) (74 ¾ acres of an island stippled as marsh on the plat)(Plaintiffs' Exhibits 4A–4C);
- The Cogdell Grant (1786) (60 Acres of island named "Rabit Island" on the plat) (Plaintiffs' Exhibits 7A–7C);

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- The Shackleford Grant (1789)(Island of 18 Acres, bounded by Rabbit Island Creek and Winyah Bay)(Plaintiffs' Exhibits 8A–8C); and
- The Alston Grant (1847)(25 Acres)(Island of 22 acres, island of two acres, and island of one acre; "bounded on the NW by Rabbit Island & on the SE by Horse Island") (Plaintiffs' Exhibits 10A–10C).

Mr. Quinn geolocated the polygon(s) of the boundaries of the areas conveyed in each of these five granting plats by superimposing them upon an aerial of the current Rabbit-Hare Cluster, exactly as he did for the other grants. This image, identified as Plaintiffs' Exhibits 3C, 4C, 7C, 8C, and 10C, shows that the total current size of the Rabbit-Hare Cluster is approximately 50% larger than the boundaries shown on the five plats. Mr. Quinn located each of the five grants within the cluster with reference to small internal creeks that he described as "cutters."

Because of the discrepancy between these islands as drawn in the historic plats and their current configuration as shown by the overlay, the State argues that the plats do not show the boundaries of the marsh areas granted with the certainty necessary to find an intent to convey the entirety of these islands.

What is certain is that the various grants intended to grant, and did grant, title to the marsh areas and islands described in those grants and annexed plats. There is no dispute these grants include islands or portions of the marsh islands in the Rabbit-Hare Cluster. It is also manifest, as Mr. Quinn testified, that these marsh islands in Winyah Bay are not static but subject to dynamic conditions unlike the interior marshes that are defined by well-established tidal creeks that have been in almost the same location for over 300 years, such as North Inlet Creek.

When cross-examined by the State, Mr. Quinn testified that, in his opinion, based on the plats and grants, the intent of these five grants, when considered together, was to grant and convey

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the entirety of Rabbit Island, the entirety of Hare Island, and the entirety of the triangle island of marsh wedged to the South of them that was encompassed in the 1789 grant to Shackleford and again in the 1847 grant to Alston. (Tr. pp.158:1 - 165:4). While he acknowledged that there was a "fairly significant disparity between [his] overlay and what is claimed," Mr. Quinn acknowledged that the intent may have been to convey only what was depicted in his overlay and that the areas in between the overlayed grants on the exhibits depicting the Rabbit-Hare cluster and that the areas in between might or might not be accretion. (Tr. P. 162, 11. 13-17). These discrepancies are evident in Mr. Quinn's overlay of the area in Exhibit 3C.

Consistent with Mr. Quinn's opinion on the intent of these grants, the Court finds that, when the grants are considered together, their intent was to convey these marsh islands in their entirety, based on description in the grants as islands and also based on reason and common sense. It is not practical or advantageous for the King and the State to have retained slivers and other portions of this cluster while conveying out the rest. Retention of these portions of the islands would serve no purpose, especially since these lands are marsh islands. Additionally, the State's argument would mean either that the Court would have to find there was no intent to grant any portion of these islands, which is not the case since there are five separate grants, or to find an intent to grant only the areas shown in the aerial overlay of the plats which is not reasonably likely.

Hereinabove, these islands were clearly shown in their entirety in the 1733 and 1736 plats as being included in the lands conveyed in the 1718 Carteret Grant and the 1736 Roberts grant. (Plaintiffs' Exhibits 1C and 2B)

For these reasons, the Court finds that Plaintiffs have proven by the preponderance of the evidence that these seven grants included, either separately or cumulatively, the entirety of the Rabbit-Hare Cluster to mean low water and that the location of these islands is readily

ascertainable with precision today.

Pumpkin Seed Island

In 1775, King George III granted to James Mackie "Ten Acres being an island of salt marsh … in Winyah Bay by the name of Clegg's Island…." (Plaintiffs' Exhibit 6A). The plat annexed to this grant depicts the entirety of this marsh island of 10 acres with relatively accurate depictions of its configuration. (Plaintiffs' Exhibit 6b). This island is today known as Pumpkin Seed Island, an apt description based on its shape.

Mr. Quinn's geolocation of the granting plat on a current aerial shows that this marsh island in Winyah Bay has not maintained exactly the same shape even though it remains in the same location. Mr. Quinn testified the existing island fits "pretty well" into the scaled polygon of the island depicted on the grant plat. According to his calculations the island is now 12 acres rather than 10 acres.

On cross-examination, the State pointed out that the vertical alignment of the existing island is not on the same axis as that depicted on the grant plat. Mr. Quinn explained this slight difference could be because the location of magnetic north on the grant plat could have been slightly off. (Tr. 145:11- 146:7). He testified that he believed that the intent was to convey the entirety of Pumpkin Seed Island. (Tr. 144:20-23; Tr. 147:2-6)

Although the State disagrees, the Court finds that Plaintiffs have proven by the preponderance of the evidence that the clear intent of the 1775 grant and annexed plat was to grant title to the entirety of this marsh island to mean low water and that its current boundaries are locatable with reasonable precision.

The Muddy Bay Islands

In 1774, King George, III, through William Bull, lieutenant governor and commander in

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chief for King George, III, granted to James Mackie a "plantation or tract of land containing 390 acres of salt marsh land… about seven miles east from Georgetown and about five miles westward of the Atlantic Ocean, bounding north, northwest, east, and northeast on Muddy Bay; south, southwest and west on Winyah Bay…." (Plaintiffs' Exhibit 5A). This grant annexed a plat of the salt marsh islands subject to the grant. (Plaintiffs' Exhibit 5B). The Muddy Bay Islands, as they are now known, are in the waters just South of the mainland of Hobcaw Barony. These islands were not part of the original Carteret Grant.

Based on the wording of the 1774 grant and the description in the annexed plat from 1774 that both describe the land as salt marsh, the Court finds that the intent of this grant was to grant title to the described marsh to the mean low water mark. (Plaintiffs' Exhibits 5A and 5B)

The knottier question is whether the descriptive wording or rendering of the land granted is specific enough to determine with reasonable precision the boundaries of granted land on these marsh islands as they exist today. There is no question as to these islands' location nor whether the islands for which the Trustees claim title are the same islands that are referenced in the 1774 grant. Rather, the scaled polygon shapes of the marsh islands from the granting plat do not mirror the current configurations of these marsh islands, particularly the southernmost or "bottom" island that is considerably larger than what is shown on the granting plat. Additionally, the shape of these marsh islands has changed over time.

Mr. Quinn rendered the opinion that the surveyor for the granting plat most probably did not undertake a precise survey of each of the marsh islands in the group but depicted them more generally in the grant plat. His opinion is that the surveyor "more sketched them than surveyed them." (Tr. p. 136:4). This opinion rests, in part, on a fundamental error in the acreage calculation. The surveyor for the granting plat stated the combined acreage of the islands was 390 acres. When

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Mr. Quinn scaled the shapes of the islands shown on the granting plat and used more accurate modern measuring tools to calculate their acreage, he determined that the true acreage of the islands as depicted in the granting plat was 574 acres, not 390 acres, and that the marsh islands in this group are currently comprised of a total of 603 acres. (Tr. p. 137:10-19). However, acreage is one of the lowest factors in the surveying priority of calls to consider in determining boundaries. See Coker v. Cummings, 381 S.C. 45, 671 S.E.2d 383 (Ct. App. 2008) (quoting Holden v. Cantrell, 100 S.C. 265, 84 S.E.2d 828 (1915).

This inaccuracy in the sizing of the islands in this island group in the granting plat is confirmed by the 1855 United States Coastal Survey Map that Mr. Quinn described as "very accurate." This Coastal Survey Map drawn only 81 years after the grant shows the islands to be much closer to their current shapes and locations, with the exception of the southernmost island that is considerable larger today. The geolocation of the granting plat over the 1855 Coastal Survey Map discloses many of the same discrepancies as the overlay of the granting plat on a current aerial, again with the exception of the southernmost island. (Plaintiffs' Exhibits 5C and 5B).

Mr. Quinn testified to certain identifiable features of the upper (northern) islands on the granting plat that are recognizable on the current islands. (Tr. 134:20-135:16). He testified that the number of islands depicted in the granting plat is the same as the current number of islands, if one takes into account that the two northernmost islands as depicted in the granting plat have now become a single island. (Tr. 138:9-13; 139:4-14).

Mr. Quinn's opinion was that the intent of the grant was to grant title to all the islands in this close group based on the depiction of the entire group in the granting plat. (Tr. 135:6-16). Even though the depiction in the granting plat was inaccurate as to the exact size of these neighboring marsh islands, they were all shown as a single group of marsh islands whose shapes

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have altered over the last 250 years; however, Mr. Quinn acknowledged that the disparity between the 1774 plat and the property claimed was more than he typically saw. Tr. p. 140, line 17 – p. 141, line 1. I find Mr. Quinn's testimony that the conveyance was a "general shape of a cluster" is insufficient to divest the State of its ownership of the marsh on the southernmost island.

The Court finds that the *intent* of the 1774 grant was to convey title to this entire group of marsh islands and that the discrepancies in acreage and exact shape do not negate that the current group of marsh islands in this location are largely the same as those that were the subject of the grant, except for the southernmost island. The Court finds that the boundaries of most all of the marsh islands subject to the grant can be reasonably accurately located and are the boundaries of those islands today.

However, as to the southernmost island, it is much larger and longer than what is depicted in the granting plat or the 1855 Coastal Survey map.

Consequently, I find that the southernmost island is an entirely separate island and is excepted from the grant and is not part of the group of islands subject to the grant. Therefore, the Court concludes that the Plaintiffs have overcome the State's presumptive ownership of the Muddy Bay Island areas below mean high water, but not as to the southernmost island as it is outside the area covered by the grant overlay.

The Remaining Two Large Marsh Grants

The remaining two grants are of large expanses of marsh to the east and southeast of the lands of the original Carteret Grant and do not involve marsh islands in the Waccamaw River, Winyah Bay, or Muddy Bay.

The first of these occurred in 1812 in a grant from the State to Rev. Hugh Fraser. The land granted to Rev. Fraser is described as "plantation or tract of land containing 520 acres surveyed

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for him the 10th day of March, 1812, situate in the district of Georgetown, bounded northwardly partly on Oyster Bay and a creek eastwardly on a creek which separates it from Paul Trapier's land called North Island, southwardly by the said creek which separates it from Mr. A. Collins' land called Piney Island and from land laid out to said Hugh Frasier and eastwardly partly on Muddy Creek and partly on a creek called No Man's Friend or North Inlet and hath thereunto a plat thereof annexed representing the same." (Plaintiffs' Exhibit 9A). With the exception of a few hummocks with trees depicted in the granting plat, all of this acreage is marsh.

Mr. Quinn was able to geolocate the granting plat on an aerial of the current configuration of the land with great precision. (Plaintiffs' Exhibits 9B and 9C) The creeks that are called out as boundaries are still in relatively the same position with the same bends and curves. It is close to a hand-in-glove fit.

I find that Plaintiff proved the exact boundaries of this grant with reasonable precision and that the intent of this grant was to convey title to the marsh within those boundaries to mean low water.

The second significant grant consisted of the large expanse of marsh to the North of the grant to Rev. Fraser as well as a re-grant of the same land granted to Rev. Fraser. In 1860 the State granted to V. Richardson "a plantation or tract of land containing 2,700 acres surveyed for him 17th of April, 1860 situate in Georgetown District on North Inlet Creek, Jones Creek, and Muddy Bay Waters of Winyah Bay." (Plaintiffs' Exhibit 12A). The annexed plat shows the creeks establishing the boundaries with a similar specificity to the plat annexed to the grant to Rev. Fraser. (Plaintiffs' Exhibit 12B). The plat describes the lands granted as "marsh." (Plaintiffs' Exhibit 12B). This description is borne out by the existing land conditions 166 years later. As shown by the aerial used by Mr. Quinn in geolocating the granting plat, the lands remain almost completely

marsh. (Plaintiffs' Exhibit 12C).

Mr. Quinn successfully geolocated the granting plat with the same accuracy as the granting plat for the grant to Rev. Fraser. (Plaintiffs' Exhibit 12C). The creek boundaries are all essentially in the same location. Mr. Quinn scaled the polygon land formation of the granting plat and calculated the acreage based on accurate modern methods at 2675 acres, remarkably close to 2700 acres, the number used in the grant. It is his opinion that this grant was intended to grant title to marsh, which the area solely is with few exceptions.

The Court finds that the intent of the grant to V. Richardson was to convey title to the marsh within its boundaries to the mean low water mark and that Plaintiff proved with reasonable precision the boundaries of the grant on current geographic configurations by the preponderance of the evidence. As noted earlier, this grant includes a re-grant to V. Richardson of the same marsh that was previously granted to Rev. Fraser.

Bernard M Baruch's assemblage of these grant parcels, except for three out parcels

As previously stated and testified by Ms. Larimer, Bernard M Baruch purchased Hobcaw Barony and the additional lands granted that were not included in the original Carteret Grant by 3 deeds - recorded in 1905, 1906 and 1907. She further testified that there exists a complete, unbroken chain of title to all these land grants that was bolstered by the actions of Mr. Baruch's lawyer. His lawyer went to the extraordinary effort to locate and re-record in Georgetown County the deeds in the chain of title that had been copied and recorded before the Civil War that were burned during that war.

Ms. Larimer testified to three "out" conveyances of portions of the lands covered by the twelve grants that Mr. Baruch did not acquire and are not part of Hobcaw Barony today.

The first two conveyances were of the lands in the Carteret Grant that were immediately

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North of the existing northern boundary of Hobcaw Barony, The first of these conveyances in 1766 transferred title to 2177 acres for plantations named Clifton and Forlorn Hope. (Plaintiffs' Exhibit 13). The second of these conveyances in 1767 transferred title to 1711 acres for a plantation named Rose Hill that is now part of the residential community of Debordieu. (Plaintiffs' Exhibit 14).

The boundary between this last out conveyance and Hobcaw Barony has been judicially determined. In 2002 Lucille Pate filed a civil action against the then-Trustees (Case No. 2022-CP-22-100) to determine the boundary line between Debordieu and Hobcaw Barony, primarily the boundary across the DeBordieu beach peninsula. This suit resulted in a final order and judgment determining the boundary between the two parcels as shown on the 1971 Compiled Map by Samuel Harper recorded in the Register of Deeds for Georgetown County at Plat Book W, Page 2. (Plaintiffs' Exhibit 22).

The third "out" conveyance was in 1889. This conveyance from Sidney Donalson to E. P. Alexander consisted of 800 acres on the southeast portion of the 2700 acres granted to V. Richardson in 1860. (Plaintiffs' Exhibit 15). The property boundaries as described in the granting provisions of the deed are existing tidal creeks that are readily determinable with precision. Mr. Quinn geo-located the area onto an aerial of the current conditions that precisely shows the boundaries of this out conveyance and the lands that remain part of Hobcaw Barony. (Plaintiffs' Exhibit 15A).

The Trustees do not claim title to any of the lands that are subject to these three conveyances.

The Court finds that Plaintiffs established by the preponderance of the evidence the boundaries of these out parcels allowing the Court to determine with reasonable certainty the

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boundaries of the tidelands claimed by the Plaintiffs that are the subject of this case. Mr. Quinn prepared a color map of the islands and marshes claimed by Plaintiffs as well as a black and white version of this same map that were entered into evidence. (Plaintiffs' Exhibits 20 and 20A).

Chain of Title and Plaintiffs' Ownership

As just discussed, Ms. Larimer testified that the Plaintiffs hold an unbroken chain of title back to six King's grants and six State grants and that the only lands in those grants to which Plaintiffs do not hold title are the three out conveyances above. She testified that she verified this unbroken chain of title from the 12 original grants all the way to the Trustees, tracing it through 23 deeds recorded in Charleston County, 44 deeds recorded in Georgetown County, 18 court actions, and 17 estates.

Based on Ms. Larimer's testimony, the Court finds that the Plaintiffs proved by the preponderance of the evidence that they hold title to the marshes, marsh islands, and other tidelands as depicted by Mr. Quinn in Plaintiffs' Exhibits 20 and 20A.

CONCLUSIONS OF LAW

The State is the presumptive owner of all lands below the mean high water mark and holds title to them for the benefit of the public under the public trust doctrine. State v. P. Guano Co., 22 S.C. 50, 1884 WL 4624 (1884); Kiawah Dev. Partners, II v. S.C. Dept. of Health and Envtl. Control, 411 S.C. 16, 29, 766 S.E.2d 707, 715 (2014)("those lands below the high water line are owned by the State and held in trust for the benefit of the public.").

Plaintiffs bring this action under the provisions of S. C. Code §48-39-220(A) that states, in relevant part, as follows:

> (A) Any person claiming an interest in tidelands which, for the purpose of this section, means all lands except beaches in the Coastal zone between the mean high-water mark and the mean low-water mark of navigable waters without

> regard to the degree of salinity of such waters, may institute an action against the State of South Carolina for the purpose of determining the existence of any right, title or interest of such person in and to such tidelands as against the State.

S. C. Code §48-39-220(A).

The appellate courts of South Carolina have rendered many decisions that set forth the standard that a property owner must meet to overcome the State's presumption of ownership of tidelands. Our Court of Appeals recited this burden of proof in the following excerpt from a 2019 decision:

> '[T]he party asserting a transfer of title bears the burden of proving its own good title,' and one claiming an interest in tidelands pursuant to section 48-39-220(A) must convince *the court that the State intended to include the tidelands within the boundaries expressed in the deed*. Necessarily, the claimant must show that the language of the conveyance is specific enough to determine a reasonably precise location of its boundaries so that members of the public will not be excluded from property rightfully belonging to them.

Hoyler v. State, 428 S.C. 279, 292-293, 833 S.E.2d 845, 852. (Ct. App. 2019) (emphasis added). In its decision in Hoyler, the Court of Appeals relied upon and quoted generously from the decision of our Supreme Court in Hobonny Club, Inc. v. McEachern, 272 S.C. 392, 252 S.E. 2d 133 (1979).

In Hobonny, the Supreme Court determined that title to the tidelands in question rested with the private property owner, rather than the State, based on the plat that was annexed to the original grant. The Court found that it did not matter that the grant itself did not use words referring to marsh or land lying between mean high water and mean low water, given the specificity of the granting plat. The annexed plat clearly depicted the boundaries of the grant and manifested an intent to convey title to all lands within those boundaries even though the granting wording did not refer to marsh or lands below mean high water and the plat did not label the lands as marsh or display markings indicating marsh.

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The Supreme Court in Hobonny reasoned as follows:

> The single question before us is whether the descriptions in the grants, including the plats incorporated therein by reference and attachment, *are sufficient to show the intent to grant the property within the boundaries marked physically on the ground and accurately platted, even though these boundaries encompassed some property which lay between the lines of usual high water and usual low water, commonly referred to as tidelands*. …
>
> It has been further held that where a tidal navigable waterway is given as a boundary in a grant, the area between the usual high water line and the usual low water line remains in the State, unless there is ' . . specific language, either in the deed or on the plat, showing that it was intended to go below high water mark . . .' ….
>
> Where a deed describes land as it is shown on a certain plat, such plat becomes part of the deed for the purpose of showing the boundaries, metes, courses and distances of the property conveyed….
>
> *The State emphasizes that the grants do not contain any reference to the low water mark as indicative of the conclusion that the grantor did not intend to convey tidelands… From the above, it is apparent to us that the failure of the grantor to use "low water line" in describing the property conveyed was not significant in that the attached plats precisely showed the boundaries of the land granted without the necessity of resorting to words. There is no question but that the perimeters of the plats embrace tidelands*. This is conceded by the State…
>
> We conclude that *it was the clear intent of the grants* in question *to convey title to all tidelands lying within the perimeter lines of the plats* accompanying the grants to Hobonny's predecessor in title, Joseph Bryan.

252 S.E. 2d at 135-137 (emphasis added).

Based on the Findings recited above, the Court further finds and concludes that the Trustees proved by the preponderance of the evidence that the intent of all twelve grants was to convey the tidelands encompassed in such grants (i.e., land between the mean high water mark and the mean low water mark) either through reference to marsh in the granting clause of the grant or a sufficiently precise description of the lands conveyed in the annexed plats, or both.

The Court further notes that this finding and conclusion with respect to the initial Carteret Grant is in keeping with the findings and conclusions in prior litigation in federal court over the

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ownership of the tidelands included within these grants. The lessee of hunting rights on tidelands within the Carteret Grant brought suit over 130 years ago to enjoin poaching on those tidelands. The defendants defended by asserting the lessor did not own the tidelands where the hunting occurred. The United States District Court held that the lessee established the lessor held title to the tidelands by virtue of the Carteret Grant. This lawsuit spawned three separate reported decisions over 60 years: Chisolm v Caines, 67 F 285 (D.S.C. 1894) ("Chisolm 1"); Chisolm v. Caines, 121 F. 397 (D.S.C. 1903) ("Chisolm 2"); and Chisolm v Caines, 147 F. Supp. 188 (D.S.C. 1954) ("Chisolm 3").

In Chisolm 1, the Attorney General for South Carolina intervened and asserted the presumptive title of the State to the tidelands. After the district court determined the validity and primacy of the Carteret Grant, the State withdrew its petition for intervention, and the court rescinded its order granting the intervention. 67 F. at 287.[3]

This Court bases its findings and conclusions on the Plaintiffs' superior title to the tidelands that were part of the 1718 Carteret Grant on the substantial evidence presented in this case and is not relying on the rulings in Chisolm as the basis for the Court's findings and conclusions. Rather, the Court refers to the Chisolm litigation to note that the integrity of the Carteret Grant has been previously determined in court and that this Court's ruling is entirely consistent with the decisions in that case.

The Court also recognizes that the legislature of South Carolina recognized the unique status of the Carteret Grant and affords it statutory protection in legislation first adopted in 1731.

[3] "But the state of South Carolina, succeeded to the obligations as well as the rights of the crown. She became, upon the Revolution, the owner of lands not granted by her predecessor. She is bound by those grants. .. If it be shown that the lands had once been granted by the crown, the presumption in favor of the state is at an end." 67 F. at 287.

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The Act is now embodied in S. C. Code § 27-11-50 titled "Estates of John Lord Carteret and lords proprietors shall not be altered, abridged, or revived":

> *Nothing herein contained shall extend or be construed to alter or abridge the Right Honorable John Lord Carteret, his heirs, executors, administrators or assigns, or the lords proprietors or their heirs of any estate, right, title or interest whatsoever which have or has been saved and reserved unto said John Lord Carteret*, or to the late lords proprietors, or any of them, in and by the act entitled "An Act for Establishing an Agreement with Seven of the lords proprietors of Carolina, for the Surrender of their Title and Interest in that Province to his Majesty"; nor to revive or enlarge any estate or right or interest whatsoever in the lords proprietors, or any of them, their or any of their heirs, of, in and to the estates aforesaid, or any part thereof, *which they or any of them have granted and conveyed as aforesaid, to any person or persons whatsoever*, or which they have surrendered by virtue of the aforesaid act.

S. C. Code § 27-11-50 (emphasis added).

The Court is unfamiliar with any other litigation involving the title to tidelands where the General Assembly enacted a law upholding the original Lord Proprietors and King's grant and protecting the rights of the successors in title to the lands covered by the original Carteret Grant.

The State did not raise any serious questions as to the conveyance of tidelands by the Carteret Grant and elicited testimony from Ms. Larimer that if there were any issues about that grant, King George, III's second grant of those same lands and tidelands annexing the more accurate survey would have cured such deficiencies.

Instead, most of the State's challenges are directed to whether the grants and annexed plats for the Rabbit-Hare Cluster and Muddy Bay Islands were sufficient to geo-locate the boundaries of the granting plats on the current shapes of these marsh islands with reasonable precision. In effect, the State is contending that the depiction of the islands in their granting plats is so irregular when geo-located on the existing shapes of these islands that the Court should find either that the

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grants did not extend to the full current shapes of those islands and/or that the boundaries of the grants cannot be determined with reasonable precision. The Court respectfully disagrees.

As to the grants to the Rabbit-Hare Cluster of islands and the Muddy Bay Islands, the Court finds and concludes that the grants and annexed plats considered as a whole and in light of the testimony of Mr. Quinn evidence an intent to convey the entirety of those marsh islands, excepting the southernmost Muddy Bay island, as determined in the Findings as the boundaries of those islands are readily identifiable today.

As noted above, the 1733 plat annexed to the 1718 Carteret grant as well as the 1736 plat annexed to the 1736 grant to John Roberts included the entirely of the Rabbit-Hare Cluster, manifesting the intent to grant title to these marsh islands to John Lord Carteret and John Roberts, respectively. Although this finding and conclusion may render the later grants of these marsh islands or portions of them less important or even moot, Mr. Quinn geo-located them on the current configuration of these islands with reference to internal features and external references in the grants and plats. His geo-location of the granting plats of these islands' current configuration showed discrepancies that he testified and the Court finds were due to changes of the configuration of the islands over time due to accretion and the dynamic flow and tidal forces affecting them from the Waccamaw River and Winyah Bay. This Court finds this explanation far more plausible than the suggestion by the State that the grants may have purposely excluded slivers and bits of marsh in the interior of this island cluster for the areas outside the boundaries of the (geo-located) granting plats.

For these reasons, even if the title to Rabbit-Hare Cluster of marsh islands had not been granted with the initial two grants, the Court finds and concludes that the later grants and annexed

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plats in the aggregate demonstrated the intent to convey the entirety of these islands and that the boundaries of these marsh islands can be determined with reasonable precision today.

The Court discusses at length in the Findings the basis for its finding that the intent of the grant of the Muddy Bay Islands was to grant title to the entirety of that group of islands. As for the discrepancies in acreage and location noted in that discussion, the Court finds and concludes for the reasons already stated the intent of the grant was to grant title to all the islands in that group, that the boundaries of these island can be located with reasonable precision today, and that the changes in their shape and dimensions over time do not alter the Court's finding that the intent was to include the islands in the group in that grant. From review of the grants and Mr. Quinn's geo-located plats, the Court finds that the southernmost island is a separate island from what was included in the grant. Accordingly, the State of South Carolina retains ownership of the marshland located on the southernmost island of the Muddy Bay Island cluster.

The Court further finds and concludes that any accretion to the marsh islands subject to these grants from the deposit of dredge spoil or otherwise inures to the benefit of the owner of the marsh island. State v. Holston Land Company, 272 S.C. 65, 248 S.E.2d 922 (1978). In Holston, the Supreme Court held that the expansion of the marsh island known as Drum Island in the Cooper River through dikes and the placement of dredge spoil on it belonged to the owner of this marsh island who established title by sovereign grant in 1763 to the lands between mean low water and mean high water.

The Court in Holston dealt with an acreage discrepancy similar to the one involving the Muddy Bay Islands in this case. The wording of the grant and grant plat stated the marsh island was 200 acres, but the actual measurement of the island based on the plat's boundaries was 230 acres. Additionally, a "1905 plat survey indicated the island contained 304.5 acres around the

perimeter." 248 S.E.2d 924. Even though the island was at least 50% larger in size than what was stated as the acreage in the grant, our Supreme Court did not find that discrepancy overcame the intent of the grant to convey the entire island to mean low water based on its description as a marsh island. Similarly, in this case, the Court finds and concludes the increase in size of these islands and shifting of their location over the last 250 years does not change the clear intent of the 1774 grant to grant title to the entirety of this group of marsh islands to James Mackie. This Court also notes the surveying principle quoted by the Court of Appeals in Hoyler v. State, supra, that "boundaries govern acreage and inaccuracies relating to the area of a tract are generally immaterial." 833 S.E.2d 845 at 855. See also Holden v. Cantrell, supra.

To avoid any confusion as to the Court's determinations in this Order, the Court's findings and conclusions on the Trustees' title to the tidelands in question does not mean that the Trustees may block or in any way obstruct the navigable waters that thread their way through these tidelands. The Constitution of the State of South Carolina ensures the right of the public to boat in navigable waters, regardless of whether the land underneath those waters is titled in the State or someone else. State v. Head, 330 S.C. 79, 498 S.E.2d 389 (Ct. App. 1998) (public's constitutional and statutory right to use navigable waters does not deprive the owner of title to the soil covered by navigable watercourse). Nothing in this Order is intended nor shall it be construed as abridging this constitutional right of the public to traverse the navigable waterways of this State.

The Court has considered all the arguments and positions of the State contesting a determination of title to these wetlands in the Plaintiffs. Even if the Court has not expressly addressed one or more of these arguments or positions in this Order, the Court has considered and rejected them as a basis for different findings or conclusions from those stated herein. This Order

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shall be considered as a ruling on all of them relieving either party of a motion to reconsider to obtain a ruling on a ground asserted.

For the foregoing reasons, the Court finds and concludes that the Trustees hold legal title to all the tidelands traceable to the six King grants and six State grants except for title to those tidelands that were subject to these grants but later conveyed to other persons in the three out conveyances described hereinabove and the southernmost of the Muddy Bay Islands.

The Court further finds and concludes that the Trustees may record this Order in the Register of Deeds for Georgetown County and that Exhibit 20A prepared by Mr. Quinn, as amended by this Court's findings, attached to this Order and incorporated here, shows the boundaries of the highland and tidelands with reasonable accuracy and may also be recorded in the Register of Deeds for Georgetown County or filed with any appropriate County offices including, but not limited to, mapping or the Tax Assessor.

AND IT IS SO ORDERED!

_____
Mikell R. Scarborough
Master in Equity for Charleston County

_____, 2026
Charleston, S.C.

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Charleston Common Pleas

Case Caption:	Belle W Baruch Foundation Trust , plaintiff, et al VS South Carolina State Of
Case Number:	2025CP1006053
Type:	Master/Order/Quiet Title and Form 4

So Ordered

s/Mikell R. Scarborough 3062