

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA
upon the relation and
for the use of the
TENNESSEE VALLEY AUTHORITY

Petitioner *

v.

ARNOLD E. BRADSHAW
MEETER L. BRADSHAW, his wife,

JIM BURNS

LAURA BURNS, his wife

JOHN COLLINS

MINNIE ETTA COLLINS, His wife

RILEY BALL, his wife

T.N. DAVIS *Betha Ball*, his wife

W.C. MARTIN

CITIZENS BANK, a corporation

CLERK SUPERIOR COURT OF SWAIN COUNTY

ESTHER E. CUNNINGHAM (A.E. CUNNINGHAM)

individually and as executrix

FEDERAL LANDBANK OF COLUMBIA, a
corporation

Respondents

No 548

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of the A.E. Bradshaw and Meeter L. Bradshaw, his wife; and answer of the Federal Land Bank of Columbia; decree pro confesso against the other respondents herein; mandate of the United States Supreme Court; report of the Special Master; award of the Commissioners; and the entire record in this cause, from all of which it appears that:

I

The Tennessee Valley Authority is a corporation created by and duly incorporated pursuant to an act of Congress approved May 18, 1933, and is authorized to exercise in the name of the United States of America the right of eminent domain and to condemn all real estate, and rights and interests therein, deemed necessary by it for carrying out the purposes of the Tennessee Valley Authority Act, and the property herein condemned is necessary for such purposes.

II

All the parties interested directly or indirectly in the land hereinafter described have been served with process personally or have accepted service and the said land and all claimants and parties interested therein are within the jurisdiction of this Court, which has power and authority to enter this judgment.

III

At the time of the filing of the declaration of taking in this cause the fee simple title to the property herein condemned was held by A.E. Bradshaw, subject to the inchoate right of dower of his wife, Meeter L. Bradshaw. Said land was subject to the lien of a deed of trust executed by A.E. Bradshaw to W.O. McGibony, Trustee, on August 19, 1935, and recorded on September 21, 1935, in Book of Mortgages and Deeds of Trust 17, page 458, to secure the payment of an indebtedness to the Federal Land Bank of Columbia. Said land was further subject to the lien of a judgment secured in the case entitled A.E. Cunningham, Executor, and A.E. Cunningham individually, against A.E. Bradshaw docketed December 17, 1938, in Judgment Docket #11, page 267, for the principal sum of Two Hundred Dollars (\$200.00) with interest at six (6%) per cent per annum from December 17, 1938, with costs, in the amount of \$4.05. Said land was also subject to the lien of Swain County for taxes for the years 1928 to 1944, inclusive, which taxes have been paid and the liens discharged.

No other respondents herein have any right, title, claim or interest in the property condemned.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Four Thousand Eight Hundred Dollars (\$4,800) as its estimate of the value of the property herein condemned. The Commissioners awarded the sum of Six Thousand Two Hundred Fifteen Dollars (\$6,215) as the true value of and as just compensation for said property. Pursuant to the said award, the petitioner deposited the further sum of One Thousand Six Hundred Twenty one Dollars and Fifty-eight cents (\$1,621.58), making the total sum of Six Thousand Four Hundred Twenty-one Dollars and Fifty-eight cents (\$6,421.58) deposited herein; all of such fund has been disbursed by proper order of this Court.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED That:

1. The report of the Special Master, to which no exceptions were filed, be and the same is fully and finally

confirmed.

2. The report of the Commissioners, to which no exceptions were filed, awarding Six Thousand Two Hundred Fifteen Dollars (\$6,215) as the true value of and as just compensation for the property herein condemned be and the same is hereby fully and finally confirmed.

3. The divestiture of title as evidenced by the declaration of taking filed on August 9, 1944, by virtue of which all right, title, claim, and interest of every kind, nature, and character in and to the following described property, to-wit:

Tract FR-1006

A tract of land lying in Charleston Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 2 3/8 miles northeast of the mouth of Noland Creek, and more particularly described as follows:

Beginning at a point in the center line of Peachtree Creek, a corner of the lands of Jess DeHart et al, and Julia Burns, line and the most northeasterly point of the tract herein described; thence with Julia Burns' line and the center line of the creek as it meanders downstream approximately 1090 feet to a point; thence, leaving the creek, N. 74° 00' W., 905 feet to a point at the top of a ridge, a corner of the lands of Julia Burns, and Charley C. McLean; thence with Charley C. McLean's line and the top of the ridge as it meanders approximately along a bearing and distance of N. 4° 00' E., 370 feet to a point, a corner of the lands of Charley C. McLean, and Jess DeHart et al; thence, leaving the ridge, with Jess DeHart's line N. 67° 30' E., 1025 feet to the point of beginning, and containing 16.3 acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads; and also subject to any outstanding mineral rights not owned by the respondents herein.

NOTE: The bearings given in the above described are based on the North Carolina State Coordinate System, Lambert Projection, as established by the U.S. Coast and Geodetic Survey. The central meridian for this coordinate system is located at Longitude 79° 00' W.

Tract FR-1007

A tract of land lying in Charleston Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 2 miles east of the confluence of Indian Creek and Noland Creek, and more particularly described as follows:

Beginning at a 14 inch black oak tree at the top of a ridge, a corner of the lands of Bergin Watkins et ux, and Julia Burns; thence with Julia Burns' line S. 67° 30' W., 640 feet to a stake, a corner of the lands of Julia Burns, and Jess DeHart et al; thence with Jess DeHart's line N. 20° 30' W., 2750 feet to a pine stump at the top of a ridge, a corner of the lands of Jess DeHart et al, and Miley Woodard; thence with Miley Woodard's line and the top of a ridge as it meanders approximately along the following bearings and distances; N. 25° 00' E., 610 feet, N. 67° 00' E., 1320 feet to a point at an intersection of ridges, a corner of the lands of Miley Woodard, and the Town of Bryson City; thence with the Town of Bryson City's, Roland Watkins et ux's, and Bergin Watkins et ux's line and the top of a ridge as it meanders in a southerly direction approximately along the following bearings and distances: S. 16° 00' E., 1150 feet, S. 31° 00' E., 820 feet, S. 28° 00' W., 560 feet, S. 3° 00' E., 300 feet to a stone, S. 39° 00' W., 570 feet to a stone, S. 39° 00' W., 570 feet, S. 6° 00' W., 350 feet to a point of beginning, and containing 111. acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads.

NOTE: The bearings given in the above description are based on the North Carolina State Coordinate System, Lambert Projection, as established by the U.S. Coast and Geodetic Survey. The central meridian for this coordinate system is located at Longitude 79° 00' W.

Tract FR-1020

A tract of land lying in Charleston Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 5/8 miles north of the mouth of Noland Creek, and more particularly described as follows:

Beginning at a point in the center line of Hickory Flat Branch (previously described as witnessed by a stake), a corner to the land of the Nantahala Power & Light Company; thence with the Company's line S. 83° 00' W., 643 feet to a point (previously described as a stake); thence N. 88° 00' W., 184 feet to a point (previously described as a stake); thence N. 36° 00' W., 307 feet to a point (previously described as a stake); thence N. 23° 00' E., 418 feet to a point (previously described as a stake); thence N. 6° 00' W., 317 feet to a 3 inch sourwood tree; thence N. 21° 00' E., 355 feet to a point (previously described as a 4 inch post oak tree); thence N. 26° 00' W., 286 feet to a point (previously described as a stake); thence N. 20° 00' E., 300 feet to a point (previously described as a stake); thence N. 23° 00' W., 147 feet to a 12 inch hickory stump at the top of a ridge, a corner of the lands of the Nantahala Power and Light Company, and Charity M. Hyatt; thence with Charity M. Hyatt's line and the top of the ridge as it meanders approximately along the following bearings and distances: N. 3° 00' W., 210 feet; N. 38° 00' E., 360 feet; N. 67° 00' E., 210 feet to a point, a corner of the lands of Charity M. Hyatt, and the Nantahala Power & Light Company; thence, leaving the ridge, with the Company's line N. 85° 00' E., 720 feet to a point (previously described as a stake), a corner of the lands of the Nantahala Power & Light Company, and J.M. Styles; thence with J.M. Styles' line S. 43° 00' E., 405 feet to a point; thence N. 46° 00' E., 550 feet to a point; thence S. 88° 00' E., 460 feet to a point thence S. 5° 00' W., 270 feet to a point (previously described as a stake), a corner of the lands of J.M. Styles, and the Nantahala Power & Light Company; thence with the Company's line S. 16° 00' W., 307 feet to a point (previously described as a stake); thence S. 4° 00' W., 376 feet to a point (previously described as a 13 inch black oak tree); thence S. 7° 00' W., 178 feet to a point (previously described as a stake); thence S. 59° 00' W., 405 feet to a point (previously described as a chestnut oak stump); thence S. 5° 00' E., 468 feet to a stake in an 8 inch chestnut stump; thence S. 13° 30' W., 970 feet to a point (previously described as a stake); thence N. 80° 00' W., 782 feet to the point of beginning, and containing 113. acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads, and also subject to outstanding burial rights in and to the Conner Private Cemetery; also subject to any outstanding mineral rights not owned by the respondents herein; and also subject to easements reserved to Harris-Woodbury Lumber Company in deed recorded in Book 49, page 466, in the Register's office of Swain County, North Carolina.

NOTE: The bearings given in the above description are based on the North Carolina State Coordinate System, Lambert Projection, as established by the U.S. Coast and Geodetic Survey. The central meridian for this coordinate system is located at Longitude 79° 00' W.

Tract FR-1024

A tract of land lying in Forneys Creek Township, of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 1/2 mile southwest of the confluence of Indian Creek and Noland Creek, and more particularly described as follows:

Beginning at a point in the center line of Noland Creek, a corner of the lands of Phillip G. Rust, the Nantahala Power & Light Company, and Glenn Lequire et ux; thence with Glenn Lequire's line N. 15° 00' E., 460 feet, passing

a 6 inch locust stump at 10 feet and crossing a public road at approximately 80 feet, to a point at the top of a ridge; thence with the top of the ridge as it meanders approximately along a bearing and distance of N. 42° 00' W., 500 feet to a chestnut stump, a corner of the lands of Glenn Lequire et ux, and Rubin Ball et ux; thence leaving the ridge and with Rubin Ball's line N. 84° 00' W., 480 feet to a stake at the top of a ridge, a corner of the lands of Rubin Ball et ux, Dave Ball et ux, and Phillip G. Rust; thence with Phillip G. Rust's line and the top of the ridge as it meanders approximately along the following bearings and distances:

N. 13° 00' E., 345 feet, N. 1° 00' W., 310 feet to a 14 inch black oak tree, S. 68° 00' E., 570 feet, S. 43° 00' E., 360 feet to a point; thence, leaving the ridge, N. 66° 00' E., 395 feet, crossing a public road at approximately 300 feet, to a point in the center line of Noland Creek; thence with the center line of the creek as it meanders downstream approximately 1380 feet to the point of beginning, and containing 18 acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads; also subject to any outstanding mineral rights not owned by the respondent herein; and also subject to easements reserved to Harris-Woodbury Lumber Company in deed recorded in Book 49, page 440, in the Register's office of Swain County, North Carolina.

NOTE: The bearings given in the above description are based on the North Carolina State Coordinate System, Lambert Projection, as established by the U.S. Coast and Geodetic Survey. The central meridian for this coordinate system is located at Longitude 79° 00' W.

and every part thereof, was divested out of each and every respondent in this cause and vested in the United States of America in fee simple, free of all liens, claims, and encumbrances, except as hereinabove shown, is hereby fully and finally confirmed.

4. The Clerk of this Court shall furnish to the petitioner a certified copy of this decree which shall serve as a muniment of title.

DONE this 7 day of March, 1947.

/s/ E.Y. Webb
Judge

THE UNITED STATES OF AMERICA

WESTERN DISTRICT OF NORTH CAROLINA

I, J.W. JORDAN, Clerk of the District Court of the United States, within and for the District aforesaid, do hereby certify that the foregoing printing and typewriting is a true, full, correct, and complete copy of the original final decree entered in Docket Book 5, page 154, on the 8th day of March, 1947, on file and remaining of record in my office in the matter of the United States ex rel. Tennessee Valley Authority v. Arnold E. Bradshaw et al., No. 548.

In TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 7 day of March, A.D., 1947.

J.W. Jordan
Clerk

U.S. Dist. Court Seal Affixed

By O.L. McLurd Deputy Clerk

STATE OF NORTH CAROLINA

SWAIN COUNTY

The foregoing certificate of J.W. Jordan, by O.L. McLurd, Deputy Clerk of the District Court of the United States for the western District of North Carolina, duly authenticated by the official seal of said court thereto affixed, is adjudged to be correct, in due form, and according to law.

Let the instrument and the certificates be registered, this 17th day of March, 1947.

H.J. Truett
Deputy Clerk Superior Court
Swain County, North Carolina

Filed for Registration at 10:05, o'clock A.M., March 17, 1947, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 536, April 3, 1947.

E.J. Seay
Register of Deeds