

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.

No. 526

FRED LOLLIS  
ARTHUR J. LOLLIS  
LOLA MARIE LOLLIS, his wife  
TOM SPARKS  
MATTIE SPARKS, his wife  
BETTIE SPARKS DUNCAN  
SAM DUNCAN, her husband  
LILLIE SPARKS DUNCAN  
ROBERT DUNCAN, her husband  
EMMA SPARKS ALLEN  
ROBERT ALLEN, her husband  
WAITSEL SPARKS  
VILENTA SPARKS, his wife  
ELLEN SPARKS RANDALL  
CHARLEY RANDALL, her husband  
WILLIAM MONTEITH  
CHARLES MONTEITH, his wife  
IDA MONTEITH MULL  
THOMAS MULL, her husband  
ALVIN MONTEITH  
FRANCES MONTEITH, his wife  
JAMES MONTEITH  
PEARL MONTEITH, his wife  
LUCY MONTEITH COMPTON  
GRANT COMPTON, her husband  
ENA MAE MONTEITH McALPINE  
OKEY McALPINE, her husband  
FEDERAL LAND BANK OF COLUMBIA, a corporation

Respondents

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of the Federal Land Bank of Columbia; answer of Fred Lollis and answer of all the other respondents except Arthur J. Lollis and Lola Marie Lollis, his wife; decree pro confesso against Lola Marie Lollis; 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 by publication 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 Fred Lollis was the holder of the fee simple title to an undivided one-half (1/2) interest in the said property and an claim to the other undivided one-half (1/2) interest in said property. The heirs of Charlie Sparks, deceased, namely; Tom Sparks, Ellen Randall, Bettie Duncan, Lillie Duncan, Emma Allen, Waitsel Sparks, Charles B. Monteith, Ida Mull, W.A. Monteith, J.B. Monteith, Lucy Compton, Ena Mae (McAlpine) Irby, and Geneva Jenkins claimed to own the same undivided one-half (1/2) interest that Fred Lollis claimed. At the hearing before the special Master it was agreed by the attorneys for the above claimants that the Spark's heirs should receive Seven Hundred Dollars (\$700) for their interests, and Fred Lollis should pay all the indebtedness and receive the balance.

The said property was subject to the lien of a deed of trust, executed by Fred Brendle, et ux., to the Federal Land Bank of Columbia, dated June 23, 1925, and recorded in Book of Mortgages 13, page 343, in the office of the Register of Deeds of Swain County, North Carolina.

The interest in the said property of Charles B. Monteith, Ida Mull, W.A. Monteith, J.B. Monteith, Lucy Compton, Ena Mae (McApline) Irby, and Geneva Jenkins were subject to the curtesy rights of Bill Monteith, the former husband of Jennie Monteith, deceased.

Vilenta Sparks, wife of Waitzel Sparks, Lillie Monteith, wife of Charles B. Monteith, Frances Monteith, wife of W.A. Monteith, and Pearl Monteith, wife of J.B. Monteith, had inchoate rights of dower in the interests of their respective husbands in said property.

No other respondents had any right, title, claim or interest in the said property.

All taxes levied and assessed against the property herein condemned at the time of the filing of the declaration of taking have been paid and the liens discharged.

#### IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Five Thousand Dollars (\$5000) and pursuant to the Commission award the further sum of Two Thousand Six Hundred Twenty-nine Dollars and Eighty nine Cents (\$2,629.89), making a total deposit in the sum of Seven Thousand Six Hundred Twenty-nine Dollars and Eighty nine Cents (\$7,629.89), as the true value of and just compensation for the said property condemned. Pursuant to the agreement of the parties all of the 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 award of the Commissioners, to which no exceptions were filed, be and the same is hereby fully and finally confirmed.
3. The divestiture of title as evidenced by the declaration of taking filed June 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-1017

A tract of land lying in Charleston Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 3/4 mile southeast of the confluence of Indian Creek and Noland Creek, and more particularly described as follows:

Beginning at an 8 inch hickory tree in the south boundary line of the tract herein described a corner of the lands of Rubin Ball, and Silas Ball; thence with Silas Ball's line N. 44° 00' W., 440 feet to a chestnut stump; thence S. 74° 00' W., 310 feet to a railroad iron; thence S. 58° 00' W., 920 feet to a point (previously described as a stake) at the top of a ridge, a corner of the lands of Silas Ball, Silas Ball et ux, Dr. Edgar Angel, and the Nantahala Power & Light Company; thence with the Company's line N. 71° 00' W., 1025 feet to a point (previously described as a 10 inch hickory tree) at the top of a ridge, a corner of the Nantahala Power & Light Company, J.M. Styles, and J.M. Styles et ux; thence with J.M. Styles et ux's, and Phillip G. Rust's line and the top of a ridge as it meanders approximately along the following bearings and distances: N. 27° 00' W., 900 feet; N. 38° 00' E., 800 feet; N. 4° 00' E., 1540 feet, N. 67° 00' E., 1630 feet to a point, a corner of the lands of Phillip G. Rust, and Ben Lollis et ux; thence leaving the ridge and with Ben Lollis' line and a line marked by a fence for a portion of its length S. 24° 00' E., 1540 feet to a point in the center line of a branch; thence with the center line of the branch as it meanders downstream approximately along a bearing and distance of S. 6° 30' E., 480 feet to a point; thence, leaving the branch, S. 70° 00' E., 150 feet to a point in the center line of Canebrake Branch; thence with the center line of the branch as it meanders downstream approximately 470 feet to a point; thence, leaving the branch, along the following bearings and distances: S. 69° 00' E., 132 feet; S. 44° 00' E., 99 feet; S. 14° 00' E., 274 feet to a 3 inch buckeye tree; S. 89° 00' W., 802 feet; S. 68° 00' E., 550 feet to a 24 inch oak tree at the top of a ridge; thence with the top of the ridge as it meanders approximately along a bearing and distance N. 60° 00' E., 965 feet to an 8 inch hickory tree, a corner of the lands of Ben Lollis et ux, and Silas Ball; thence with Silas Ball's line and the top of a ridge as it meanders approximately along the following bearings and distances: S. 37° 00' W., 460 feet, S. 51° 00' W., 895 feet to a point; thence, leaving the ridge, S. 67° 30' W., 100 feet to a point in the center line of a branch, a corner of the lands of Silas Ball, and Silas Ball et ux; thence with Silas Ball et ux's line and the center line of the branch as it meanders downstream approximately along a bearing and distance of S. 69° 00' W., 260 feet to a point, a corner of the lands of Silas Ball et ux, and Rubing Ball; thence with Rubin Ball's line N. 87° 00' W., 160 feet to a point in the center line of Canebrake Branch; thence S. 71° 00' W., 265 feet to the point of beginning, and containing 194 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 subject to any outstanding mineral rights not owned by the respondents herein.

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 6 day of Mch, 1947.

/s/ E.Y. Webb  
Judge

THE UNITED STATES OF AMERICA

WESTERN DISTRICT OF NORTH CAROLINA

I, J.Y. 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 142, on the 7 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. Fred Lollis et al., No. 526.

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

U.S. District Court Seal Affixed

\_\_\_\_\_  
J.Y. Jordan Clerk  
By \_\_\_\_\_  
O.L. McLurd  
Deputy Clerk

STATE OF NORTH CAROLINA

SWAIN COUNTY

The foregoing certificate of J.Y. 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 10:10 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 542, April 9, 1947.

\_\_\_\_\_  
E. J. Seay  
Register of Deeds