

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISIONUNITED STATES OF AMERICA
upon the relation and
for the use of the
TENNESSEE VALLEY AUTHORITY

Petitioner

v.

ABRAHAM COLE HYATT
FANNIE HYATT, his wife
WILL JENKINS
W.W. JENKINS
E.B. WHITAKER, Trustee

Respondents

No. 570

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of Abraham Cole Hyatt and wife, Fannie Hyatt; decree pro confesso against all other respondents; 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 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 Abraham Cole Hyatt and wife, Fannie Hyatt, were the owners of the fee simple title to a portion of tract FR-1031 by deed recorded in Deed Book 44, page 548, and Abraham Cole Hyatt was the owner of the fee simple title to the other portion of tract FR-1031 and all of tract FR-1233 by deed recorded in Book 50, page 533, all deeds being recorded in the office of the Register of Deeds of Swain County, North Carolina.

Fannie Hyatt, wife of Abraham Cole Hyatt, had inchoate right of dower in tract FR-1233 and that portion of tract FR-1031 of which Abraham Cole Hyatt was the owner of the fee simple title.

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

All taxes levied and assessed against the said property by Swain County 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 Five Hundred Dollars (\$5,500) and pursuant to the Commission award and the further sum of Two Thousand Seven Hundred Seventy three Dollars and Four Cents (\$2,773.04), making a total deposit in the sum of Eight Thousand Two Hundred Seventy-three Dollars and Four Cents (\$8,273.04), as the true value of and just compensation for the said property condemned; 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 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 October 21, 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-1031

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 2 miles southwest of the confluence of Indian Creek and Noland Creek, and more particularly described as follows:

Beginning at a 10 inch red oak tree at the top of a ridge and in the north boundary line of the tract herein described, a corner of the lands of Cole Hyatt, and Will Jenkins; thence with Will Jenkins' line S. 71° 00' E., 940 feet, crossing Goldmine Branch at approximately 600 feet, to a 16 inch pine tree; thence N. 8° 00' E., 1420 feet to a 14 inch maple tree; thence S. 74° 00' E., 670 feet to a stake; thence N. 2° 00' W., 1040 feet to a 14 inch pine tree at the top of a ridge, a corner of the lands of Will Jenkins, and L.E. Hunter; thence with L.E. Hunter's line and the top of a ridge as it meanders approximately along a bearing and distance of N. 38° 00' E., 1300 feet to a 6 inch hickory tree at the top of Tunnel Ridge, a corner of the lands of L.E. Hunter, and Phillip G. Rust; thence with Phillip G. Rust's line and the top of the ridge as it meanders in a southerly direction approximately 2760 feet to a 24 inch red oak tree, a corner of the lands of Phillip G. Rust, and Hampton Cole; thence, leaving the ridge and with Hampton Cole's line S. 69° 00' W., 350 feet to a stake at the top of a ridge; thence with the top of the ridge as it meanders approximately along the following bearings and distances: S. 36° 00' W., 320 feet, S. 71° 00' W., 390 feet to a point, a corner of the lands of Hampton Cole, and W.H. & Julyan Cole; thence, leaving the ridge and with W.H. & Julyan Cole's line S. 52° 00' W., 3002 feet, passing an iron rail at Goldmine Branch at 2710 feet, to a point; thence S. 58° 30' E., 180 feet to a stake, a corner of the lands of W.H. & Julyan Cole, and E.O. Hall; thence with E.O. Hall's line S. 40° 00' E., 245 feet, passing a stake at 190 feet, to an 8 inch locust tree; thence S. 20° 00' W., 40 feet to an 8 inch maple tree; thence N. 46° 00' W., 220 feet to a rock; thence S. 85° 00' W., 150 feet to a beech stump; thence S. 61° 00' W., 290 feet to a stake, a corner of the lands of E.O. Hall, and the J.S. Cole Heirs; thence with the J.S. Cole Heirs' line N. 2° 00' W., 650 feet, passing a 14 inch willow tree at 510 feet, to a point; thence N. 22° 00' W., 295 feet to a stake; thence S. 78° 00' W., 490 feet to a railroad iron, a corner of the lands of the J.S. Cole Heirs, and W.C. Cole; thence with W.C. Cole's line N. 49° 00' W., 396 feet to a point at the top of a ridge; thence with the top of the ridge as it meanders approximately along the following bearings and distances: N. 78° 00' W., 215 feet, N. 35° 30' W., 750 feet to a 10 inch white oak tree a corner of the lands of W.C. Cole, and the Nantahala Power & Light Company; thence, leaving the ridge and with the Company's line, N. 5° 00' W., 153 feet to a monument at the top of a ridge, a corner of the lands of the Nantahala Power & Light Company, the United States Department of Interior (Great Smoky Mountains National Park), and Cole Hyatt; thence with Cole Hyatt's line and the top of the ridge as it meanders approximately along the following bearings and distances: N. 59° 00' E., 500 feet, S. 77° 00' E., 650 feet to the point of beginning, and containing 206. 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.

Tract FR-1233

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 2-3/4 miles southwest of the confluence of Indian Creek and Noland Creek, and more particularly described as follows:

Beginning at a United States Department of Interior monument at the top of a ridge, a corner of the lands of A.C. Hyatt et ux, the Nantahala Power & Light Company, and the United States Department of Interior (Great Smoky Mountains National Park); thence with the Park's boundary line N. 36° 51' E., 118 feet to a point; thence N. 4° 31' E., 177 feet to a point; thence N. 5° 11' W., 260 feet to a 16 inch chestnut oak tree, a corner of the lands of the United States Department of Interior (Great Smoky Mountains National Park), and Will Jenkins; thence with Will Jenkins' line N. 87° 00' E., 880 feet to a stake on the north edge of a road; thence with the north edge of the road as it meanders approximately along a bearing and distance of S. 62° 00' E., 670 feet to a stake; thence, leaving the road, S. 10° 00' W., 840 feet to a 10 inch red oak tree at the top of a ridge, a corner of the lands of Will Jenkins, and A.C. Hyatt et ux; thence with A.C. Hyatt's line and the top of the ridge as it meanders approximately along the following bearings and distances: N. 77° 00' W., 650 feet, S. 59° 00' W., 500 feet to the point of beginning, and containing 21 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 March, 1947.

/s/ E.Y. Webb
Judge

THE UNITED STATES OF AMERICA)
WESTERN DISTRICT OF NORTH CAROLINA) SS

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 72, on the 7 day of March, 1947, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. Abraham Cole Hyatt et al., No. 570.

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.Y. Jordan Clerk
By O.L. McLurd Deputy Clerk

(Seal Affixed)

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
Clerk Superior Court
Swain County, North Carolina

Filed for Registration at 10:00 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 529, March 19, 1947.

E. J. Truett
Register of Deeds

NORTH CAROLINA

SWAIN COUNTY

THIS LEASE AGREEMENT, made and entered into on this the 15th day of March, 1947, by and between EARLE BRINTNALL and wife, PEARLE BRINTNALL, of Catawba County, North Carolina, parties of the first part, hereinafter called "Lessors", and PHILIP E. BRINTALL of Swain County, North Carolina, hereinafter called "Lessee",

W I T N E S S E T H:

That the said Lessors, in consideration of the sum of One (\$1.00) Dollar to them paid by the said Lessee, receipt of which is hereby acknowledged, and in further consideration of the payment by Lessee of all county and city taxes levied against the property hereinafter during the terms hereof promptly as and when the same shall be come due and payable, the payment by Lessee promptly as and when due of the premiums on the fire insurance on the said property hereinafter described, fire insurance to be kept in force on said premises at all times during the term hereinafter granted of not less than \$5,000.00, and the payment by Lessee for all upkeep and repairs necessary to maintain said premises in its present state of repair during said term, have leased and rented, and do, by these presents, lease and rent unto Lessee, his heirs and assigns, for a term of three (3) calendar years from and after March 15, 1947, the building and property on Main Street in the Town of Bryson City, North Carolina, purchased by Lessors from J.C. Keeter and wife, and being the property in which Lessee now operates a Firestone Store.

TO HAVE AND TO HOLD said premises, together with all the privileges and appurtenances thereto belonging, unto the said Lessee, his heirs and assigns, for said term of three (3) calendar years from and after March 15, 1947.

It is understood and agreed that Lessee his heirs or assigns, shall have the privilege of renewing this lease for an additional period of three (3) calendar years, from and after the term herein granted upon the terms and conditions herein granted and at the same rental.

IN TESTIMONY WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, this the day and year first above written.

Earle Brintnall (SEAL)
Pearl Brintnall

NORTH CAROLINA

CATAWBA COUNTY

I, Belle Gaither, a Notary Public of Catawba County, North Carolina, do hereby certify that EARLE BRINTNALL and Pearl Brintnall, his wife personally appeared before me this day and acknowledged the due execution by him of the foregoing and annexed instrument in writing for the purposes therein expressed.

Witness my hand and Notarial Seal, this the 19th day of March, 1947.

Seal Affixed
My Commission expires Oct. 28, 1947

Belle Gaither
Notary Public

NORTH CAROLINA

SWAIN COUNTY

The foregoing certificate of Belle Gaither, a Notary Public of Catawba County, North Carolina duly authenticated by his Notarial seal thereto affixed, is adjudged to have been duly proven. Therefore, let the said instrument, with these certificates, be registered.

Witness my hand, this the 21st day of March, 1947.

H.J. Truett
Clerk Superior Court

Filed for Registration at 10:31 o'clock A.M., March 21, 1947, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 531, March 21, 1947.

E. J. Truett
Register of Deeds