

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. 536

OSCAR KIRKLAND
EVA KIRKLAND, his wife
ARNOLD KIRKLAND
LEXIE KIRKLAND, a minor, his wife
JOHN KIRKLAND
TINY KIRKLAND, his wife
GEORGE KIRKLAND
CORDELIA KIRKLAND, his wife
STANLEY W. BLACK
MARIANNA F. BLACK, his wife
LOUIS E. FISCHER
MAE FISCHER, his wife

Respondents

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of Louis E. Fischer and Mae Fischer by Black & Whitaker, their attorneys; answer of Oscar Kirkland and Eva Kirkland by Jones, Ward & Jones, their attorneys; answer of Arnold Kirkland by Reed Kitchin, his duly authorized military service attorneys; disclaimer of Stanley W. Black and Marianna F. Black by Edwin B. Whitaker, their attorney; decree pro confesso against all other respondents; report of the Special Master; ~~award 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 case title to the property herein condemned was held as follows: Arnold Kirkland held the record title to tract FR-1042, subject to a claim by the Bryson City Bank.

Oscar Kirkland held the record title to tract FR-1102, subject to the claim of Arnold Kirkland by reason of his possession.

Lexie J. Kirkland, wife of Arnold Kirkland, and Eva Kirkland, wife of Oscar Kirkland, has inchoate rights of dower in and to the interests of their respective husbands in the said property.

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

All taxes against the said property have been paid and the lien discharged.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Six Hundred Forty-two Dollars and Sixty-five Cents (\$642.65) as its estimate of just compensation, and the Commissioners awarded the sum of Six Hundred Forty-two Dollars and Sixty-five Cents (\$642.65) as the true value and as just compensation for the 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 heretofore entered in this cause to which no exceptions were filed, be and the same is fully and finally confirmed.

3. The divestiture of title as evidenced by the declaration of taking filed on July 27, 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 1042

A tract of land lying in Forneys Creek Township of Swain County, State of North Carolina, on the right side of the Little Tennessee River, approximately 2 1/2 miles northwest of Bushnell, and more particularly described as follows:

Beginning at a 3 inch black gum tree, a corner of the land of the Bryson City Bank, and the most southerly point of the tract herein described; thence with the line claimed by Arnold Kirkland as his south boundary line N. 71° 00' W., 490 feet to a 15 inch hickory tree; thence N. 32° 15' W., 200 feet to a point in the center line of Big Branch, a corner of the lands of the Bryson City Bank, and Oscar Kirkland, and the land in dispute between Arnold Kirkland and Oscar Kirkland; thence with the line claimed by the Bryson City Bank as its northwest boundary line and with the center line of the branch as it meanders upstream approximately 1100 feet, passing a rock at approximately 1020 feet, to a point, a corner of the land in dispute between Arnold Kirkland and Oscar Kirkland, and the land of Arnold Kirkland; thence with the line claimed by the Bryson City Bank as its north boundary line S. 82° 30' E., 555 feet to a point, a corner of the lands of Arnold Kirkland, and the Bryson City Bank; thence with the line claimed by Arnold Kirkland as his southeast boundary line S. 44° 30' W., 1220 feet to the point of beginning, and containing 13 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-1102

A tract of land lying in Forneys Creek Township of Swain County, State of North Carolina, on the right side of the Little Tennessee River, approximately 2 1/2 miles northwest of Bushnell, and more particularly described as follows:

Beginning at a point in the center line of Big Branch approximately 280 feet upstream from its confluence with the North fork of Chambers Creek, a corner of the land claimed by the Bryson City Bank, and the land of Oscar Kirkland, and the most southerly point of the tract herein described; thence with the line claimed by Arnold Kirkland as his southwest boundary line N. 32° 15' W., 815 feet to a point, a corner of the lands of Oscar Kirkland, and Arnold Kirkland; thence with the line claimed by Oscar Kirkland N. 8° 30' E., 90 feet to a stake; thence S. 82° 30' E., 1325 feet to a point in the center line of Big Branch, a corner of the land of Arnold Kirkland, and the land in dispute between Arnold Kirkland and the Bryson City Bank; thence with the line claimed by the Bank as its northwest boundary line and with the center line of the branch as it meanders downstream approximately 1100 feet, passing a rock at approximately 80 feet, to the point of beginning, and containing 13 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.

and every part thereof, was divested out of each and every respondent in this cause and was 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 7th day of August, 1946.

by/ E.Y. Webb
Judge

CX-583

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 38, on the 8th day of August, 1946, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. Oscar Kirkland, et al., No 536.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 8th day of August, 1946.

J.Y. Jordan Clerk

U.S. Dist. Court Seal Affixed.

By W.A. Lytle Deputy Clerk

STATE OF NORTH CAROLINA, SWAIN COUNTY

The foregoing certificate of J.Y. Jordan, Clerk, by W.A. Lytle, 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 16th day of August, 1946.

Annie Mae Truett

Deputy Clerk Superior Court, Swain County, N.C.

Filed for Registration at 2:00 o'clock P.M. August 16th, 1946, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 228, August 21st, 1946.

E.J. Seay

Register of Deeds