

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

UNITED STATES OF AMERICA)
upon the relation and)
for the use of the)
TENNESSEE VALLEY AUTHORITY)
Petitioner) Filed July 25, 1946
v.) Clerk, U.S. District Court
HARLEY KIRKLAND)
IDA KIRKLAND, his wife)
Respondents) No. 528

FINAL DECREE

This cause came on finally to be heard upon the petition for condemnation; declaration of taking; answer of respondents Harley Kirkland and Ida Kirkland; report of the Special Master; award of 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 the property herein condemned was owned in fee simple by Harley Kirkland by virtue of a deed recorded in Deed Book 54, page 448, in the office of the Register of Deeds for Swain County, North Carolina. Ida Kirkland, wife of Harley Kirkland, had an inchoate right of dower by virtue of her marital relationship.

Said property was subject to the lien of a deed of trust executed by Harley Kirkland on October 29, 1927, to J. Robert Long, Trustee, for the benefit of Bryson City Bank, and recorded in the office of the Register of Deeds for Swain County, North Carolina, in Book of Mortgages and Deeds of Trust 16, page 114. The debt secured by said deed of trust has been paid and the lien discharged.

All taxes, which constituted a lien against said property, have been paid out of the funds deposited herein by proper order of this Court.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of One Hundred Twenty-Five Dollars (\$125) as its estimate of the value of the property herein condemned. The Commissioners awarded the sum of Two Hundred Twenty-six Dollars and Sixty one (\$226.61) as the true value of and as just compensation for said property. The additional sum of One Hundred One Dollars and Sixty-one Cents (\$101.61) has been deposited in the registry of this Court by petitioner, making a total deposit of Two Hundred Twenty six Dollars and Sixty one Cents (\$226.61), all of which funds have 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 the sum of Two Hundred Twenty-six Dollars and Sixty-one Cents (\$226.61) 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 in this cause on June 30, 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-1066

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 2-1/8 miles northwest of Bushnell, and more particularly described as follows:

Beginning at a 12 inch pine at the top of a ridge and in the south boundary line of the tract herein described, a corner of the lands of Lon C. Kirkland, and A.R. Anthony et ux; thence with A.R. Anthony's line N. 85° 00' W., 1805 feet to a 36 inch black oak tree, a corner of the lands of A.R. Anthony et ux, and the Bryson City Bank; thence with the Bank's line N. 5° 00' E., 330 feet to a point; thence N. 54° 00' E. 385 feet to a point, a corner of the lands of the Bryson City Bank, and the D.G. Fisher Heirs; thence with the D.G. Fisher Heirs' and the B.W. Kirkland Heirs' line S. 85° 30' E., 1650 feet to a point, a corner of the lands of B.W. Kirkland Heirs, and Oscar Kirkland; thence with Oscar Kirkland's, and Lon C. Kirkland's line S. 6° 00' E., 590 feet, passing a 6 inch sourwood tree at the top of a ridge at 225 feet, to a post; thence with Lon C. Kirkland's line N. 82° 00' W., 255 feet to the point of beginning, and containing 25 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 25th day of July, 1946.

/s/ E.Y. Webb
Judge, United States District Court

CX-583

THE UNITED STATES OF AMERICA)
) SS
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 31, on the 25 day of July, 1946, on file and remaining of record in my office in the matter of United States ex rel, Tennessee Valley Authority v. Harley Kirkland et al., No. 528.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 25th day of July, A.D., 1946.

A J.Y. Jordan Clerk
By W.A. Lytle Deputy Clerk

U.S. District Court Seal Affixed

STATE OF NORTH CAROLINA

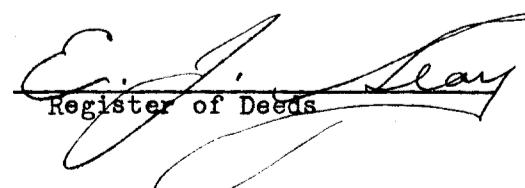
SWAIN COUNTY

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 5th day of August, 1946.

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

Filed for Registration at 9:00 o'clock A.M., August 5, 1946, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 211, August 7, 1946.


E.J. May
Register of Deeds