

Dec. of T. 45-48551  
Add Award 51-15907IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISIONFiled Mar 14, 1951  
Clerk U. S. Dist. Court

UNITED STATES OF AMERICA )  
Upon the relation and )  
for the use of the )  
TENNESSEE VALLEY AUTHORITY )  
Petitioner )  
v. )  
JESSIE POSEY )  
GUY POSEY, her husband )  
ISAAC B. CRISP )  
Respondents )

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of the respondent Guy Posey by his duly authorized attorneys; decree pro confesso against the respondents Jessie Posey and Isaac B. Crisp; answer of the respondent Jessie Posey by her duly authorized attorney; stipulation between petitioner and respondent Jessie Posey as to compensation; report of the Special Master; petitioner's motion for judgment and order pertaining thereto; and the entire record in this cause, from all of which the Court finds 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 to 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 property hereinafter described have been served with process personally or by publication, and the said property 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, Jessie Posey and Guy Posey, her husband, owned the fee simple title to the hereinafter described property as tenants by the entireties by virtue of a deed recorded in Deed Book 57, page 565, in the Register's Office of Swain County, North Carolina. However, it appears from the report of the Special Master that the respondents Jessie Posey and Guy Posey have since been divorced and that thereupon they became owners as tenants in common, each having an undivided one-half (1/2) interest in said property.

No other party or parties had any right, title, or interest in the property herein condemned.

Said property was subject to a lien for county taxes for the years 1932, 1933, 1934, 1941, 1942, 1943, and 1944, which taxes have since been paid out of the funds deposited in this cause and the lien discharged.

## IV

Petitioner, upon filing the declaration of taking in this cause, deposited in the Registry of this Court the sum of One Thousand Six Hundred Forty-One Dollars and Ten Cents (\$1,641.10) as its estimate of just compensation for the taking of the property condemned herein. On or about July 3, 1946, the petitioner entered into an agreement with the respondent Jessie Posey as to the compensation to be paid for the property condemned, and all funds due said respondent, Jessie Posey, in payment for her share of said property have heretofore been

disbursed by proper order of this Court.

On motion of the petitioner, an option contract, executed by the respondent Guy Posey on July 21, 1944, prior to condemnation, was decreed to be valid and binding upon him as a stipulation as to the value of his interest in the property condemned. Thereafter, petitioner deposited the additional sum of One Hundred Dollars (\$100.00) in the Registry of this Court making a total amount of Eight Hundred Thirty-Seven Dollars and Thirty-Eight Cents (\$837.38) remaining in the Registry herein. Disbursement of said remainder is provided for hereinafter in paragraph 3,

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

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

2. This divestiture of the fee simple title to the following described property out of each and every respondent in this cause and the vesting thereof in the United States of America, free of all liens, claims, and encumbrances, except as hereinafter shown, as evidenced by the declaration of taking filed on December 16, 1944, are hereby fully and finally confirmed. Said property is described as follows:

Tract FR-1077

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 1 mile west of the confluence of the Little Laurel Creek and Indian Camp Creek tributaries of Chambers Creek, and more particularly described as follows:

Beginning at a stake at the top of a ridge, a corner of the lands of N. A. Pilkington, and Harve Dills, and the most northeasterly point of the tract herein described; thence with Harve Dills', the Andy Pilkerton Heirs', and George Washington Pilkington's line and the top of the ridge as it meanders approximately along the following bearings and distances: S. 6° 00' E., 830 feet, S. 54° 00' W., 1330 feet to a stake, S. 38° 00' W., 1050 feet to a stake; thence, leaving the ridge and with George Washington Pilkington's line S. 0° 30' E., 250 feet to a point at a spring; thence with the center line of a spring branch as it meanders downstream approximately along a bearing and distance of S. 86° 00' W., 330 feet to a point witnessed by a 24 inch white oak tree; thence leaving the branch, S. 35° 00' E., 100 feet to a point at the top of a ridge; thence with George Washington Pilkington's, and the A. J. Pilkerton Heirs' line and the top of the ridge as it meanders approximately along the following bearings and distances: S. 35° 00' E., 760 feet, S. 69° 00' W., 790 feet to a point; thence leaving the ridge and with the A. J. Pilkerton Heirs' line S. 69° 00' W., 100 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 N. 40° 00' W., 870 feet to a point of confluence of branches witnessed by a 14 inch buckeye tree; thence with the center line of a branch as it meanders upstream approximately along a bearing and distance of N. 44° 00' E., 350 feet to a point witnessed by a 4 inch maple tree; thence, leaving the branch and with the A. J. Pilkerton Heirs', and Susie Pilkington's line N. 29° 00' W., 690 feet, passing a stake at 220 feet, to a point at the top of a ridge; thence with Susie Pilkington's line and the top of the ridge as it meanders approximately along the following bearings and distances: N. 13° 00' E., 1580 feet, N. 29° 00' E., 850 feet to a point, a corner of the lands of Susie Pilkington, John Pilkington, and N. A. Pilkington; thence leaving the ridge and with N. A. Pilkington's line S. 88° 00' E., 2180 feet to the point of beginning, and containing 143. 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 in Longitude 79° 00' W.

3. The Clerk of this Court is authorized and directed to draw a check on the funds on deposit in the Registry of the Court in the amount of Eight Hundred Thirty-Seven Dollars and Thirty-Eight Cents (\$837.38), payable to Guy Posey and mail said check to him in care of I.C. Crawford, Attorney at Law, State Theater Building, Asheville, North Carolina.

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 13 day of March, 1951.

Wilson Warlick  
Judge

We hereby consent to the entry  
of the foregoing decree:

S/  
S. G. Bernard  
Attorney at Law  
Wachovia Bank Building  
Asheville, North Carolina

Special Master

S/  
Joseph C. Swidler  
General Counsel  
Tennessee Valley Authority  
Knoxville, Tennessee

Attorney for Petitioner

S/  
I.C. Crawford  
Attorney at Law  
State Theater Building  
Asheville, North Carolina

Attorney for the respondent Guy Posey

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

I, O. L. McLurd, 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 91 on the 14 day of March, 1951, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. Jessie Posey, et al, No. 589.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 14th day of March, A.D. 1951.

(US DISTRICT COURT WESTERN DISTRICT  
SEAL AFFIXED)

O. L. McLurd Clerk  
By: W. A. Lytle  
Deputy Clerk

STATE OF NORTH CAROLINA )  
SWAIN COUNTY )

The foregoing certificate of O. L. McLurd, Clerk of the District Court of the United States for the Western District of North Carolina, by W. A. Lytle, Deputy Clerk, 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 certificate be registered.

This 29 day of March, 1951.

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

Filed for Registration at 10:00 o'clock A.M. March 29, 1951 and registered in the office of the Register of Deeds for Swain County, North Carolina in Book 74, Page 383, March 31, 1951.

  
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Swain County, North Carolina