

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

Filed Nov. 13, 1948

Clerk, U. S. Dist; Court

UNITED STATES OF AMERICA  
upon the relation and  
for the use of the  
TENNESSEE VALLEY AUTHORITY

Petitioner

v.

JOSEPH H. (HAM) McCLURE  
NOLA DILLS McCLURE, his wife  
S. COLUMBUS WELCH  
ROXIE McCLURE  
W. HARVEY PROCTOR  
MINNIE PROCTOR, his wife *Alex C. Proctor's Proctor, his wife*  
CLARENCE KIRKLAND, a minor *Ella C. Chambers*  
MATILDA KIRKLAND, a minor  
GEORGE CHAMBERS  
MYRTLE L. CHAMBERS, his wife  
LOUISE CHAMBERS CABLE  
HENRY CABLE, her husband  
MARGIE MILLS CALHOUN  
W. SANDERS CALHOUN, her husband  
ROY MILLS  
MAYME MILLS, his wife  
EMMA McCLURE ANTHONY  
IVAN ANTHONY, her husband  
LAVADA McCLURE KIRKLAND  
BURRELL KIRKLAND, her husband  
IDA McCLURE KIRKLAND  
HARLEY KIRKLAND, her husband  
ADA McCLURE ANTHONY  
WILLIAM MARION ANTHONY, her husband  
ROXIE K. KIRKLAND  
JACK KIRKLAND, her husband  
ETTA KIRKLAND  
ANNIE KIRKLAND CALHOUN  
CLIFFORD CALHOUN, her husband  
MINNIE KIRKLAND FLEMING  
HUBERT D. FLEMING, her husband

Respondents

No. 700

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of taking; answer of Clarence Kirkland and Matilda Kirkland, minors, by their duly appointed guardian ad litem; decree pro confesso against all other respondents; report of the Special Master; award of the Commissioners; and 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 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, the following respondents owned undivided interests in fee simple in the hereinafter described property in the proportions stated opposite their names:

Joseph H. McClure	84/504
Roxie McClure	41/504
W. Harvey Proctor	24/504
Alex C. Proctor	24/504
Clarence Kirkland	14/504

Matilda Kirkland	14/504
George Chambers	42/504
Louise Chambers Cable	36/504
Maggie Mills Calhoun	36/504
Roy Mills	36/504
Emma McClure Anthony	18/504
Lavada McClure Kirkland	18/504
Ida McClure Kirkland	18/504
Ada McClure Anthony	18/504
Roxie E. Kirkland	21/504
Etta Kirkland	21/504
Annie Kirkland Calhoun	18/504
Minnie Kirkland Fleming	21/504
Nola Dills McClure- marital rights in	84/504
Elva Chambers Proctor marital rights in	24/504
Minnie Proctor-marital rights in	24/504
Myrtle L. Chambers-marital rights in	42/504
Mayme Mills-martial rights in	36/504

No other respondent had any right, title, ~~estate~~, or interest in said property.

Said property is a cemetery and is therefore not subject to the payment of taxes.

#### IV

The petitioner, upon filing the declaration of taking in this cause, deposited ~~the register~~ of this Court the sum of Fifty Dollars (\$50) as its estimate of the ~~value~~ of the property condemned, and the Commissioners awarded the sum of Fifty Dollars (\$50) as the true value of and just compensation for said property.

No exceptions were taken to the award of the Commissioners and the entire fund has heretofore 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 ~~taken~~, be and the same is hereby fully and finally confirmed.
2. The sum of Fifty Dollars (\$50), ~~awarded~~ by the Commissioners, is hereby decreed to be the true value of and just compensation for the property ~~herein~~ condemned.
3. The divestiture of title, as evidenced by the declaration of taking filed on July 15, 1946, 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 No. FR-1222

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 1/4 miles northwest of the Bushnell Depot, and more particularly described as follows:

Beginning at a point in a fence line, a corner of the Anthony Cemetery, and the land of S.C. Welch, and the most northwesterly point of the tract herein described; thence with S.C. Welch's line and the fence line S. 76° E., 43 feet to a fence corner; thence S. 1° W., 48 feet to a fence corner; thence west; 49 feet to a point, a corner of the land of S.C. Welch, and the Anthony Cemetery; thence with the Anthony Cemetery's line north 59 feet to the point of beginning, and containing 0.1 acre, more or less.

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.

Burial and other rights in connection therewith outstanding in third parties are not sought to be condemned herein.

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 petition a certified copy of this decree which shall serve as a muniment of title.

Done this 12 day of November, 1948.

/s/ David E. Henderson  
Judge

CX-583

THE UNITED STATE OF AMERICA

WESTERN DISTRICT OF NORTH CAROLINA

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 6, page 77, on the 13 day of November, 1948, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. Joseph H. (Ham) McClure, et al., No. 700.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 13 day of November, A.D., 1948.

District Seal Affixed

O.L. McLurd Clerk  
O.L. McLurd

By V.E. Bartlett  
Deputy Clerk

STATE OF NORTH CAROLINA

SWAIN COUNTY

The foregoing certificate of O.L. McLurd, 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 certificate be registered, this 3rd day of December, 1948.

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

Filed for Registration at 2:05 o'clock P.M., December 3, 1948, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 72, page 382, December 11, 1948.

Eliza De Hart  
Deputy Register of Deeds