

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

FR-1237
VOU No. 46-2506

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

Petitioner

v.

No. 603

LULA J. PROCTOR
WILL W. WIGGINS
ESTELLE R. WIGGINS, his wife

Respondents

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of respondents Will W. Wiggins and Estelle R. Wiggins by Black and Whitaker, their attorneys; petitioner's motion to strike; stipulation by the petitioner and respondent Lula J. Proctor; report of the special master; order disbursing funds; 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 are properly before the Court by the service of summons or by appearance, and the said land together with all claimants and parties interested therein are within the jurisdiction of this Court, which has power and authority to enter this final decree.

III

The special master has reported that at the time of the filing of the declaration of taking in this cause the property herein condemned was owned by respondent Lula J. Proctor subject to the right of Will W. Wiggins to all the mines, minerals, mining rights, and privileges in and upon said land. He further reported that said Will W. Wiggins and Estelle R. Wiggins, his wife, conveyed by deed all their right, title, interest, and estate in the mines, minerals, mining rights, and privileges to respondent Lula J. Proctor subsequent to the institution of this action. He further reported that said property was subject to a lien for Swain County taxes for the year 1945, which taxes have since been paid out of the funds on deposit in this cause and the lien discharged.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of One Thousand Six Hundred Dollars (\$1,600) as its estimate of the value of the property herein condemned. The parties in interest have stipulated and agreed among themselves and with each other that the sum of Five Thousand Seven Hundred Sixty-seven Dollars and Fifteen Cents (\$5,767.15), interest being expressly waived, constitutes just compensation for the property herein condemned and have waived any hearing before the commissioners or any other tribunal for the purpose of determining just compensation. Petitioner deposited the additional sum of Four Thousand One Hundred Sixty-seven Dollars and Fifteen Cents (\$4,167.15) in the registry of the Court, and the entire sum of Five Thousand Seven Hundred Sixty-seven Dollars and Fifteen Cents (\$5,767.15) 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 sum of Five Thousand Seven Hundred Sixty-seven Dollars and ^{Fifteen Cents} (\$5,767.15) constitutes the true market value of and just compensation for the property herein condemned.

3. The divestiture of title as evidenced by the declaration of taking filed on January 16, 1945, 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-1237

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 Proctor, and more particularly described as follows:

Beginning at a stake, a corner of the lands of the North Carolina Exploration Company, and George Shope et ux, and the northwesterly point of the tract herein described; thence with George Shope's line S. 85° 24' E., 566 feet to a white pine stump, a corner of the lands of George Shope et ux, and the North Carolina Exploration Company; thence with Company's line S. 8° 55' E., 451 feet to a point; thence S. 48° 11' E., 644 feet to a point at the top of a ridge, a corner of the lands of the North Carolina Exploration Company, and J.A. Proctor; thence with J.A. Proctor's line and the top of the ridge as it meanders approximately along the following bearings and distances:

S. 2° E., 450 feet,
S. 23° W., 540 feet to a point; thence, leaving the ridge, south 280 feet, crossing Ecoah Branch at approximately 250 feet, to a point; thence S. 87° E., 360 feet to a point a corner of the lands of J.A. Proctor, and the North Carolina Exploration Company; thence with the Company's line along the following bearings and distances:
S. 27° 27' W. 190 feet to a dogwood stump;
S. 69° 01' W. 2126 feet to an iron pipe;
N. 28° 18' W. 578 feet to an iron pipe;
N. 50° 48' E. 1139 feet to a black oak stump;
N. 4° 17' E. 1876 feet to the point of beginning,
and containing 81 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 16th day of October, 1945.

E. Y. Webb
Judge

CX-593

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 and full, correct and complete copy of the original final decree entered in Minute Book 10, page 220, on the 17 day of October, 1945, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. Lula J. Proctor et al., No. 603.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 30 th day of October, A.D., 1945.

Seal US Dist Court

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

STATE OF NORTH CAROLINA, SWAIN COUNTY

The foregoing certificate of J.Y. Jorden, 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 9th day of November, 1945.

Annie Mae Truett
Deputy Clerk Superior Court
Swain County, North Carolina

Filed for Registration at 1:30 o'clock P.M., November 9, 1945 and registered in the office of the Register of Deeds for Swain County, North Carolina, In Book 69, page 498, November 14, 1945.

H. B. Welch
Deputy Register of Deeds