

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

351  
D.K.

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

Petitioner

v.

ELVIRA MILLS, if living  
UNKNOWN HEIRS, DEVISES, EXECUTORS,  
ADMINISTRATORS, CREDITORS AND  
SUCCESSORS IN TITLE OF Elvira Mills  
JESSE CALVIN WELCH  
JOSIE WELCH THOMASSON  
ROLLINS M. THOMASSON, her husband  
GILMER WELCH  
NINON WELCH, his wife  
AMANDA WELCH RUSSELL  
JOHN RUSSELL, her husband  
SHERMAN COLUMBUS WELCH  
MINNIE WELCH COFFEY  
VIVIAN MUSE, a minor  
THELMA PHILLIPS BRYSON  
OBE BRYSON, her husband  
CLINTON PHILLIPS  
SARAH WELCH CALHOUN  
GEORGE S. WLECH  
ELOISE WELCH, his wife  
MARY WELCH CABLE  
RAYMOND CABLE, her husband  
RUSSELL A. WELCH  
ROSE WELCH, his wife  
EDWARD L. WEECH  
ELBERT T. WELCH  
EDITH FISHER WELCH, his wife  
CARL WILHIDE  
"MARY" WILHIDE, his wife, said name "Mary"  
being fictitious and otherwise unknown  
EDNA WILHIDE ALLEN  
SHACK ALLEN, her husband  
HARLEY ASHE  
PEARL ASHE, his wife  
BURGAN ASHE  
CLAUDE ASHE  
CALLIE ASHE PLEMMONS  
ED PLEMMONS, her husband  
IDA ASHE  
ELIZABETH W. WELCH  
UNKNOWN PARTIES IN INTEREST

Respondents

F I L E D

NOV 26, 1946.

CLERK, U.S. DIST COURT

No. 506

FINAL DECREE

This cause came on to be finally heard upon the petition of condemnation as amended; declaration of taking as amended; answer of Lois Nell Ashe Coleman and Vivian Muse, minors, by their duly appointed guardian ad litem; answer of the respondents Clinton Phillips, Russell A. Welch, Ed Plemmons, H.C. Coleman, "Mary" Wilhide (said name "Mary" being fictitious and otherwise unknown), Elvira Mills, unknown heirs, devisees, executors, administrators, creditors and successors in title of Elvira Mills, and all unknown parties in interest who may have been serving in the armed forces of the United States, by their duly appointed Military Service Attorney; decree pro confesso against all other respondents; award of the commissioners; report of the Special Master; 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

The respondents who had or claimed to have an interest in the land herein described have been served with process personally or by publication, and the said land and claimants 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 the heirs of A.B. Welch, deceased. These heirs and the interest owned by each are shown herein as follows: Elvira Mills, 23/168; Jesse Calvin Welch, Josie W. Thomasson, Gilmer Welch, Amanda Welch Russell, Sherman Columbus Welch, Minnie W. Coffey and Vivian Muse, each, 35/1344; Thelma Phillips Bryson, and Clinton

Phillips, each, 35/2688; Elizabeth W. Welch, widow, Dower in 41/210; Sarah Welch Calhoun, George S. Welch, Mary Welch Cable, Russell A. Welch, and Elbert T. Welch, Edward L. Welch, each 5/168; Carl Wilhide, Edna Wilhide Allen, each, 5/336; Lois Nell Ashe Coleman, Burgan, Ashe, Claude Ashe, Callie Ashe Flemmons and Ida Ashe, each, 5/120;

Ninon Welch, wife of Gilmer Welch, Eloise Welch, wife of George S. Welch, Rose Welch, wife of Russell A. Welch, and Edith Fisher Welch, wife of Elbert T. Welch, had inchoate rights of dower in and to the interests of their respective husbands.

No other respondents than those herein above shown had any right, title, claim, or interest in the property herein condemned.

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 Thirty-eight Dollars and Nine Cents (\$38.09) as its estimate of the value of the property condemned and the Commission heretofore appointed in this cause awarded the sum of Thirty Eight Dollars and Nine Cents (\$38.09) as the true value of and as just compensation for the said 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 as to the value of 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 on April 14, 1944, by virtue of which all right, title, claim, and interest of every kind, nature, and character in and to an undivided sixteen twenty-firsts (16/21) interest in the following described property, to-wit:

TRACT FR-128

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 1/8 miles west of the Bushnell Depot, and more particularly described as follows:

Beginning at an iron pipe, a corner to the land of the Nantahala Power & Light Company, and the most southeasterly point of the tract herein described; thence with the Nantahala Power & Light Company's line S. 81° 00' W., 284 feet to an iron pipe; thence N. 6° 00' E., 621 feet to a 6 inch pine tree; thence S. 20° 00' E., 612 feet to the point of beginning, and containing 2.2. 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., The corner descriptions given above are those set out in the deed to the Nantahala Power & Light Company.

A one-half (1/2) mineral interest in that part of Grant 2918 of which the above tract is a part, reserved in Deed Book 40, page 348, in the records of Swain County, North Carolina, was not sought to be condemned in this proceeding.

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

DONE this 26th day of November, 1946.

E.Y. Webb  
Judge

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 145, on the 26 day of November, 1946, on file and remaining of record in my office in the matter of the United States ex rel. Tennessee Valley Authority, v. Elvira Mills, et al, No. 506,

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said District Court at Asheville, North Carolina, this the 3rd day of December, A.D., 1946.

U.S. Dist. Court Seal Affixed

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

STATE OF NORTH CAROLINA, SWAIN COUNTY

The foregoing certificate of J.Y. Jordan, 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 14 day of December, 1946.

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