

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

v.

ELBERT T. WELCH
EDITH FISHER WELCH, his wife
RAYMOND E. CABLE
MARY WELCH CABLE, his wife
ELIZABETH WELCH
ROBERT CRISP
ODELL MONTIETH

Respondents

F I L E D

MAY 3- 1946

CLERK, U.S. DIST COURT

No. 496

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer of Elbert T. Welch, Edith Fisher Welch, Raymond E. Cable, and Mary Welch Cable; decree pro confesso against Elizabeth Welch, Robert Crisp, and Odell Montieth; reports of the Special Master; award of the 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, Elbert T. Welch was the owner of the fee simple title to an undivided one-half (1/2) interest in the property hereinafter described, subject to the inchoate right of dower of his wife, Edith Fisher Welch; Raymond E. Cable and Mary Welch Cable, his wife, were the owners of the fee simple title to the other undivided one-half (1/2) interest as tenants by the entirety; Edith Fisher Welch was the holder of an inchoate right of dower in and to the interest in said land of her husband, Elbert T. Welch.

No other parties had any right, title, claim, or interest in the said property.

All taxes which constituted a lien against 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 One Thousand Nine Hundred Ten Dollars (\$1,910) as its estimate of the value of the property herein condemned. The Commissioners awarded the sum of Two Thousand Two Hundred Forty Dollars (\$2,240) as the true value of and as just compensation for said property. The additional sum of Three Hundred Thirty Dollars (\$330), plus interest in the amount of Thirty-six Dollars and Eighty-five Cents (\$36.85), has been deposited in the registry of this Court by petitioner, making a total deposit of Two Thousand Two Hundred Seventy-six Dollars and Eighty-five Cents (\$2,276.85), all of which funds have been disbursed by proper order of this court.

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

1. The reports of the Special Master, to which no exceptions were filed, be and the same are fully and finally confirmed.

2. The award of the Commissioners heretofore entered in this cause, to which no exceptions were filed, be and the same is fully and finally confirmed.

3. The divestiture of title as evidenced by the declaration of taking filed in this cause on March 24, 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-139

A tract of land lying in Forneys Creek Township of Swain County, State of North Carolina, on the right side of the Tuskegee River, approximately 1/8 mile northeast of the Bushnell Depot, and more particularly described as follows:

Beginning at a point (previously described as a 12 inch pine tree), a corner of the lands of the Nantahala Power & Light Company, and the D.G. Fisher Heirs, and the most northerly point of the tract herein described; thence with the D.G. Fisher Heirs' line S. 45° 00' E., 241 feet to a point (previously described as an iron pipe), a corner of the lands of the D.G. Fisher Heirs, and the Nantahala Power & Light Company; thence with the Nantahala Power & Light Company's line N. 75° 00' W., 271 feet to a point (previously described as an iron pipe and stone); thence N. 42° 00' E., 138 feet to the point of beginning, and containing 0.4 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 mineral interests in the above described tract do not belong to the parties respondent in this cause and are not acquired in this proceeding.

Tract FR-506

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 3/8 mile northwest of the Bushnell Depot, and more particularly described as follows:

Beginning at a fallen black oak tree at the top of a ridge, a corner of the lands of J.C. Welch, and the J.E. T. Welch Heirs, and the most northerly point of the tract herein described; thence with the J.E.T. Welch Heirs' line S 59° 00' E., 95 feet to a point (previously described as a 20 inch oak tree), a corner of the lands of the J.E. T. Welch Heirs, and the Nantahala Power & Light Company et al; thence with the said Company's line S. 59° 29' E., 119 feet to a point (previously described as an iron pipe); thence S. 73° 19' E., 208 feet to a point; thence S. 18° 06' W., 84 feet to a point (previously described as an iron pipe); thence S. 32° 14' E., 220 feet to a point (previously described as an iron pipe); thence S. 21° 13' E., 165 feet to a point (previously described as an iron pipe); thence S. 30° 17' E., 450 feet to a point (previously described as an iron pipe); thence S. 5° 18' E., 53 feet to a point (previously described as an 18 inch pine stump); thence S. 38° 44' E., 311 feet to a point (previously described as an iron pipe); thence S. 12° 27' W., 140 feet to a point (previously described as an iron pipe); thence S. 28° 58' E., 283 feet to a point (previously described as a 12 inch post oak tree); thence S. 67° 28' W., 14 feet to a point (previously described as a 20 inch black oak tree); a corner of the lands of the Nantahala power & Light Company et al, and the D.G. Fisher Heirs; thence with the D.G. Fisher Heirs' line S. 29° 50' W., 150 feet to a point; thence S. 7° 06' W., 117 feet to a point; thence S. 27° 39' W., 174 feet to a point; thence S. 0° 23' W., 92 feet to a point; thence S. 50° 53' E., 139 feet to a point; thence S. 28° 16' E., 65 feet to a point; thence S. 15° 31' E., 107 feet to a pine stump, a corner of the lands of the D.G. Fisher Heirs, and the Nantahala Power & Light Company; thence with the said Company's line S. 28° 37' W., 260 feet to a point (previously described as a 4 inch black oak tree); thence S. 10° 22' W., 222 feet to a point (previously described as an 18 inch pine tree); thence S. 22° 52' W., 170 feet to a point (previously described as a 9 inch pine tree); thence S. 30° 20' W., 171 feet to a point (previously described as a stake); thence S. 26° 13' W., 127 feet to a point (previously described as a stake); then S. 45° 40' W., 135 feet to a point (previously described as a stake); thence S. 43° 17' W., 145 feet to a point (previously described as a stake); thence S. 36° 33' W., 148 feet to a point (previously described as a pine stump); thence S. 5° 42' E., 14 feet to a point (previously described as a pine stump), a corner of the lands of the Nantahala Power & Light Company, and the Georgia Industrial Realty Company; thence with the said Realty Company's line S. 64° 00' W., 310 feet to a point in a fence line, a corner of the lands of the Georgia Industrial Realty Company, and E.M. Hampton; thence with E.M. Hampton's line and a fence line N. 62° 00' E., 140 feet to a fence angle; thence N. 17° 00' E., 38 feet to a fence angle, a corner of the lands of E.M. Hampton, and Elizabeth Welch; thence with Elizabeth Welch's line, leaving the fence line, N. 21° 00' W., 685 feet to a point; thence S. 81° 00' W., 210 feet to a point, a corner of the lands of Elizabeth Welch, and A.I. Calhoun et ux; thence with A.I. Calhoun's line N. 11° 00' W., 365 feet to a double holly tree; thence N. 45° 00' W., 57 feet, crossing Pound Mill Branch, to a 6 inch white oak tree; thence S. 1° 00' E., 164 feet, passing a 15 inch black gum tree at 21 feet, to a point; thence N. 72° 00' W., 8 feet to a point on the east edge of a private road; thence with the east edge of the private road as it meanders approximately along a bearing and distance of S. 20° 00' W., 280 feet, to a point, a corner of the lands of A.I. Calhoun et ux, and Elizabeth Welch; thence with Elizabeth Welch's line, leaving the private road, S. 81° 30' W., 1230 feet, crossing a public road at approximately 700 feet and Welch Branch at approximately 750 feet, to a point a corner of the lands of Elizabeth Welch, and R.A. & E.T. Welch; thence with R.A. & E.T. Welch's line S. 72° 00' W., 150 feet to a point, a corner of the lands of R.A. & E.T. Welch, and Russell & Edward Welch; thence with Russell & Edward Welch's line N. 25° 00' E., 840 feet to a point in the center line of Welch Branch witnessed by an iron pipe, a corner of the lands of Russell & Edward Welch, and S.C. Welch; thence with S.C. Welch's line and the center line of Welch Branch as it meanders upstream approximately 210 feet to a stone, a corner of the lands of S.C. Welch, and J.C. Welch; and thence with J.C. Welch's line, leaving the branch, N. 56° 00' E., 60 feet, crossing a public road, to a fence corner; thence with a line marked by a fence and the top of Saw Stock Ridge N. 79° 00' E., 650 feet to a post oak tree; thence with the top of a ridge as it meanders approximately along the following bearings and distances:

N. 35° 00' E., 200 feet; N. 13° 00' W., 160 feet; N. 40° 00' E., 320 feet; N. 12° 00' E., 250 feet; N. 37° 00' E., 575 feet; N. 4° 00' W., 490 feet; N. 9° 00' E., 420 feet; N. 10° 00' W., 240 feet; to the point of beginning, and containing 110 acres, more or less, subject to such rights as may be vested in the county or state to a road which affects approximately 1.3 acres and to any other rights of way for public roads traversing the described land.

NOTE: The bearings given in the above description are based on the North Carolina State Coordinated 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.

An undivided one-fourth (1/4) interest in mineral rights owned by third parties in the above described land is not sought to be condemned in this proceeding.

Tract FR-509

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 3/4 mile west of the Bushnell Depot, and more particularly described as follows:

Beginning at a point in the center line of Hogpen Branch, a corner of the lands of Elizabeth Welch, and the D.G. Fisher Heirs; thence with the D.G. Fisher Heirs' line and the center line of the branch as it meanders upstream approximately 290 feet to a point; thence, leaving the branch, S. 69° 00' W., 495 feet to a point; thence S. 70° 30' W., 70 feet to a point (previously described as a 12 inch pine tree), a corner of the lands of the D.G. Fisher Heirs, and the Nantahala Power & Light Company; thence with the said Company's line N. 30° 02' W., 141 feet to a point (previously described as an iron pipe); thence N. 69° 41' W., 97 feet to a point (previously described as an iron pipe); thence N. 0° 01' E., 304 feet to a point (previously described as a 14 inch black oak tree), a corner of the lands of the Nantahala Power & Light Company, and Russell & Edward Welch; thence with Russell & Edward Welch's line

Thence S. 22° 30' E. 239 feet to a point (previously described as an iron pipe)

S. 71° 00' E., 245 feet to a point; thence N. 61° 00' E., 430 feet, crossing Hogpen Branch at approximately 200 feet, to a black oak stump; thence N. 19° 00' W., 180 feet to an 8 inch hickory tree; thence N. 25° 00' E., 150 feet to a point, a corner of the lands of Russell & Edward Welch, and R.E. Cable et ux; thence with R.E. Cable's line N. 72° 00' E., 150 feet to a point, a corner of the lands of R.E. Cable et ux, and Elizabeth Welch; thence with Elizabeth Welch's line S. 21° 30' E., 1135 feet to a point; thence N. 88° 00' W., 465 feet to the point of beginning, and containing 14.0 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.

An undivided one-fourth(1/4) interest in mineral rights owned by third parties in the above described land is not sought to be condemned in this proceeding.

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 2 day of May, 1946.

E.Y. WEBB
Judge, United States District Court

CX-583

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, full, correct, and complete copy of the original final decree entered in Docket Book 4, page 121, on the 3 day of May, 1946, as file and remaining of record in my office in the matter of the United States ex rel. Tennessee Valley Authority v. Elbert T. Welch et al., No. 496.

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

J.Y. Jordan Clerk
By O.L. McLeod Deputy Clerk

U.S. Dist Court Seal Affixed:

STATE OF NORTH CAROLINA, SWAIN COUNTY

The foregoing certificate of J.Y. Jordan, Clerk, by O.L. McLeod, 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 27 day of May, 1946.

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

Filed for Registration at 9:35 o'clock, A.M., May 27, 1946, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 79, June 13, 1946.

E. J. Gray
Register of Deeds