

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

UNITED STATES OF AMERICA
upon the relation and
for the use of the
TENNESSEE VALLEY AUTHORITY
Petitioner
v.
S. COLUMBUS WELCH
Respondents

No. 493

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer and amended answer of S. Columbus Welch by Edwards & Leatherwood, his attorneys; reports of the Special Master; mandate of the United States Supreme Court; stipulation as to the value of the property herein condemned; 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 respondent who was interested in the land herein described has been served with process personally and he and the said land 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 case, the property herein condemned was owned by S. Columbus Welch in fee simple, except as otherwise noted herein.

All taxes against the said property have been paid and the lien discharged.

IV

The petitioner upon filing the declaration of taking in this case deposited the sum of Four Thousand Five Hundred Fifty Dollars (\$4,550), and pursuant to the stipulation as to the value of the property the petitioner deposited the further sum of Nine Hundred Ninety-two Dollars and Sixty-seven cents (\$992.67), making the total sum of Five Thousand Five Hundred Forty-two Dollars and Sixty Seven Cents (\$5,542.67) deposited herein as the true value and 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 reports of the Special Master, to which no exceptions were filed, be and the same are fully and finally confirmed.
2. The stipulation of the parties as to the value of the property herein condemned be and the same is fully and finally confirmed.
3. The divestiture of title as evidenced by the declaration of taking filed on March 21, 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 No. FR-1092

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 northwest of the Bushnell Depot, and more particularly described as follows:

Beginning at an iron pipe in the center line of Welch Branch, a corner of the lands of R.E. Cable et ux, and Russell & Edward Welch, and the most southerly point of the tract herein described; thence with Russell & Edward Welch's line N. 49° 00' W., 100 feet to a point at the top of a ridge; thence with the top of the ridge as it meanders approximately along the following bearings and distances:

N. 52° 00' W., 910 feet; N. 64° 00' W., 360 feet; N. 78° 00' W., 300 feet to a 24 inch spanish oak tree; thence leaving the ridge, S. 80° 00' W., 396 feet to a point; then S. 37° 00' W., 297 feet to a pine stump at the top of a ridge; a corner of the lands of Russell & Edward Welch, R.E.L. Montieh, and J.G. Chambers et ux; thence with J.G.

Chambers' line N. $4^{\circ} 30'$ E., 1265 feet, crossing a public road at approximately 720 feet and passing a 14 inch pine tree at 1085 feet, to a point; thence with J.G. Chambers et ux's, and Harley Calhoun's line N. $68^{\circ} 00'$ W., 570 feet to a point at the top of a ridge, a corner of the lands of Harley Calhoun, and Lidia Crisp; thence with Lidia Crisp's line N. $2^{\circ} 00'$ E., 220 feet to a point; thence N. $27^{\circ} 00'$ W., 480 feet to a point; thence N. $47^{\circ} 00'$ E., 270 feet to a point at the top of a ridge, a corner of the lands of Lidia Crisp, and W.M. Anthony et ux; thence with W.M. Anthony's line S. $86^{\circ} 00'$ E., 200 feet to a point; thence N. $81^{\circ} 00'$ E., 265 feet to a point; thence N. $66^{\circ} 00'$ E., 70 feet to a point; thence N. $50^{\circ} 00'$ E., 160 feet to a point; thence N. $6^{\circ} 00'$ E., 235 feet to a point; thence N. $77^{\circ} 00'$ E., 350 feet to a point; a corner of the lands of W.M. Anthony et ux, and the A.J. Montieth Heirs; thence with the A.J. Montieth Heirs' line N. $75^{\circ} 00'$ E., 500 feet to a point; thence N. $76^{\circ} 00'$ E., 540 feet to a point; thence N. $86^{\circ} 30'$ E., 1075 feet to a point, a corner of the lands of the A.J. Montieth Heirs, and the J.E.T. Welch Heirs; thence with the J.E.T. Welch Heirs' line S. $7^{\circ} 00'$ W., 425 feet to a point; thence S. $75^{\circ} 00'$ E., 335 feet to a point; thence S. $7^{\circ} 00'$ E., 240 feet to a point at the top of a ridge, a corner of the lands of the J.E.T. Welch Heirs, and J.C. Welch; thence with H.C. Welch's line and the top of a ridge as it meanders approximately along the following bearings and distances: N. $73^{\circ} 00'$ W., 200 feet; S. $42^{\circ} 00'$ W., 490 feet; S. $12^{\circ} 00'$ E., 300 feet; S. $48^{\circ} 00'$ W., 310 feet; S. $1^{\circ} 00'$ E., 260 feet; S. $36^{\circ} 00'$ W., 240 feet; S. $35^{\circ} 00'$ E., 190 feet; S. $29^{\circ} 00'$ W., 275 feet; S. $15^{\circ} 00'$ W., 300 feet; S. $13^{\circ} 00'$ W., 450 feet; S. $1^{\circ} 00'$ E., 185 feet to a point in a public road; thence, leaving the ridge, S. $1^{\circ} 00'$ E., 100 feet to a stone in the center line of Welch Branch, a corner of the lands of J.C. Welch, and R.E. Cable et ux; thence with R.E. Cable's line and the center line of the branch as it meanders downstream approximately 210 feet to the point of beginning. Except therefrom, 0.6 acre, more or less, for the McClure and Anthony Cemeteries, designated as Tracts Nos. FR-1222 and FR-1282, respectively, lying within the boundaries of the tract herein described, approximately 700 feet north of the 14 inch pine tree in the boundary line between the land of J.G. Chambers et ux, and the land herein described, the said 0.6 acre being more particularly described as follows: Beginning at a 2 inch hickory tree, a corner to the land of S.C. Welch, and the most southwesterly point of the 0.6 acre herein described; thence with S.C. Welch's line along the following bearings and distances:

N. $3^{\circ} 30'$ W., 105 feet to a stake; N. $80^{\circ} 30'$ E., 215 feet to an iron pipe; South, 28 feet to a point in a fence line; thence with the fence line along the following bearings and distances: S. $76^{\circ} 00'$ E., 43 feet; S. $1^{\circ} 00'$ W., 48 feet; West, 49 feet to a point; thence, leaving the fence line, along the following bearings and distances: South, 18 feet to a stake; S. $80^{\circ} 30'$ W., 209 feet to a point of beginning.

The above described tract of land contains 163. acres, more or less, subject to such rights as may be vested in the county or state to a road which affects approximately 3.2 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 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 $79^{\circ} 00'$ W.

An undivided one-half (1/2) interest in the minerals in said property outstanding in third parties is not sought to be condemned in this proceeding.

The property in which an undivided one-half fee simple interest is taken is described as follows:

Tract FR-141

in

A tract of land lying/Forneys Creek Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 1/4 mile north of the Bushnell Depot, and more particularly described as follows:

Beginning at a point in the southwest right of way line of the Southern Railway, a corner of the lands of the Southern Railway Company, and the W.C. & J.E.T. Welch Heirs, and the most easterly point of the tract herein described; thence with the W.C. & J.E.T. Welch Heirs' line S. $52^{\circ} 00'$ W., 150 feet to a point, a corner of the lands of the W.C. & J.E.T. Welch Heirs, and an unknown owner; thence with the unknown owners' line S. $52^{\circ} 00'$ W., 65 feet to an 18 inch pine tree, a corner of the lands of an unknown owner, and the D.G. Fisher Heirs; thence with the D.G. Fisher Heirs' line N. $74^{\circ} 00'$ W., 97 feet to a 12 inch black oak tree; thence S. $56^{\circ} 00'$ W., 103 feet to a 12 inch pine tree; thence N. $46^{\circ} 00'$ W., 179 feet to a 20 inch red oak tree; thence N. $57^{\circ} 00'$ W., 256 feet to an iron pipe; thence N. $33^{\circ} 00'$ W., 208 feet to an iron pipe; thence N. $67^{\circ} 00'$ W., 394 feet to a 20 inch black oak tree, a corner of the lands of the D.G. Fisher Heirs, and R.E. Cable et ux; thence with R.E. Cable's line N. $67^{\circ} 28'$ E., 14 feet to a 12 inch post oak tree; thence N. $28^{\circ} 58'$ W., 263 feet to an iron pipe; thence N. $12^{\circ} 27'$ E., 140 feet to an iron pipe; thence N. $38^{\circ} 44'$ W., 311 feet to an 18 inch pine stump; thence N. $5^{\circ} 16'$ W., 53 feet to an iron pipe; thence N. $30^{\circ} 17'$ W., 450 feet to an iron pipe; thence N. $21^{\circ} 13'$ W., 165 feet to an iron pipe; thence N. $32^{\circ} 14'$ W., 220 feet to an iron pipe; thence N. $18^{\circ} 06'$ E., 84 feet to a point; thence N. $73^{\circ} 19'$ W., 208 feet to an iron pipe; thence N. $22^{\circ} 37'$ W., 239 feet to an iron pipe; thence N. $59^{\circ} 29'$ W., 119 feet to a 20 inch oak tree, a corner of the lands of R.E. Cable et ux, and the J.E.T. Welch Heirs; thence with the J.E.T. Welch Heirs' line N. $9^{\circ} 07'$ E., 84 feet to a black oak tree; thence N. $36^{\circ} 25'$ E., 168 feet to a 20 inch spanish oak tree; thence N. $32^{\circ} 04'$ W., 873 feet to a pine stump, a corner of the lands of the J.E.T. Welch Heirs, D.E. Hunter, and the Nantahala Power & Light Company; thence with the Nantahala Power & Light Company's line S. $69^{\circ} 00'$ E., 377 feet to an iron pipe; thence N. $44^{\circ} 00'$ E., 115 feet to an iron pipe; thence S. $88^{\circ} 00'$ E., 175 feet to an iron pipe; thence N. $88^{\circ} 00'$ E., 170 feet to an iron pipe; thence S. $74^{\circ} 00'$ E., 103 feet to a point in the west right of way line of the Southern Railway; a corner of the lands of the Nantahala Power & Light Company, and the Southern Railway Company; thence with the Southern Railway Company's line and the said right of way line, a line of 100 feet west of an parallel to the center line of the tract, in a southeasterly direction approximately 3530 feet to the point of beginning, and containing 59 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 $79^{\circ} 00'$ W. The corner descriptions given above are those set out in the deed to the Nantahala Power & Light Company.

An undivided five-eights (5/8) mineral interest in the above described tract owned by parties not joined in this cause is not taken in this proceeding.

and every part hereof, 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 8 day of August, 1946.

/s/ E.Y. Webb
Judge