

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINAUNITED STATES OF AMERICA
upon the relation and
for the use of the
TENNESSEE VALLEY AUTHORITY

Petitioner

v.

JOHN BURNS
JULIA BURNS, his wife
GAINY BURNS,
JESSIE BURNS, his wife
HENRY J. TRUETT, as Clerk of the
Superior Court of Swain County,
North Carolina

Respondent

FILED NOV. 6, 1946.

CLERK, U.S. DIST. COURT

No. 512

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; answer and amendment to answer of John Burns and Julia Burns, his wife; decree pro confesso against Gainey Burns, ^{1 amended report} Jessie Burns and Henry J. Truett; report 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

All the respondents who have or claim to have an interest in the land herein described have been served with process personally and all the said parties 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 cause part of the property herein condemned was owned in fee simple by John Burns and the other part was owned in fee simple by John Burns and Julia Burns, his wife, as tenants by the ~~entititie~~ties.

None of the other parties to this cause had any right, title, claim, or interest in the property herein condemned.

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

IV

The petitioner upon filing the declaration of taking in this case deposited the sum of Two Thousand Five Hundred Dollars (\$2500), and pursuant to the stipulation as to the value of the property the petitioner deposited the further sum of Eight Hundred Eighty-five Dollars and Fifty-six Cents (\$885.56), making a total sum of Three Thousand Three Hundred Eighty-five Dollars and Fifty-six Cents (\$3,385.56) deposited herein as the true value of 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 report and amended report 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 true value of the property herein condemned be and the same is fully and finally confirmed.
3. The order of possession dated July 2, 1946, be and the same is herein fully and finally confirmed.
4. The divestiture of title as evidenced by the declaration of taking filed on May 18, 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-19

A tract of land lying in Charleston Township of Swain County, State of North Carolina, on the right side of the Tuckasegee River, approximately 1-3/4 miles east of the mouth of Noland Creek, and more particularly described as follows:

Beginning at a point in the center of Peachtree Creek witnessed by an 18 inch maple stump, a corner of the lands of Julia Burns, and Mattie McLean; thence with Mattie McLean's line and the center line of the creek as it meanders downstream approximately 210 feet to a point in the prolongation of a fence line witnessed by a pine stump; thence with a line marked by a fence for a portion of its length S. 86° 00' E., 360 feet to a point at the top of a ridge, a corner of the lands of Mattie McLean, and J.I. & W.J. Lowe; thence with J.I. & W.J. Lowe's line and the top of the ridge as it meanders approximately along the following bearings and distances; S. 22° 00' W., 315 feet, S. 14° 00' E., 100 feet; S. 47° 00' W., 765 feet; S. 55° 00' W., 280 feet to a point; thence, leaving the ridge, S. 80° 00' W., 260 feet to a point in the center line of Peachtree Creek at the east end of a culvert; thence with the center line of the creek as it meanders downstream approximately 360 feet to a point in the prolongation of a fence line; thence with a line marked by a fence for a portion of its length S. 18° 00' E., 845 feet to a point at the top of a ridge, a corner of the lands of J.I. & W.J. Lowe, and Walter S. Hyde; thence with Walter S. Hyde's line and the top of the ridge as it meanders approximately along a bearing and distance of S. 81° 00' W., 570 feet to an 8 inch post oak tree, a corner of the lands of Walter S. Hyde, and the Nantahala Power & Light Company; thence, leaving the ridge, with the Company's line N. 68° 33' W., 195 feet to a point (previously described as a 17 inch black oak tree); thence N. 36° 17' W., 231 feet to a point (previously described as a 10 inch pine tree and iron pipe); thence N. 48° 20' W., 195 feet to a point (previously described as an iron pipe); thence N. 88° 04' W., 466 feet to a point (previously described as an iron pipe); thence S. 48° 37' W., 168 feet to a point (previously described as an iron pipe); thence S. 76° 45' W., 273 feet to a point (previously described as an iron pipe); thence N. 66° 23' W., 192 feet to a point (previously described as an iron pipe); thence N. 49° 04' E., 667 feet to a 9 inch hickory stump; thence N. 22° 00' E., 268 feet to a point at the top of a ridge, a corner of the lands of the Nantahala Power & Light Company, and Claude Burns; thence with Claude Burns' line and the top of the ridge as it meanders approximately along the following bearings and distances; N. 78° 00' E., 85 feet; N. 49° 00' E., 620 feet; N. 46° 00' E., 330 feet; N. 70° 00' E., 225 feet; N. 45° 00' E., 160 feet; N. 6° 00' W., 515 feet to a 7 inch black oak tree in a fence line, a corner of the lands of Claude Burns, and J.H. Holden; thence with J.H. Holden's line and a fence line at the top of a ridge as it meanders approximately along the following bearings and distances; N. 54° 00' E., 370 feet, N. 20° 00' E., 400 feet, N. 23° 00' E., 410 feet to a point, a corner of the lands of J.H. Holden, and Julia Burns; thence, leaving the fence line, with Julia Burns' line and the top of a ridge as it meanders approximately along the following bearings and distances; S. 30° 00' E., 360 feet, S. 16° 00' E., 440 feet, S. 4° 00' W., 105 feet to a 24 inch chestnut stump; thence, leaving the top of the ridge, S. 89° 00' E., 360 feet to the point of beginning, and containing 82, acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads, and to such rights as may be vested in the Southern Railway Company to a railway right of way.

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.

5. 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 5 day of November, 1946.

/s/ E.Y. Webb
Judge

THE UNITED STATES OF AMERICA)
)
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 14, on the 6 day of Nov. 1946, on file and remaining of record in my office in the matter of United States ex rel. Tennessee Valley Authority v. John Burns, et al., No. 512.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 6th day of November, A.D., 1946.

U.S. District Court Seal Affixed

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 18th day of November, 1946.

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

Filed for Registration at 1:10 o'clock P.M., November 18, 1946, and registered in the office of the Register of Deeds for Swain County, North Carolina, in Book 71, page 370, November 20, 1946.

E.J. Seay
Register of Deeds