

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.

JESSIE CALVIN W ELCH
THELMA PHILLIPS BRYSON
ODE BRYSON, her husband
CLINTON PHILLIPS
JOSIE WELCH THOMASSON
ROLLINS M. THOMASSON, her husband
GILMER WELCH
NINON WELCH, his wife
AMANDA WELCH RUSSELL
JOHN RUSSELL, her husband
COLUMBUS W ELCH
MINNIE WELCH COFFEY
VIVIAN MUSE, a minor

Respondents

FILED Apr 21, 1947
Clerk, U.S. Dist. Court

FINAL DECREE

AS TO
TRACTS DESIGNATED HEREIN AS FR-345 AND FR-675

This cause came on to be finally heard as to tracts FR-345 and FR-675 upon the petition for condemnation; decalaration of taking; answer of Clinton Phillips, by his duly authorized attorney; answer of Vivian Muse, a minor, by her duly appointed guardian ad litem; decree pro confesso against all other respondents; 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 or by publication 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 title to tracts FR-345 and FR-675 was held as follows:

J.C. Welch, Josie Welch Thomasson, Gilmer Welch, Amanda a Welch Russell, Columbus Welch, Minnie Welch Coffey and Vivian Muse, as the heirs at law of J.E.T. Welch, deceased, each owned and undivided 1/16 interest in the said property; Thelma Phillips Bryson, and Clinton Phillips, as the heirs at law of J.E.T. Welch, deceased, each owned an undivided 1/32 interest in the said property.

Ninon Welch, wife of Gilmer Welch, had an inchoate right of Dower in and to the interest of her husband in the said property.

Sarah Welch, Calhoun, G.S. Welch, Mary Welch Cable, R.A. Welch, E.L. Welch, and W.T. Welch, as the heirs at law of W.C. Welch, deceased each owned an undivided 1/12 interest in the said property.

Eloise Welch, wife of G.S. Welch, Rose Welch, wife of R.A. Welch, and Edith Fisher Welch, wife of E.T. Welch had inchoate rights of dower in and to the interest of their respective husbands in the said property.

All of the aforementioned interests were held subject to an outstanding undivided 1/2 interest in the mineral rights held by third parties and not condemned in this proceeding.

Said property was subject to the lien of the County of Swain for taxes for the years 1940 to 1944, inclusive, which taxes have now been paid and the lien discharged.

No other respondent other than those hereinabove mentioned had any right, title, claim, or interest in the said property.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Seventy Five Dollars

0572(\$75) as its estimate of the value of the said property, and the Commissioners awarded the sum of Seventy-five Dollars (\$75) as the true value of and as just compensation for the said property herein condemned, all of which fund has heretofore 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 report of the Commissioners, to which no exceptions were filed, awarding the sum of Seventy-five Dollars (\$75) as the true value of and as just compensation for 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 March 20, 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-345

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

Beginning at a point, a corner of the lands of W.C. & J.E.T. Welch heirs, the land in dispute between the D.G. Fisher Heirs and the W.C. & J.E.T. Welch Heirs, and the land of the D.G. Fisher heirs; thence with the D.G. Fisher Heirs' line N. 53° 00' W., 230 feet to a point (previously described as an 18 inch pine tree), a corner of the lands of the D.G. Fisher Heirs, and the Nantahala Power & Light Company et al; thence with the said Company's line N. 52° 00' E., 65 feet to a point, a corner of the lands of the Nantahala Power & Light Company et al, and the W.C. & J.E.T. Welch Heirs; thence with the W.C. & J.E.T. Welch Heirs' line S. 37° 00' E., 230 feet to the point of beginning, and containing 0.2 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.

An undivided one-half (1/2) interest in the mineral rights in this tract owned by third parties and reserved in deed recorded in Book 33, page 515, records of Swain County, North Carolina, is not sought to be condemned in this proceeding.

Tract No. FR-675

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

Beginning at an iron pipe and a concrete monument, a corner of the land of the D.G. Fisher Heirs, and the land in dispute between the D.G. Fisher Heirs and the W.C. & J.E.T. Welch Heirs; thence with the line ~~of~~ claimed by the D.G. Fisher Heirs N. 3° 00' W., 65 feet to a point; thence N. 88° 00' W., 100 feet, crossing the Southern Railway at approximately 40 feet, to a point in State Highway No. 288; thence N. 52° 00' W., 430 feet to a point, a corner of the land in dispute between the D.G. Fisher Heirs and the W.C. & J.E.T. Welch Heirs, and the lands of the D.G. Fisher Heirs; and an unknown owner; thence with the unknown owner's line N. 37° 00' W., 230 feet to a point, a corner of the lands of an unknown owner; and the Nantahala Power & Light Company et al; thence with the said Company's line N. 52° 00' E., 320 feet, passing a 24 inch white oak stump at 280 feet, to a point on the right bank of the Tuckaseegee River, a corner of the lands of the Nantahala Power & Light Company et al, and the Nantahala Power & Light Company; thence with the said Company's line N. 54° 00' E., 180 feet to a point in the Tuckaseegee River; thence with the river as it meanders downstream approximately 870 feet to a point; a corner of the lands of the Nantahala Power & Light Company, and the D.G. Fisher Heirs; thence ~~xxx~~ with the D.G. Fisher Heirs' line, leaving the river, S. 84° 00' W., 135 feet to the point of beginning, and containing 6.8 acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads, to such rights as may be vested in the Southern Railway Company to a railroad right of way which affects approximately 3.0 acres, and to such rights as may be vested in third parties to telephones and telegraph line rights 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.

An undivided one-half (1/2) interest in the mineral rights in this tract owned by third parties and reserved in deed recorded in Book 33, page 515, records of Swain County, North Carolina, 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 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 19 day of Apr., 1947.

E.Y. Webb
Judge

All the parties interested directly or indirectly in the land hereinafter described have been served with process personally or accepted service, 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.