

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

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|-------------------------------|---|-------------------------|
| UNITED STATES OF AMERICA |) | FILED |
| UPON the realtion and |) | |
| for the use of the |) | |
| TENNESSEE VALLEY AUTHORITY |) | DEC 17 1945 |
| Petitioner |) | CLERK, U. S. DIST COURT |
| V. |) | No. <u>524</u> |
| JAMES L. BROOKS |) | |
| DOLLIE JONES BROOKS, his wife |) | |
| Respondents |) | |

FINAL DECREE

This cause came on to be finally heard upon the petition for condemnation; declaration of taking; decree pro confesse against James L. Brooks and Dollie Jones Brooks; report of special master; award of 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 judgement.

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 James L. Brooks and wife, Dollie Jones Brooks, as tenants by the entireties by deed recorded in Deed Book 42, page 135, in the office of the Register of Deeds for Swain County, North Carolina.

Said land was subject to the lien of the County of Swain for taxes for the years 1943 and 1944, which taxes have now been paid and the lien discharged.

IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Ninety-three Dollars and Ten Cents (\$93.10) as its estimate of the value of the property herein condemned. The commissioners awarded the sum of Ninety-three Dollars and Ten Cents (\$93.10) as the true value of and as just compensation for said property. All of said funds have 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 report of the commissioners, to which no exceptions were filed, awarding the sum of Ninety-three Dollars and Ten Cents (\$93.10) 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 June 5, 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-447

A tract of land lying in Forneys Creek Township of Swain County, State of North Carolina, on the left bank of Hazel Creek, approximately 700 feet east of the State Highway No. 288 bridge across Hazel Creek, and more particularly described as follows:

Beginning at a point in the center line of Hazel Creek, a corner of the lands of Bill Cable et ux, and H. N. Ballew et ux & the A. J. Jones Heirs; thence with H. N. Ballew et ux & the A. J. Jones Heirs' line S. 7° 00' E., 30 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; S. 16° 30' E., 910 feet; S. 28° 00' E., 575 feet to a stake at the top of Welch ridge; a corner of the lands of H. N. Ballew et ux & the A. J. Jones Heirs, and the J. E. Coburn Heirs; thence with the J. E. Coburn Heirs' line and the top of Welch ridge as it meanders in a southwesterly direction approximately

890 feet to a 16 inch black oak tree; thence with the top of a spur ridge as it meanders approximately along a bearing and distance of N. 23° 00' W., 470 feet to a point, a corner of the lands of the J.E. Coburn Heirs, and L.C. Calhoun; thence with L.C. Calhoun's line and the top of the ridge as it meanders approximately along a bearing and distance of N. 23° 00' W., 610 feet, to a 40 inch chestnut stump; thence, leaving the ridge, N. 22° 00' W., 490 feet, passing a 24 inch white walnut stump at 400 feet, to a point in the center line of Hazel Creek; thence with L.C. Calhoun's, H.N. Ballew et ux's, and Bill Cable et ux's line and the center line of the creek as it meanders upstream approximately 1000 feet to the point of beginning, and containing 30.8 acres, more or less, subject to such rights as may be vested in the county or state to rights of way for public roads.

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 estate or interest condemned in the above described tract is subject to the fagwage easement rights vested in the United States of America under grant of easement dated August 3, 1942, from Dollie Jones Brooks et vir, James L. Brooks, to the United States of America, recorded in Deed Book 66, page 116, in the office of the Register of Deeds of Swain County, North Carolina.

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 15 day of December, 1945.

/s/ E.Y. Webb
Judge

CX-583

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 Minute Book 11, page 336, on the 17 day of December, 1945, on file and remaining of record in my office in the matter of the United States ex rel. Tennessee Valley Authority v. James L. Brooks, et ux., No. 524.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 28 day of January, A.D., 1946.

District Court Seal Affixed:

J.Y. Jordan Clerk

By W.A. Lytle
Deputy Clerk

STATE OF NORTH CAROLINA

COUNTY OF SWAIN

The foregoing certificate of J.Y. Jordan, Clerk, 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 February, 1946/

Annie Mae Truett
Deputy Clerk Superior Court
Swain County, N.C.

Filed for Registration at 1:00 o'clock P.M. February 14, 1946 and registered in the Office of the Register of Deeds for Swain County, North Carolina, in Book 69, page 593 February 18, 1946.

MR Welch
Deputy Register of Deeds

NORTH CAROLINA
SWAIN COUNTY

THIS DEED, made this the 16th day of February, 1946, by Tela Shuler, widow of Swain County, North Carolina, party of the first part, to WADE W. WIGGINS and wife, FLONNIE MAE WIGGINS, of Swain County, North Carolina, parties of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of TEN (\$10.00) DOLLARS and other valuable considerations to her paid by the said parties of the second part, the receipt of which is hereby acknowledged, has bargained and sold, and does, by these presents, give, grant, bargain, sell and convey unto the said parties of the second part, their ~~next~~ heirs and assigns, forever, all of the following described lots or parcels of