

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.

HARLEY N. BALLEW  
ZENIA JONES BALLEW, his wife

Respondents

F I L E D

NOV. 2, 1946

CLERK, U.S. DIST. COURT

No. 522

FINAL DECREE

This cause came on finally to be heard upon the petition for condemnation; declaration of taking; decree pro confesso against Harley N. Ballew and Zenia Jones Ballew; report of the 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 interest 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 the property herein condemned was owned by Harley N. Ballew and Zenia Jones Ballew in fee simple as tenants by the entirety, by virtue of a deed recorded in Deed Book 53, page 212, in the office of the Register of Deeds for Swain County, North Carolina.

The property was subject to the lien of the County of Swain for taxes for the years 1943 and 1944. The taxes for the year 1943 have been paid. The total fund on deposit in this cause has been disbursed by former order of this Court to be applied on the taxes levied and assessed against said land by the County of Swain for the year 1944 plus interest thereon.

## IV

The petitioner, upon filing the declaration of taking in this cause, deposited the sum of Ten Dollars (\$10) as its estimate of the value of the property herein condemned. The Commissioners awarded the said sum of Ten Dollars (\$10) as the true value of and as just compensation for said property, all of which fund has 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 Ten Dollars (\$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 1, 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-454

A tract of land lying in Fogneys Creek Township of Swain County, State of North Carolina, on the right side of Hazel Creek, approximately 1000 feet northeast of the State Highway No. 288 bridge across Hazel Creek, and more particularly described as follows:

Beginning at a point in the fence line, a corner of the lands of the Hazel Creek Land Company, Grady Hall, Ollie Hall, & the Hazel Creek Land Company, and Bill Cable et ux, and the most northeasterly point of the

tract herein described; thence with Bill Cable's line and a fence line S. 7° 00' W., 665 feet to a fence corner; thence S. 72° 00' W., 100 feet to a point; thence, leaving the fence line, S. 14° 00' E., 210 feet, crossing a road at approximately 140 feet, to a point in the north right of way line of the abandoned Smokey Mountain Railroad, a corner of the lands of Bill Cable et ux, and J.G. Stikeleather et al; thence with J.G. Stikeleather's line and the right of way line as it meanders in a general westerly direction approximately 620 feet to a point, a corner of the lands of J.G. Stikeleather et al, and L.C. Calhoun; thence with L.C. Calhoun's line, leaving the right of way line, N. 13° 00' W., 410 feet, crossing a road at approximately 40 feet, to a stake, a corner of the lands of L.C. Calhoun, and the Hazel Creek Land Company; thence with the Hazel Creek Land Company's line N. 31° 00' E., 830 feet to a point; thence S. 83° 00' E., 360 feet to the point of beginning, and containing 12.0 acres, more or less, subject to such rights as may be vested in the county or state to a road which affects approximately 0.2 acre, 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° 00' W.

The estate or interest herein condemned is subject to the outstanding flowage easements rights in United States of America described in Grant of Flowage Easement from Harley N. Ballew and wife, Zenia Jones Ballew, dated Oct 1, 1942, and recorded in Deed Book 66, page 221, in the office of the Register of Deeds for 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 1st day of November, 1946.

/s/ E.Y. Webb  
Judge, United States District Court

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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 5, page 24, on the 2nd day of Nov., 1946, on file and remaining of record in my office in the matter of the United States ex rel. Tennessee Valley Authority v. Harley N. Ballew et ux. No. 522.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of the said District Court, at Asheville, North Carolina, this 2nd day of November, A.D., 1946.

U.S. Dist. Court Seal Affixed

J.Y. Jordan Clerk  
By W.A. Lytle Deputy Clerk

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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 thereon affixed, is adjudged to be correct, in due form, and according to law.

Let the instrument and the certificates be registered, this 18 day of November, 1946.

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

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Filed for Registration at 1:20 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 321, November 29, 1946.

E.J. Shay  
Register of Deeds