

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

UNITED STATES OF AMERICA ex rel.
TENNESSEE VALLEY AUTHORITY

PLAINTIFF

v.

Civil No. 1:17-cv-00152-GHD-DAS

AN EASEMENT AND RIGHT-OF-WAY
OVER 0.03 ACRE OF LAND,
MORE OR LESS, IN OKTIBBEHA COUNTY,
MISSISSIPPI, and WILLIE DEAN MCGEE ET AL.

DEFENDANTS

SUMMARY JUDGMENT AND ORDER DISBURSING FUNDS

For the reasons set forth in the memorandum opinion issued this day, the Court ORDERS that the United States motion for summary judgment (Doc. 32) is GRANTED. The Court finds that \$1,000 is fair and just compensation for the easement and right of way acquired by the United States in this action.

It is further ORDERED that:

1. Defendant Willie Morris Smith, Jr. shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).
2. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Willie Morris Smith, Jr. and to mail said check to his address on file.
3. Defendant Betty Jean Hogan shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).
4. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any

accrued interest thereon less the applicable registry fee, payable to Betty Jean Hogan and to mail said check to her address on file.

5. Defendant Helen Jean Smith shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

6. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Helen Jean Smith. and to mail said check to her address on file.

7. Defendant Wilbert Kent Johnson shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

8. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Wilbert Kent Johnson. and to mail said check to his address on file.

9. Defendant Stanley Johnson shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

10. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Stanley Johnson and to mail said check to his address on file.

11. Defendant Mary Ann Island shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

12. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Marry Ann Island and to mail said check to her address on file.

13. Defendant Lois Lynn Pitchford shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

14. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Lois Lynn Pitchford and to mail said check to his address on file.

15. Defendant Deborah Alexander shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

16. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Deborah Alexander and to mail said check to her address on file.

17. Defendant Eddie B. Smith, II shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

18. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Eddie B. Smith, II and to mail said check to his address on file.

19. Defendant Marco Smith shall recover from the Plaintiff \$23.81 for said Defendant's undivided 1/42nd interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

20. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$23.81, plus any accrued interest thereon less the applicable registry fee, payable to Marco Smith and to mail said check to his address on file.

21. Defendant Ventura Donaël Smith shall recover from the Plaintiff \$23.81 for said Defendant's undivided 1/42nd interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

22. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$23.81, plus any accrued interest thereon less the applicable registry fee, payable to Ventura Donaël Smith and to mail said check to his address on file.

23. Defendant Ayonda Kay Smith shall recover from the Plaintiff \$23.81 for said Defendant's undivided 1/42nd interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

24. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$23.81, plus any accrued interest thereon less the applicable registry fee, payable to Ayonda Kay Smith and to mail said check to her address on file.

25. Defendant Tara Milla shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

26. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any

accrued interest thereon less the applicable registry fee, payable to Tara Milla and to mail said check to her address on file.

27. Defendant Willie Dean McGee shall recover from the Plaintiff \$71.43 for said Defendant's undivided 1/14th interest in the easement and right-of-way described in Attachment 1 to the Declaration of Taking (Doc. 2-1).

28. The Clerk of this Court is authorized and directed to draw a check on the funds deposited in the registry of this Court in this action in the amount of \$71.43, plus any accrued interest thereon less the applicable registry fee, payable to Willie Dean McGee and to mail said check to his address on file.

29. The vesting of title in the United States of America, free of all liens, claims, and encumbrances, as evidenced by the Declaration of Taking filed in this action on September 22, 2017 (Doc. No. 2) is hereby fully and finally confirmed with respect to the easement and right-of-way described below, said description being the same as in Attachment 1 to the Declaration of Taking filed herein (Doc. No. 2-1):

A permanent easement and right-of-way, consisting of the perpetual right to enter and to erect, maintain, repair, rebuild, operate, and patrol lines of transmission line structures with sufficient wires and cables for electric power circuits and communication circuits, and all necessary appurtenances, in, on, over, and across said right-of-way, together with the perpetual right to clear said right-of-way and keep the same clear of structures (including but not limited to flagpoles, solar panels, buildings, signboards, billboards), trees, brush, stored personal property, and fire hazards, to destroy or otherwise dispose of such trees and brush; to prevent the drilling or sinking of wells within the right-of-way; and to remove, destroy, or otherwise dispose of any trees located beyond the limits of said right-of-way which in falling could come within five feet of any transmission line structure or conductor located thereon, the Tennessee Valley Authority to remain liable for any direct physical damage to the land and annual growing crops resulting directly from the operations of the construction and maintenance forces of its agents and employees in the erection and maintenance of or in exercising a right of ingress and egress to said transmission line structures, all upon, under, over, and across the following-described land:

TRACT NO. SPHTB-28

A parcel of land located in Section 23, Township 18 North, Range 13 East, Oktibbeha County, State of Mississippi, as shown on a map entitled "Starkville –

Philadelphia 161-kV Transmission Line Tap to Bluefield,” drawing LW-5579, sheet 5C, R.1, a reduced scale copy of which is attached to the Declaration of Taking filed herein, the said parcel being more particularly described as follows:

Commencing at a found t-post at the northeast corner of Section 23, Township 18 North, Range 13 East, and the southeast corner of Section 14, Township 18 North, Range 13 East, said corner being in the west road right-of-way of the land of the State of Mississippi (Highway 12 West), said point being 40.82 feet right of survey station 236+80.77; thence leaving said corner and with the north property line of the land of Nelson Hall Heirs (SPHTB-32) and the south property line of the land of Lavell W. Brown, III, et ux., said property line being the south line of Section 14, Township 18 North, Range 13 East, and the north line of Section 23, Township 18 North, Range 13 East, S. 89° 45' 59" W., 141.24 feet to a point, said point being the northeast property corner of the land of Lisa D. Wilson and the northwest property corner of the land of Nelson Hall Heirs (SPHTB-32), said point being 40.94 feet right of survey station 235+39.53; thence leaving said point and continuing with the south property line of the land of Lavell W. Brown, III, et ux., and with the north property line of the land of Lisa D. Wilson, said property line being the south line of Section 14, Township 18 North, Range 13 East, and the north line of Section 23, Township 18 North, Range 13 East, S. 89° 45' 59" W., 29.60 feet to a point, said point being the northeast property corner of the land of Nelson Hall Heirs (SPHTB-30) and the northwest property corner of the land of Lisa D. Wilson, said point being 40.96 feet right of survey station 235+09.93; thence leaving said point and continuing with the south property line of the land of Lavell W. Brown, III, et ux., and with the north property line of the land of Nelson Hall Heirs (SPHTB-30), said property line being the south line of Section 14, Township 18 North, Range 13 East, and the north line of Section 23, Township 18 North, Range 13 East, S. 89° 45' 59" W., 815.74 feet to a found 1/2-inch iron rod, said point being the northeast property corner of the land of Whitefield District Association and the northwest property corner of the land of Nelson Hall Heirs (SPHTB-30), said point being 41.63 feet right of survey station 226+94.18; thence leaving said point and continuing with the south property line of the land of Lavell W. Brown, III, et ux., and with the north property line of the land of Whitefield District Association, said property line being the south line of Section 14, Township 18 North, Range 13 East, and the north line of Section 23, Township 18 North, Range 13 East, S. 89° 49' 55" W., 299.96 feet to a found 1/2-inch iron rod, said point being the northeast property corner of the land of Willie Dean McGee, et al., and the northwest property corner of the land of Whitefield District Association, said point being 41.53 feet right of survey station 223+94.23, said point being the Point of Beginning.

Thence from the Point of Beginning and with the east property line of the land of Willie Dean McGee, et al., and the west property line of the land of Whitefield District Association, said property line being the north-south 1/4 section line of Section 23, Township 18 North, Range 13 East, S. 00° 12' 18" E., 8.47 feet to a point, said point being in the south right-of-way line of the said location; thence leaving said point and with the said right-of-way line S. 89° 48' 46" W., 316.22

feet to a point, said point being in the north property line of the land of Willie Dean McGee, et al., and the south property line of the land of Lavell W. Brown, III, et ux., said property line being the north line of Section 23, Township 18 North, Range 13 East, and the south line of Section 14, Township 18 North, Range 13 East; thence leaving said point and with said property line and section line N. 88° 16' 40" E., 316.33 feet to the Point of Beginning and containing 0.03 acre, more or less.

The above-described parcel of land is lying entirely in the Northwest 1/4 of the Northeast 1/4 of Section 23, Township 18 North, Range 13 East, of Oktibbeha County, Mississippi.

30. This case is CLOSED

SO ORDERED, this the 17th day of January, 2019.



SENIOR U.S. DISTRICT JUDGE