

THE DISPOSSESSION OF THE “BACK OF BEYOND”:  
TVA’S FONTANA PROJECT AND THE NORTH SHORE COMMUNITIES

A Thesis  
by  
LANCE C. HARDIN

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APPROVED BY:

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Dr. Julie Shepherd-Powell  
Chairperson, Thesis Committee

---

Dr. Tim Silver  
Member, Thesis Committee

---

Dr. Bruce Stewart  
Member, Thesis Committee

---

Dr. Dan Pierce, University of North Carolina Asheville  
Member, Thesis Committee

---

Dr. Conrad E. Ostwalt  
Interim Director, Center for Appalachian Studies

---

Dr. Michael J. McKenzie  
Dean, Cratis D. Williams School of Graduate Studies

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## **Abstract**

### **THE DISPOSSESSION OF THE “BACK OF BEYOND”: TVA’S FONTANA PROJECT AND THE NORTH SHORE COMMUNITIES**

Lance C. Hardin  
B.S., East Carolina University  
M.A., Appalachian State University

Chairperson: Dr. Julie Shepherd-Powell

In 1941 the Tennessee Valley Authority (“TVA”) announced plans to build a dam in the Fontana region of the Little Tennessee River Valley, primarily in Swain County, North Carolina. The project was prioritized as a World War II imperative and TVA personnel immediately began notifying residents expected to be displaced by the construction of the dam and the resulting reservoir. The availability of replacement land was limited in part due to the recent relocations necessitated by the creation of nearby Great Smoky Mountain National Park (“GSMNP”). When the Fontana Project was completed the federal government owned more than 80% of Swain County land.

TVA involvement had been rumored for several years and local leaders had initially resisted TVA involvement, preferring that any dam be constructed by a private utility, in part to preserve property tax revenues. Yet within a few years these local leaders increasingly recruited TVA involvement, even to the detriment of their own county’s citizens dispossessed by the TVA’s

expanded project. Expectations of economic growth and tourism industry revenues drove much of the local leaders' enthusiasm, yet in hindsight that desire to recruit TVA can be considered misplaced.

TVA realized that the Fontana Reservoir would flood NC Highway 288, the only road providing access for 200 families on the land above the high water line of the reservoir and bordering GSMNP. This 44,000 acre tract of land was to be effectively "stranded" by the rising water, and to avoid incurring a liability to reroute the access road, TVA instead entered into a four-way agreement with Swain County, the state of North Carolina, and the National Park Service under which TVA condemned this additional tract, aka "the North Shore," and transferred the property to GSMNP, thereby eliminating the need for the access road. A disparate group of North Shore property-owners fought the TVA's condemnation process, winning decisively at both the federal District Court and Appeals Court before losing in an unanimous decision by a Supreme Court that included seven appointees of President Franklin Roosevelt.

TVA was charged with assisting displaced populations with relocation, but by the time of the Fontana Project such assistance was delegated to other agencies. TVA published results specific to the Fontana Project with the assertion that, contrary to all other reservoir projects, the populations displaced by this project were actually better-off, as measured by post-project levels of farm and home ownership. Using the actual individual cards completed for each family dispossessed by the TVA, the paper analyzes the results to determine the extent that these "atypical results" were driven by transient labor that came into the area to work on the project, and, once the effects of transient labor resettlements are removed, the actual results for the existing pre-project populations were unfortunately not atypical at all.

## Acknowledgments

This work would not have been possible without the unwavering support of my wife, Gwyn Hardin, and the encouragement of my children Copeland, Max, and Jack..

Also invaluable was the support of my thesis committee, who each gave of themselves in selfless and helpful ways. Dr. Julie Shepherd-Powell first welcomed me to Appalachian State University and has been my guiding mentor throughout, continuing with her service as chairperson of my committee. Dr. Tim Silver and Dr. Bruce Stewart created opportunities for critical thinking and intellectual growth that were both challenging and stimulating; my time in their classrooms is a cherished experience. Dr. Dan Pierce welcomed a student from another institution and gave graciously of his time and knowledge. I am grateful to you all.

I would be remiss not to acknowledge my professors at Appalachian State University. Regardless of discipline, they unfailingly shared of their expertise and enriched my time in their tutelage. Likewise, it is hard to adequately express my affection for my cohorts and peers in the Appalachian Studies program, who warmly welcomed me and helped me gain new perspectives. Our interactions have been a source of personal and scholarly joy.

My parents, Dr. Jay C. Hardin and Ellen Hardin, instilled in me the importance of education and the incalculable value of the written word. I'm also convinced my path to Appalachian Studies is in-part a manifestation of innate origins, tracing back to my great-great-grandfather Alexander Carter who hailed from Snake Run Ridge in Alleghany County, Virginia.

Don Casada's knowledge of Bryson City and the peoples of Swain County that once inhabited the lands now incorporated into Great Smoky Mountains National Park is without peer

and born of an insider's passion and an unfailing sense of justice. I am profoundly grateful for Don's willingness to share his time, resources, and contacts.

Finally, the largest debt of gratitude is owed the residents of the towns of Proctor, Almond, Judson, and Bushnell, North Carolina and surrounding communities. Helen Cable Vance, Christine Cole Proctor, Leonard Cole, and Lawrence Hyatt graciously and patiently made the effort to help me understand how lives were irrevocably changed when these communities ceased to exist. My hope is that all who enjoy the natural beauty of Great Smoky Mountains National Park or survey the waters of Fontana Reservoir will forever know and appreciate the sacrifices of these residents.

## **Dedication**

This work is lovingly dedicated to my wife, Gwyn Hardin. Your unconditional support is one of the great joys in my life and made this thesis possible.

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## Introduction

Scholar Sarah Gregg notes that “at the dawn of the twenty-first century, visitors to Appalachia’s forested lands encounter few visible reminders of the households that populated the mountains a century ago. As a consequence, it is easy to envision a landscape with a long and uncomplicated history.” The formation of eastern national conservation and recreation entities such as Shenandoah National Park and Great Smoky Mountains National Park, “along with the expansive land reform projects of the New Deal represent(ed) an enormous societal gamble made by conservationists and land use planners on behalf of the greater good.”<sup>1</sup>

Yet it was not always so idyllic, as evidenced by the experience of Horace Kephart barely a century earlier. As Kephart relates, “I took a topographic map and picked out on it, by means of the contour lines and the blank spaces showing no settlement, what seemed to be the wildest part of this region; and there I went. It was in Swain County, amid the Great Smoky Mountains, near the Tennessee line.”<sup>2</sup> Thus does he explain how in 1904 the former librarian ended up on Hazel Creek, “far up under the lee of those Smoky Mountains,” a remote but picturesque locale populated with interesting characters he would later popularize as the “Back of Beyond” in *Our Southern Highlanders*.<sup>3</sup> Kephart was not alone in his attraction to the area; the rugged natural beauty and mountainous topography of Swain County has long attracted adventurers and homesteaders, speculators and governmental entities, each with disparate objectives. The arrival

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<sup>1</sup> Sara M. Gregg, *Managing the Mountains : Land Use Planning, the New Deal, and the Creation of a Federal Landscape in Appalachia*. (New Haven, CT: Yale University Press, 2010), Preface.

<sup>2</sup> Horace Kephart, “By Himself,” *The North Carolina Library Bulletin* Vol. 5, No. 3, The North Carolina Library Commission (June, 1922): 51.

<sup>3</sup> Horace Kephart, *Our Southern Highlanders: A Narrative of Adventure in the Southern Appalachians and a Study of Life Among the Mountaineers* (New York, NY: The MacMillan Company, 1913), 23-24, 29-30.

of the Tennessee Valley Authority (“TVA”) in the 1930s forever changed the lives of the residents in the small communities that comprised Kephart’s “Back of Beyond” as they soon faced eventual but certain dispossession due to the Fontana Dam project. Their former homesites collectively became known as the “North Shore,” recognizing the proximity of their land relative to the new reservoir.<sup>4</sup>

The purpose of this thesis is to address existing research gaps concerning the ramifications of the TVA’s Fontana Dam project on the North Shore communities. Addressing these gaps will necessitate examining issues of civic pursuit of economic gain at the expense of local residents, unfettered federal governmental power, and lack of agency by North Shore landowners.

Specifically, while local civic leaders initially resisted TVA’s involvement in the Fontana Dam project, they eventually came to embrace it to the detriment of North Shore landowners and tenants, and pursued large US federal government projects, even when the potential impact of such projects on the local economy, both immediate and long-term, was undetermined or unproven.

North Shore residents pursued legal remedies and despite initial successes, their journey eventually culminating in an unfavorable unanimous decision by the United States Supreme Court. Analysis of factors and motivations far removed from Hazel Creek will explain this ultimately unfavorable outcome.

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<sup>4</sup> Philip E. Coyle, Alan Jabbour, and Paul Webb. *North Shore Cemetery Decoration Project : Ethnohistorical and Ethnographic Investigations for the Proposed North Shore Road, Great Smoky Mountains National Park, Swain County, North Carolina : Final Report*. s.n., (2005), G-18. The authors note “The term ‘North Shore’ may have arisen first in the local press, or perhaps in the usage of the federal agency people in the region - no one knows now from what source the term arose. But it cannot be older than the 1950s or 1960s, and it caught on quickly.”

The success or failure of the TVA to satisfy expectations related to providing relocation assistance to populations dispossessed by the Fontana project will be addressed, and TVA statistics of “successful” relocations will be challenged. Taken together, these actions irrevocably impacted the cultural, social, and economic networks of the North Shore communities, their residents, and the surrounding regions.

Collectively, scholars Daniel Pierce, Margaret Brown, and Stephen Taylor provide the most-thorough analysis and discussion of issues associated with the creation of the Great Smoky Mountains National Park and Fontana Dam, including land acquisitions from individual property owners. Daniel Pierce, a history professor at UNC Asheville, published *The Great Smokies: From Natural Habitat to National Park* in 2000.<sup>5</sup> The work provides a thorough discussion of the legislative maneuvering, coalition building, and fundraising challenges associated with the development of GSMNP. Pierce also provides some narrative regarding the impacts on the displaced populations, a topic he further addresses specific to the North Shore communities in *Hazel Creek: The Life and Death of an Iconic Mountain Community*.<sup>6</sup>

Margaret L. Brown, an associate professor of history at Brevard College, likewise provides a thorough analysis of the creation of GSMNP in her 2000 work, *The Wild East: A Biography of the Great Smoky Mountains*. Brown describes the pre-park economies that impacted the natural resources of the Smoky Mountains and provides meaningful discussion of the myriad issues, including land acquisition, associated with the park’s creation and Fontana

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<sup>5</sup> Daniel S. Pierce, *The Great Smokies : From Natural Habitat to National Park* (Knoxville, TN: University of Tennessee Press, 2000).

<sup>6</sup> Daniel S. Pierce, *Hazel Creek : The Life and Death of an Iconic Mountain Community* (Gatlinburg, TN: Great Smoky Mountains Association, 2017).

Dam.<sup>7</sup> Brown also covers park management issues and tourism impacts, and thus helps to put the ongoing operation of GSMNP into perspective.

Stephen W. Taylor, a professor in the history department at Middle Georgia State University, provides insightful analysis regarding the region's economic development in his 2001 work *The New South's New Frontier: A Social History of Economic Development in Southwestern North Carolina*.<sup>8</sup> Taylor also utilized significant access to TVA records to explore the federal government's perspective, including that of key TVA personnel, related to the population relocations.

These works collectively provide the most detail on the treatment of the individuals residing within the park at the time of creation, how they were considered by park boosters, and the land acquisition practices applied to them.

Lance Holland, a longtime local Fontana guide, documents the Fontana Dam project in *Fontana: A Pocket History of Appalachia*.<sup>9</sup> He provides details regarding the early history of the valley, private corporate initiatives to build a dam before the involvement of the TVA, the challenges of creating, maintaining, and housing the necessary construction workforce, and some of the aspects of daily life for the communities displaced by the reservoir.

Research for this thesis was primarily conducted during calendar year 2020. Beginning in mid-March, 2020, until the completion of this thesis in December, 2020, the United States and much of the world was endeavoring to mitigate the ramifications of the COVID-19 coronavirus

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<sup>7</sup> Margaret L. Brown, *The Wild East : A Biography of the Great Smoky Mountains* (Gainesville, FL: University Press of Florida, 2000).

<sup>8</sup> Stephen Wallace Taylor, *The New South's New Frontier : A Social History of Economic Development in Southwestern North Carolina* (Gainesville, FL: University Press of Florida, 2001).

<sup>9</sup> Lance Holland, *Fontana: A Pocket History of Appalachia* (Robbinsville, NC: Appalachian History Series, 2001).

disease caused by the SARS-CoV-2 virus. The largely unprecedented measures enacted to limit the spread of the disease included closure of many archives, libraries, and similar repositories. Relevant to purposes of this thesis, the National Archives of the Tennessee Valley Authority in Atlanta, Georgia, the Library of the Tennessee Valley Authority in Knoxville, Tennessee, the State Archives of North Carolina in Raleigh, North Carolina, the Archives of Great Smoky Mountains National Park in Gatlinburg, Tennessee, and similar facilities have been closed and generally unavailable during the preparation of this thesis. Accordingly, while every effort has been made to access resources and research materials in a digital or otherwise remote manner, additional materials that exist solely in hardcopy form in these repositories may, when available, supplement or expand upon the conclusions and findings discussed herein.

Swain County is located in the far western corner of North Carolina, sharing a border of more than fifty miles with Tennessee along the spine of the Smoky Mountains. Swain's mountainous territory has been described as "steep, rocky, and often precipitous."<sup>10</sup> In 1889 the railroads reached the small Swain County town of Bushnell, located in the Little Tennessee River valley at the base of the Smoky Mountains. It initiated a period of rapid change as industrial timber and mining operations moved into the area. As noted by scholar Daniel Pierce, "for the next fifty-plus years (this area of Swain County) would witness and experience firsthand the best and the worst of the boom-and-bust cycles that characterized the early period of industrial revolution in the United States."<sup>11</sup> By 1928 timber companies were collectively processing and removing 300,000 board feet per day of valuable hardwoods such as ash, basswood, beech,

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<sup>10</sup> *The North Carolina Geological and Economic Survey; Bulletin No. 23, Forest Conditions in Western North Carolina* (Forest Service, U.S. Department of Agriculture. 1911), 35.

<sup>11</sup> Pierce, *Hazel Creek*, 41.

birch, chestnut, oak, poplar and walnut from Swain County's portion of the Smoky Mountains.<sup>12</sup> The logging companies established company towns to handle the influx of workers. The W.M. Ritter Lumber Company turned small, remote Proctor, located on Hazel Creek only a few miles from Kepharts's cabin in the "Back of Beyond," into a bustling town of nearly 1,000 inhabitants, with churches, a store, school, ice cream shop, and movie theater.<sup>13</sup> Former resident Duane Oliver estimates that at the peak of the timber boom over two thousand people lived along Hazel Creek.<sup>14</sup>

Brown notes, however, that anyone who sentimentalizes over this period is forgetting that the lumber companies always intended to leave, they "had no long-term plans for the communities that they built . . . as much as (Swain County logging towns) Proctor (and) Judson created a sense of community among themselves or loved the mountains, they were at the mercy of the market."<sup>15</sup> As resident Claude Douthit recalled, when the logging companies pulled out it was extremely difficult for the communities to survive; those still there were "trying to make it, trying to make it . . . no roads in and no roads out . . . nothing but the railroad."<sup>16</sup>

As the logging companies withdrew, many of the residents, in an effort to preserve their communities and thus cultural and societal networks, purchased small areas of cut-over land and tried to return to farming. However, the land, once filled with nurturing and abundant forests, had been decimated in ways the residents did not initially appreciate but would soon discover. The

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<sup>12</sup> Brown, *The Wild East*, 53.

<sup>13</sup> Pierce, *Hazel Creek*, 57.

<sup>14</sup> Duane Oliver, *Hazel Creek From Then Till Now* (Maryville, TN: self-published), Introduction.

<sup>15</sup> Brown, *The Wild East*, 72.

<sup>16</sup> "Interview with Claude M. Douthit," Interview by T. Rhydon Atzenhoffer. Oral History Collection, Hunter Library Digital Collections, Western Carolina University, November 18, 2009, <https://wcudigitalcollection.contentdm.oclc.org/digital/collection/p16232coll13/id/3/rec/2> .

process of slash timber cutting facilitated by spark-generating railroads and skidder equipment led to a proliferation of forest fires to an extent unknown before or since. Hot fires damaged the humus or “duff” layer of soil, rendering it incapable of growing certain plants.<sup>17</sup> The Smokies’ heavy rainfall wrecked havoc on the mountainous slopes erosion-scarred by logging operations and fires, causing sediment to wash into formerly-crystal clear streams. A too-quick return to grazing destroyed revegetation and worsened erosion. Swain County residents trying to cultivate this land in an effort to survive the transition away from logging faced almost insurmountable odds; “in the following years, foresters and government agricultural agents decried ‘mountain farming’ by pointing to . . . desperate people” such as these.<sup>18</sup>

Ronald Lewis has written extensively about the impacts of deforestation facilitated by the railroad industry, not only in his home state of West Virginia, but throughout the Appalachian region. He notes that “environmental desolation and weak conservation laws . . . reflected a context for the national catastrophe that emanated from the extraordinary wastefulness accompanying the extraction of natural resources which fed the maturation of industrial capitalism in America between the Civil War and World War I.”<sup>19</sup> While the logging companies had fostered a transition toward a wage-based economy, the loss of the forest made it difficult, or even impossible, to return to a traditional subsistence lifestyle. “Railroad and timber development did not stimulate the growth of a vibrant agricultural sector” concludes Lewis, but

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<sup>17</sup> Brown, *The Wild East*, 62-63.

<sup>18</sup> Brown, *The Wild East*, 72.

<sup>19</sup> Ronald L. Lewis, *Transforming the Appalachian Countryside : Railroads, Deforestation, and Social Change in West Virginia, 1880-1920* (Chapel Hill, NC: University of North Carolina Press, 1998), 285-286.

rather “forced farmers to either abandon the countryside for a new life in the industrial towns or face a life of rural marginality at the periphery of the American, and now global, economy.”<sup>20</sup>

One of the few options available to former logging employees was mining. Copper had been discovered in the area by at least the 1880s, part of the same ore veins extending up from the Ducktown area of Tennessee. By the mid-1920s the Fontana mine was established by a group of investors in the Eagle Creek area of western Swain County. The mine operated from 1926 until 1944 and, at its peak in 1931, employed over 300 people; however, for most of its operations the employment was approximately 50 miners.<sup>21</sup> Thus, as with the logging industry, mining continued to subject Swain County residents to the boom-and-bust cycles inherent with resource extraction industries.

The U.S. Bureau of Agricultural Economics surmised that the more “enterprising” families in these once-thriving logging communities would move on in search of improved opportunities and leave “behind those who were less capable of reversing these conditions.”<sup>22</sup> Brown notes that thus “environmental catastrophe . . . also brought death to communities.”<sup>23</sup> Resident Don Casada observed that the number of people who left the Fontana area in the 1930s as the logging and mining booms came to an end far exceeds the number of individuals that would later be displaced by the Fontana Dam project.<sup>24</sup> By the early 1940s in the coves and southern slopes of what would become the North Shore, where logging and mining operations

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<sup>20</sup> Lewis, Ronald L., “Railroads, Deforestation, and the Transformation of Agriculture in the West Virginia Back Counties, 1880-1920,” in *Appalachia in the Making : The Mountain South in the Nineteenth Century*, ed. Mary Beth Pudur et. al. (Chapel Hill, NC: University of North Carolina Press, 1995), 316.

<sup>21</sup> Pierce, *Hazel Creek*, 71.

<sup>22</sup> Lewis, *Transforming the Appalachian Countryside*, 272.

<sup>23</sup> Brown, *The Wild East*, 72.

<sup>24</sup> Pierce, *Hazel Creek*, 69.

had provided a means for over 2,000 people to live only a decade or two before, only 200 families were left.<sup>25</sup>

Reflecting on the personal toll inflicted during this period, scholar Margaret Brown focuses on the prevalence of absentee ownership, noting that “the increasingly global economy in which lumberman lived gave them little knowledge of or appreciation for a sense of place.” Places like the North Shore became “little more to them than a location on a map” where from a distance they could “convert forests into the abstraction ‘natural resources,’ which could be ‘extracted’ for maximum profit. People became ‘labor’ rather than individuals or even members of the community.”<sup>26</sup>

Elizabeth Catte posits this attitude is a reflection of late nineteenth and early twentieth-century Social Darwinism, a belief “that wealth and privilege fell naturally to those who most deserved them and that social differences between the rich and the poor reflected differences in their innate abilities” and accordingly “many industrialists felt little responsibility to the workforce.”<sup>27</sup> Prior to the burst of temporary economic prosperity provided by logging and mining, mountain farms had been a collective family venture marked “by a strong sense of responsibility to each other . . . affecting almost every aspect of mountain culture.”<sup>28</sup> As the effects of the Great Depression lingered and the industrialization boom of the early twentieth century came to a close in the late 1920s, however, displaced workers “struggled to return to the land and

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<sup>25</sup> *The Fontana Project : A Comprehensive Report on the Planning, Design, Construction, and Initial Operations of the Fontana Project* (Technical Report / United States Tennessee Valley Authority: No. 12. U.S. G.P.O., 1950), 483.

<sup>26</sup> Brown, *The Wild East*, 73.

<sup>27</sup> Elizabeth Catte, *What You Are Getting Wrong about Appalachia* (Cleveland, OH: Belt Publishing, 2018), 42.

<sup>28</sup> Ronald D. Eller, *Uneven Ground : Appalachia since 1945* (Lexington, KY: University Press of Kentucky, 2008), 10.

to an earlier way of life.”<sup>29</sup> Thus, the experience of Swain County’s former loggers and miners represented a microcosm of greater Appalachia as they struggled, and largely failed, to return to a subsistence agricultural community in the denuded and stripped post-industrial landscape.

Absentee ownership increasingly became a defining characteristic of Swain County during the first decades of the twentieth century, and remains so today. This foreign ownership, largely manifested by governmental entities but also corporate and non-resident individuals, resulted from a series of separate events that collectively commandeered almost all of the developable land in the county.

After the resource extractions by foreign timber and mining concerns, Swain County’s natural bounty increasingly drew attention by various agencies of the federal government. By the 1920s civic leaders and conservationists promulgated the establishment of Great Smoky Mountains National Park (“GSMNP”), and ultimately Swain County saw 217,000 acres of taxable land absorbed into the park; no county provided more. Creation of the park had necessitated the forced acquisition of approximately 6,600 private individual properties, including 1,200 small farms, along the North Carolina and Tennessee border.<sup>30</sup> The families dispossessed by development of the park largely moved into the surrounding area, absorbing much of the acquirable, cultivatable land. For many in the community the wounds of this displacement remained fresh and raw, as “the experience (had) proved wrenching.”<sup>31</sup>

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<sup>29</sup> Eller, *Uneven Ground*. 10.

<sup>30</sup> Carlos C. Campbell, *Birth of a National Park in the Great Smoky Mountains : An Unprecedented Crusade Which Created, as a Gift of the People, the Nation’s Most Popular Park* (Knoxville, TN: University of Tennessee Press, 1969), 68.

<sup>31</sup> Pierce, *The Great Smokies*, 155.

Swain County also includes public lands encompassing portions of the Nanatahala National Forest, a stretch of the Appalachian Trail including its highest point, the southern terminus of the Blue Ridge Parkway, and a significant portion of the Qualla Boundary (the territory held in trust for the Eastern Band of Cherokee Indians). Collectively governmental entities now control in excess of 82% of the land within Swain County. According to the Appalachian Land Ownership Study, the county had the highest concentration of land ownership, defined as land holdings concentrated within relatively few owners, of the eighty counties in the study's multi-state area. When non-governmental absentee landholders are included, 94% of Swain County land is now controlled by owners from outside the county.<sup>32</sup> These various absentee owners have made indelible impacts on the cultural and societal fabric of Swain County residents. It is within this context and historical backdrop that Swain County leaders struggled to bring prosperity, in the form of jobs and capital investment, to the region.

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<sup>32</sup> The Appalachian Land Ownership Task Force. *Who Owns Appalachia?: Landownership and Its Impact* (Lexington, KY: The University Press of Kentucky, 2015), 22.

## Chapter One

### Fontana

***“It promises to be one of the greatest tourist attractions within the boundaries of the state”***

So optimistically speculated a headline in *Our State* magazine in 1945.<sup>33</sup> Yet in the 1920s and 1930s the leaders of Swain County were not alone in trying to navigate the difficult economic environment of the post industrial period. In 1931, while still governor of New York, Franklin Roosevelt reflected on the economic condition of a country struggling to emerge from the Great Depression and described his perception of the “dislocation of a proper balance between urban and rural life.” Roosevelt “looked forward to a time when farmers cultivating land too worn to yield a profit would find alternate employment in factories close to rural communities.”<sup>34</sup> Roosevelt no doubt had communities such as those in Swain County’s acreage along the Little Tennessee River in mind.

This conservationist perspective and a belief that national economic recovery would be enhanced by transitioning poor rural citizens into urbanites became underlying tenets in many of Roosevelt’s initiatives once he was elected president in 1932 and took office in March, 1933. The Roosevelt administration passed thirteen major pieces of legislation in his first one hundred days in office, a prolific record that collectively became known as the “New Deal.”

As noted by historian Jeffrey Stine, New Deal legislation “provided a sympathetic political context for an expanded federal program of public works projects, which were seen as a

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<sup>33</sup> Bill Sharpe, “Fontana: It promises to be one of the greatest tourist attractions within the boundaries of the state. Many thousands will visit it after the war,” *Our State*, Vol. 12, No. 50, (May 12, 1945): 4-5.

<sup>34</sup> Sarah T. Phillips, *This Land, This Nation : Conservation, Rural America, and the New Deal* (New York, NY: Cambridge University Press, 2007), 21.

means of mitigating the economic impact of the Great Depression by providing emergency employment and bolstering the national infrastructure.”<sup>35</sup> One of the primary examples of New Deal land reform initiatives was the Tennessee Valley Authority (“TVA” or the “Authority”). Formed in May, 1933, the impetus for the Authority traced back to national security concerns regarding fertilizer production in Muscle Shoals, Alabama, during the World War I era. Objectives soon included flood control and navigation in the Little Tennessee River Valley and electrical power generation. Stated TVA mandates eventually broadened to include economic development and creation of regional recreation facilities. The scope of the TVA program “was ambitious, and its broad goals left much room for debate and dissension over the over the direction of economic development.”<sup>36</sup> Regarding place-based federal infrastructure investments such as Fontana Dam, however, economist Matthew Kahn posits that “leading economists disagree about the impacts of place-based investments in Appalachia” with additional uncertainty regarding “what place-based investments are likely to be effective” to combat poverty in the region.<sup>37</sup>

Since the early 1900s access to hydroelectric power had been monopolized by a few private energy companies and industries; Duke Power’s founding goal in 1904 was to “harness ‘white coal’ from rivers that previously flowed as ‘waste to the sea.’”<sup>38</sup> To the Roosevelt

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<sup>35</sup> Jeffrey K. Stine, *Mixing the Waters : Environment, Politics, and the Building of the Tennessee-Tombigbee Waterway* (Akron, OH: University of Akron Press, 1993),14.

<sup>36</sup> Matthew L. Downs, *Transforming the South : Federal Development in the Tennessee Valley, 1915 - 1960* (Baton Rouge, LA: Louisiana State University Press, 2014), 72.

<sup>37</sup> Matthew E. Kahn, “Cities, Economic Development, and the Role of Place-Based Policies: Prospects for Appalachia,” in *Appalachian Legacy : Economic Opportunity after the War on Poverty*, ed. James P. Ziliak, (Washington, DC: Brookings Institution Press, 2012), 159.

<sup>38</sup> Christopher J. Manganiello, *Southern Water, Southern Power : How the Politics of Cheap Energy and Water Scarcity Shaped a Region*, (Chapel Hill, NC: The University of North Carolina Press, 2015), 47.

administration and the TVA, “water appeared as one of the most underutilized natural resources and as a renewable energy source.”<sup>39</sup>

Resources such as GSMNP and the waters of TVA’s reservoirs appear as natural havens, unspoiled by the touch of man. However, the uncomfortable truth about conserving these wild spaces, as wryly noted by professor Mark Spence, is that “uninhabited wilderness had to be created before it could be preserved.”<sup>40</sup> Dispossessing a population in the footprint of one of these federal projects requires more than “the force of law” such as that exercised by the TVA, it also “require(s) a story.” Scholar Steven Stoll explains one perceived justification, pointedly asserting that “race” is “the spectacular fabrication in which one group collects the qualities of another group (speech, skin color, geography, social status, or foodways) and casts them as inferior under an inviolate authority (God, Nature, or Progress).” Poor Appalachian whites became a despised race defined by their own circular argument, “descriptions of mountaineers emphasize(d) their supposed degeneracy and grotesqueness, which came from their isolation, causing moral depravity, resulting in . . . degeneracy and grotesqueness.”<sup>41</sup> Thus, in the eyes of the TVA, the rural farmers of the Tennessee River Valley were viewed as a race incapable of their own redemption, desperate for the salvation made possible only through governmental intervention.

And yet Swain County leaders and citizens initially did not welcome TVA involvement in their area. There had long been rumors of a private dam in the area; the Aluminum Company of

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<sup>39</sup> Manganiello, *Southern Water, Southern Power*, 46.

<sup>40</sup> Mark D. Spence, *Dispossessing the Wilderness : Indian Removal and the Making of the National Parks*, (New York, NY: Oxford University Press, 1990), 4.

<sup>41</sup> Steven Stoll, *Ramp Hollow : The Ordeal of Appalachia*, (New York, NY: Hill and Wang, 2017), 20-21.

America (eventually shortened to “Alcoa”) had through its affiliates spent twenty years acquiring approximately 15,000 acres in the valley. Alcoa’s intention was for its subsidiary, Nantahala Power and Light (“NP&L”), to build a comparatively modest-sized dam to facilitate Alcoa’s production of aluminum.<sup>42</sup> Yet the Fontana basin had been on TVA’s short list of preferred sites almost since the Authority’s creation. Due to its depth and length, the Fontana gorge had the capacity to collect and hold a substantial amount of the rainfall received during the rainy season; additionally, due to Fontana’s upstream location, a dam located there could slowly release that collected water during the six months that received less rain.<sup>43</sup> Thus, not only would the Fontana Dam be used to generate electricity, perhaps its even more important intended use was to ensure the efficient and continuous use of all TVA’s downstream dams. Thus TVA needed the Fontana Dam to be constructed large enough to hold this seasonal capacity, and also wasn’t willing to take the risk that private ownership of the dam could interfere with its ability to trigger the needed releases to operate their dams lower on the river.<sup>44</sup>

In 1934, based upon reports that the recently-created TVA had begun to acquire land in the area, over 2,000 Swain County residents signed a petition created by Alcoa subsidiary NP&L and sent to President Franklin D. Roosevelt, Secretary of the Interior Harold Ickes, and Dr. A.E. Morgan of the TVA. The petition, stating a preference to maintain the property tax base with private NP&L building any dam in the area, cited the already majority federal government ownership of 57.73% of Swain County land due to the creation of GSMNP and other initiatives and stated “(w)e look with concern upon further encroachment of the Federal Government of this

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<sup>42</sup> Brown, *The Wild East*, 145.

<sup>43</sup> Arthur E. Morgan, *The Making of the TVA*, (Buffalo, NY: Prometheus Books, 1974), 105.

<sup>44</sup> Morgan, *The Making of the TVA*, 105-106.

nature.”<sup>45</sup> Petitioners included local leaders such as county commissioners, the mayor of Bryson City, aldermen, and court officials, but also hundreds of local residents. Over 800 residents, including many local leaders, of neighboring Graham County (which also included some of the potential Fontana reservoir) also signed a similar petition citing the fiscal importance of maintaining private ownership of dams within their county.<sup>46</sup>

By late 1941, however, as rumors of a TVA-built Fontana Dam began to circulate, civic leaders in Bryson City had an entirely different position, as the Chamber of Commerce initiated a “Build Fontana Dam” Club, seeking to “secure a large membership of citizens” willing to pay \$1.00 each “for the sole purpose of promoting the development of the Fontana Dam.”<sup>47</sup>

What caused the reversal, between 1934 and 1941, in local leaders’ opinion of TVA’s involvement with a Fontana Dam project? An editorial in the *Bryson City Times* explains, stating “Fontana Dam is needed to stimulate business in a section of the state that has had no defense projects at all and where no stimulant to business has been felt therefrom” and “to help employ surplus labor in Western North Carolina.” It continues, with the plainest declaration possible, “(w)e deserve a break in Swain County, and we believe this is our opportunity to get it, and we believe the building of Fontana Dam is the means of helping to achieve this end.”<sup>48</sup>

State officials had long been cognizant of the potential economic benefits of TVA’s capital building program. As early as 1935 North Carolina Senators Josiah Bailey and Robert

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<sup>45</sup> Swain County Petition. “*TVA – Tennessee Valley Authority. Includes petition (with signatures attached) protesting TVA’s purchase of lands for the Fontana development: 1934 – 1935,*” Folder 460, MSS 02-07.22. Nantahala Power and Light Company Collection, Hunter Library Special Collections, Western Carolina University.

<sup>46</sup> Graham County Petition. “*TVA – Tennessee Valley Authority. Includes petition (with signatures attached) protesting TVA’s purchase of lands for the Fontana development: 1934 – 1935,*” Folder 461, MSS 02-07.22. Nantahala Power and Light Company Collection, Hunter Library Special Collections, Western Carolina University.

<sup>47</sup> “Chamber of Commerce Starts ‘Build Fontana Dam’ Club,” *The Bryson City Times*, November 20, 1941, 1.

<sup>48</sup> “The Need For The Fontana Dam Club,” *The Bryson City Times*, November 27, 1941, 1.

Reynolds had actively sought TVA involvement in their state, wanting “North Carolina [to] share in [the] millions that are being strewn up and down the Tennessee River valley in nine states” with hopes such a project could give “employment to thousands of Tar Heels.”<sup>49</sup> The announcement later that year that the TVA had approved a dam outside Murphy, North Carolina, brought excitement as more than 1,200 jobs were expected to flow to Cherokee County.<sup>50</sup> Yet some citizens remained concerned by the growing size and breadth of TVA’s ambitions, leading one to exclaim “I don’t know what sovereignty it recognizes at all, if any” and stated that at Fontana all TVA wanted to do was “come in here and take over control of one of the greatest potential resources of the state.”<sup>51</sup>

Yet by 1940 Swain County leaders had taken note of the local economic stimulus created by TVA’s Nantahala Dam in nearby Macon County. Bryson City Bank reported that although deposits had “shown a steady increase since the early summer, some time before the big dam project started, a more rapid increase is noted at this time” and local merchants reported “a nice increase in retail trade over a year ago.”<sup>52</sup> As example, Sinclair Service Station on Main Street in Bryson City advertised “An Invitation and a Welcome to the Employees of the Nantahala Dam Project to Visit Bryson City” for their complete lines of tires and batteries.<sup>53</sup>

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<sup>49</sup> “Urge Huge TVA Dam For State,” *The Charlotte Observer*, June 25, 1935, 1.

<sup>50</sup> “Construction of TVA Dam To Be Of Great Benefit to Cherokee County,” *Asheville Citizen-Times*, July 28, 1935, 22.

<sup>51</sup> A.G. Betts, Letter to the Editor, “Aluminum Company of America,” *Asheville Citizen-Times*, June 2, 1935, 12.

<sup>52</sup> “Huge Nantahala Dam Project is Big Stimulator to Business in Bryson City,” *The Bryson City Times*, December 19, 1940, 1.

<sup>53</sup> “Sinclair Service Station,” advertisement, *The Bryson City Times*, December 19, 1940, 4.

The Nantahala Dam project had provided employment as well, with “hundreds of men from Swain and surrounding counties employed on various parts of the huge project.”<sup>54</sup> As that project neared completion, Swain County leaders worried that “a large number of men now at work on the Nantahala project will be cut off soon” but if the Fontana Dam was approved, “many if not all of those men can go right to work there, otherwise they will be out of work if they remain at home.”<sup>55</sup> In 1940 the TVA also completed construction of Hiwassee Dam in nearby Cherokee County.<sup>56</sup>

Clearly, any concerns from Swain County leaders about maintaining the property tax base were absolved when they saw first-hand the positive economic effect a large federal project could impart on the local economy and employment. A second economic concern for local boosters was the perception that Swain County had not received the revenue boost from tourism that had been anticipated from the recently-dedicated GSMNP. As Daniel Pierce points out “the seeds of the [GSMNP] idea found their most fertile ground not in individuals who lived and loved the Smoky Mountains in an intimate way, but in the civic boosters of the region.”<sup>57</sup> These civic boosters were typically not conservationists, however, interested in preserving the environment and scenic view-sheds; rather, “they saw the establishment of the park primarily as a means to further economic development and prosperity in their cities by attracting national

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<sup>54</sup> “Huge Nantahala Dam Project is Big Stimulator to Business in Bryson City,” *The Bryson City Times*, December 19, 1940, 1.

<sup>55</sup> “‘Build Fontana Dam’ is Object of Club Sponsored by Chamber of Commerce,” *The Bryson City Times*, November 27, 1941, 1.

<sup>56</sup> “Hiwassee,” Tennessee Valley Authority, website <https://www.tva.com/energy/our-power-system/hydroelectric/hiwassee>

<sup>57</sup> Pierce, *The Great Smokies*, 56.

publicity, tourists and good roads.”<sup>58</sup> Based on these expectations of future tourism business, when it came time to fundraise for the park Swain County led the entire region.<sup>59</sup> From boosters’ perspective, Bryson City was a natural entry point into GSMNP, with visions of tourists shopping, eating, and lodging in town while visiting the park. Local sentiment was summarized as “it seems to be the unanimous feeling throughout this section that North Carolina is entitled to this [entrance] road, and, insofar as Bryson City and Swain County are concerned, there is probably no proposition that has ever come up in the community or county upon which the people were more wholeheartedly united.”<sup>60</sup>

Thus by 1941, with more than than a dozen TVA retention projects under construction or competed, speculation increasingly turned to a potential dam near Fontana.<sup>61</sup> Still, rumors of the potential project circulating during late 1941 were thought to be tentative and did not receive much fanfare. In fact, a small, rather mundane article buried on Page 4 of Section B of the *Asheville Citizen-Times* on December 7, 1941, discussed that the House of Representatives had just the day before passed an appropriations bill providing for various TVA projects, including Fontana, but further action would be required by the Senate. In a sadly ironic juxtaposition of placement, the small, equally obscure article immediately below was entitled “Tokyo’s Move,” in which the paper opined that “Japan may be engaging in a gigantic bluff” and concludes that “a showdown in the Fast East is near. It will be soon be Tokyo’s move.”<sup>62</sup> Many subscribers to the

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<sup>58</sup> Pierce, *The Great Smokies*, 58.

<sup>59</sup> “Bryson City is Carrying Banner of Park Forward,” *The Asheville Citizen*, April 2, 1926, 1.

<sup>60</sup> “Swain County Deserves The Deep Creek Park Road,” *The Bryson City Times*, November 6, 1941, 1.

<sup>61</sup> “TVA Said To Be Planning 4 Dams in Hiwassee Basin,” and “May Build Fontana Dam,” *The Bryson City Times*, May 22, 1941, 1.

<sup>62</sup> “Another Step Nearer,” and “Tokyo’s Move,” *Asheville-Citizen Times*, December 7, 1941, B4.

newspaper did not even have had time to read these prophetic words before hearing that Japanese air forces had initiated an unprovoked and unannounced attack on the United States naval base in Pearl Harbor, Hawaii, that very morning. The following day President Roosevelt addressed a joint session of the United States Congress and proclaimed that December 7, 1941, was “a date which will live in infamy.” That same day Congress passed a formal declaration of war against Japan and the United States officially entered World War II.

Overnight the war created an enormous need for aluminum to build planes and other military hardware, and aluminum requires extraordinary levels of electrical power to refine. News about a potential Fontana project that had been relegated to the back pages of the newspaper suddenly became worthy of the front page. The United States Senate quickly passed the TVA authorization bill that included the Fontana project, and the legislation was signed by President Roosevelt on December 18, 1941. The *Citizen-Times* announced on page one that the projects authorized by the bill would more than double “wartime industrial production” of electrical power, from “its present 1,050,000 kilowatts to over 2,600,000.”<sup>63</sup> Swain County press expressed the sentiment of the nation, with “We Are In It - And We Will Win It.”<sup>64</sup> Residents immediately organized “in the defense of our nation and our homes.”<sup>65</sup>

When President Roosevelt signed the long-sought TVA appropriations bill a few weeks later the news of same was overshadowed, with the lead editorial instead focused on national defense, stating “never before in the history of Swain county . . . have the citizens of our county

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<sup>63</sup> “Bill Is Signed Providing Funds For Fontana Dam,” *Asheville-Citizen Times*, December 19, 1941, 1.

<sup>64</sup> “We Are In It - And We Will Win It,” *The Bryson City Times*, December 11, 1941, 1.

<sup>65</sup> “Swain Citizens Will Meet Monday Night to Organize for Aid In Home and National Def.,” *The Bryson City Times*, December 11, 1941, 1.

thrown their whole resources and energies so willingly and unstintingly into the defense problems of our country.”<sup>66</sup> The focus of the Swain County citizenry had turned to the war effort, with every denizen concerned with the male residents enlisting, the rationing of products such as sugar, rubber, and gasoline, and the collection of war-related supplies.

Thus with the ramifications of the recent formation of GSMNP still reverberating in the community, residents of Swain County now found themselves citizens of a nation at war. Citing escalating global tensions, the United States government had, through the TVA, already pursued Alcoa’s land in an effort to accelerate the potential development of a dam. While Alcoa had not initially inclined to sell their land to the TVA, “after much dickering” an agreement was reached that allowed the TVA to acquire Alcoa’s 15,000 acres along the Tennessee River valley and proceed with construction.<sup>67</sup>

TVA’s plans for Fontana far eclipsed Alcoa’s intentions for the area and even previous TVA projects. At more than 480 feet tall the dam would be the tallest in the Eastern United States, more than twice as high and three times as massive as Norris Dam, TVA’s first project only a few years prior. Fontana Dam had an enormous footprint and was projected to create a 10,000 acre reservoir but, importantly, after acquiring the 15,000 acres from Alcoa, TVA publicized that only an additional 4,200 acres would have to be acquired from private ownership for the revised and greatly-enhanced TVA project.<sup>68</sup>

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<sup>66</sup> “Swain County Aiding in Defense,” *The Bryson City Times*, December 25, 1941, 1.

<sup>67</sup> “OPM Director Says Fontana Dam Soon Will Be Built : Knudsen Says Aluminum Company and TVA Have Reached Agreement,” *The Bryson City Times*, July 10, 1941, 1.

<sup>68</sup> “3,000 Persons To Be Employed In Building Fontana Dam,” *Asheville Citizen-Times*, January 25, 1942, B6.

Wasting no time and with an expedited work schedule due to wartime needs, work on Fontana Dam began in January, 1942. Attention soon focused on what the TVA called “a strip of mountainous land” located north of the planned Fontana Reservoir and south of GSMNP. Inhabited by approximately 200 families, the 44,000-acre parcel became designated by its primary geographic feature, Hazel Creek, and eventually, due to its proximity relative to the reservoir, as the North Shore.<sup>69</sup> North Shore residents’ homes were above the high-water mark of the new reservoir and they had here-to-fore avoided inclusion into GSMNP, but now faced a new threat as their only access, North Carolina Highway 288, became submerged under the TVA’s reservoir. TVA authorities faced a dilemma regarding how to resolve their liability to restore access to these impacted residents.

Local leaders stated they considered the road “inadequate” anyway, saying “the present highway is a narrow, twisting, secondary road unattractive to tourists and serving only a small number of families.”<sup>70</sup> The TVA determined that the highway would have to be almost completely relocated and “because of the rugged terrain the cost of replacement would have been excessive, considerably more than the value of the land served” and consequently “the problem resolved into a question of how the liability of the TVA might best be discharged at an expense no greater than the estimated road cost and, at the same time, consistent with the interests of the Federal, State, and county governments.”<sup>71</sup>

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<sup>69</sup> *The Fontana Project*, 475, 483.

<sup>70</sup> “TVA Outlines Plan For New Highway No. 288 : Proposal Calls For \$3,000,000 Park Highway After The War, But Carries No Guarantee,” *The Bryson City Times*, December 3, 1942, 1.

<sup>71</sup> *The Fontana Project*, 475.

TVA prepared analyses of various alternatives and determined that, even if it resulted in no net savings and the land was not needed for the Fontana project, it was more expeditious to simply forcibly remove these 200 families and acquire their land through eminent domain, if necessary. Adoption of this proposal would necessitate increasing TVA's planned acquisitions by more than ten-fold, from approximately 4,200 acres to more than 48,000 acres.

The issue was finally resolved through "(e)xtensive negotiations between the TVA and other governmental agencies" which "led to the execution of a quadrilateral agreement advantageous to all parties involved."<sup>72</sup> The "interests" of local residents were apparently not considered relevant to the cost analysis, nor were they a direct party to the ultimate agreed-upon resolution. The agreement provided in part that the TVA would acquire the land owned by "North Shore" area residents and transfer this land to Great Smoky Mountains National Park. In exchange the National Park Service would built a road providing these displaced residents access to family cemeteries now absorbed within park boundaries. GSMNP boosters in the local press heralded the agreement as "bringing closer to realization the vision of the pioneer park advocates."<sup>73</sup>

In 1943 when Swain County commissioners had the opportunity to participate in this quadrilateral agreement with the TVA, the National Park Service, and the State of North Carolina, which condoned forcibly removing county citizens and using some of the land thus acquired from the North Shore residents to build a road from Bryson City into GSMNP, they

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<sup>72</sup> *The Fontana Project*, 475.

<sup>73</sup> "Agreement Enlarges Scope of Plans For Smoky Park ; Increases Area, Provides Road, Lake Facilities," *The Asheville Citizen*, August 4, 1943, 11.

quickly approved the resolution.<sup>74</sup> From the perspective of the North Shore residents, the TVA was simply avoiding its responsibility to rebuild their road by instead removing them from their property. North Shore residents had probably expected that if a sympathetic ear existed, they would find it closest to home with their local officials in Swain County and its seat, Bryson City. Yet they had been abandoned by their own local leaders, who apparently were more concerned with constructing roads that facilitated tourists to their commercial centers rather than North Shore residents to their homes.

This economically-driven shift in local public perception was injurious to the case of the dispossessed populations in the shadow of Fontana and along the North Shore, as evidenced when the local press discounted their homesites, stated that where the dam was to be located “no valuable farm land will be inundated from the waters of the lake.”<sup>75</sup> Former Hazel Creek resident Duane Oliver explains that the shift from Alcoa and NP&L to the TVA as the builder of the dam was especially damaging to the residents of the North Shore, as “had Alcoa built the dam at Fontana it would have been obligated to have replaced the highway with a new one above the water’s edge. Many people, when realizing this, wished very much that Alcoa had built the dam for then people living above the lake would probably not have had to have sold their land and moved.”<sup>76</sup>

During the period of peak dam construction during the Great Depression and World War II, 1933 through 1944, the TVA removed over 13,000 families, or approximately 50,000 persons, to facilitate the construction of fifteen dams in six states. They were farmers, tenants, and

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<sup>74</sup> “Commissioners Pass Resolution on TVA Contract,” *The Bryson City Times*, August 5, 1943, 1.

<sup>75</sup> “The Need For The Fontana Dam Club,” *The Bryson City Times*, November 27, 1941, 1.

<sup>76</sup> Oliver, *Hazel Creek From Then Till Now*, 94.

sharecroppers, but also store owners and proprietors, teachers, doctors, ministers, industrial workers, children, and retired or elderly citizens. For the majority of these individuals, the forced relocation resulted in many issues.<sup>77</sup> Scholars McDonald and Muldowny note that the TVA's land acquisition priorities frequently centered on recreational planning and conservation arguments (and reservoir protections) rather than being dictated by the needs of displaced or soon-to-be displaced families.<sup>78</sup>

TVA's policies and procedures regarding the dispossession of populations due to dam projects evolved over time. The first TVA project, Norris Dam, was located on the Clinch River, a tributary of the Tennessee River in eastern Tennessee. The resulting reservoir stretched nearly eighty miles up the Clinch and Powell rivers, creating a lake with over 700 miles of shoreline. Approximately 3,000 families were required to move from their homes in a five-county area during the period from 1933 to 1937 in what would be the largest displacement of any TVA project. TVA acknowledges that the "problem of removal of families and their personal property was approached with little established precedent" and as a result "some people were bewildered and sometimes suspicious."<sup>79</sup>

The TVA proposal to build Fontana Dam also raised immediate questions within the Swain County civic community regarding the potential impact on property tax revenues. The petition prepared by NP&L in 1934, for example, noted that "this Company and associated companies pay an annual tax of \$16,369.32 to the County . . . one sixth of all taxable income due

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<sup>77</sup> "Family Case Records - Population Readjustment," Tennessee Valley Authority, Reservoir Property Management Department, Population Readjustment Division, Knoxville, Tennessee, February 29, 1944. Foreword, 1.

<sup>78</sup> Michael J. McDonald and John Muldowny, *TVA and the Dispossessed*, (Knoxville, TN: University of Tennessee Press, 1982), 267.

<sup>79</sup> "Family Case Records - Population Readjustment," 7.

the County.”<sup>80</sup> Taylor notes that in 1941 attorney Stanley Black of Bryson City, who had done legal work for ALCOA, calculated a loss of \$23,382.03, or approximately 23% of county revenues.<sup>81</sup> Both noted that over half the county’s area was already held by the federal government.

The TVA is subject to a “payments in lieu of taxes” requirement (“PILT”) that is intended to compensate local communities for the loss of taxable property base. In 1944, as the Fontana Dam near completion, PILT program payments were based a complex formula that included, in part, expected electrical power sales. For that year the TVA paid \$3,742 directly to Swain County and an additional \$22,973 indirectly to the county through the State of North Carolina. The TVA stated these amounts were “substantially above (Swain County’s) displaced former average taxes.”<sup>82</sup>

The PILT program remains in effect and is now administered by the U.S. Department of the Interior, making payments to approximately 1,900 local governments in 2019. Payments are now based on the acreage of federal property in the county, population, and other factors; in 2019, Swain County received over \$665,000 in PILT payments.<sup>83</sup>

It is difficult to access with a high level of precision the potential difference between the recipe of the PILT payments versus what revenue could result from local property taxes, and hence which would be more beneficial to Swain County today; however, federal ownership of approximately 283,900 acres (i.e., 82% federal ownership of total county area of 541 square

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<sup>80</sup> Swain County Petition, Hunter Library Special Collections, Western Carolina University.

<sup>81</sup> Taylor, *The New South's New Frontier*, 75.

<sup>82</sup> *The Fontana Project*, 482-483.

<sup>83</sup> “*National Summary, Fiscal Year 2019 Payments in Lieu of Taxes.*” (United States Department of the Interior, 2019), 79.

miles, or 346,240 acres) that in 1940 county officials and TVA authorities considered real estate that contained “no valuable farm land,” and accessible only by an “inadequate, twisting road.” This same land would now be riverfront, or situated on mountain slopes with panoramic views of the Smoky Mountains; adjusting for these twenty-first-century realizations of the value of mountain land (even including gated communities, country clubs with private golf courses, and so on), the foregone opportunity costs to Swain County of converting so much land to federal holdings could be very large indeed. An appreciation of the potential disparity in revenues can be gained by a review of the financial statements for Swain County; for the fiscal year ended June 30, 2018, the county garnered property tax revenues of approximately \$6,071,000.<sup>84</sup> Considering that the federal government owns 82% of the county, that property tax revenue was earned on the balance of land, or the approximately 18% held by private landowners. In other words, the county earned property taxes, or payments designed to be the equivalent of property taxes, of just over \$6 million on 18% of county land, and only \$665,000 on the remaining 82% of county land. It appears that the PILT program falls far short of adequately reimbursing Swain County for the federal ownership of so much county land.

This seeming inequity results in large part because the existing PILT formula does not consider fair market valuations or concepts of a local alternate “highest and best use” of these federal lands. Rather, for government lands including national forest, national parks, and water resource projects (“Section 6902” lands in PILT parlance) the payment is based on the number of acres times an inflation-adjusted multiplier, with the resulting product subject to a maximum

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<sup>84</sup> “Financial Statements, June 30, 2018,” (Swain County, North Carolina, 2018). Figure 3, 7. [http://www.swaincountync.gov/page\\_files/administration/budget/SwainCounty2018Audit.pdf](http://www.swaincountync.gov/page_files/administration/budget/SwainCounty2018Audit.pdf).

amount based on population density.<sup>85</sup> There is no qualitative consideration whether the land is in the middle of a desert or, of relevance to Swain County, whether the land is on a mountain ridge in the Smoky Mountains with a fifty-mile view.

The PILT program has also been subject to varying levels of federal government support, creating uncertainty for local governments. As early as 1954 representatives from western states banded together to form the Interstate Association of Public Land Counties to consolidated lobbying efforts for more dependable funding for the PILT program. PILT was signed into federal law in 1976, but budget constraints in the 1980s led for calls to “zero” the PILT program budget. Additional legislation in 2004 indexed PILT amounts for inflation, but PILT funding remained discretionary until more legislation in 2008 provided for five years of mandatory funding for the program. It currently remains subject to annual appropriations.<sup>86</sup>

Swain County leaders may have been mollified regarding the loss of property tax revenues due to the conversion of county lands to federal projects such as GSMNP and TVA’s Fontana Dam by the presence of the PILT program and the seeming reassurance provided by replacement revenues. However, while the PILT program may provide an equitable result for counties in western states with vast tracts of otherwise essentially unusable lands, in contrast the land of Swain County is now highly-desirable for the burgeoning market of baby boomers seeking homesites for their “mountain getaways.” Even by conservative assumptions it appears that that Swain County is significantly disadvantaged by the PILT program versus what they could collect in local property tax revenues.

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<sup>85</sup> “*National Summary, Fiscal Year 2019 Payments in Lieu of Taxes*,” 5.

<sup>86</sup> Jonathan Shuffield, “The Payments in Lieu of Taxes (PILT) Program,” (Presentation for the National Association of Counties, September, 2017). 11-13.

Yet TVA's arrival in the region was viewed as a "harbinger of prosperity" and many local boosters thought the Fontana Dam project, "combined with the nearby national park, would make Bryson City attractive to both industry and tourists."<sup>87</sup> Park boosters "often had maintained that the establishment of the national park would bring good roads to these mountainous regions at last" and they expected the federal government to keep its promise.<sup>88</sup> Pierce notes, however, the unfortunate coincidence that the establishment of GSMNP aligned with a shifting mindset within the National Park Service and Department of the Interior toward emphasis of wilderness preservation over "entertaining tourists" and the irony that this new stance "put the Park Service at odds with the very people who helped to make the park a reality, the regional park boosters."<sup>89</sup>

TVA officials promoted the potential recreational benefit of the reservoir and the potential for the dam workers' housing, Fontana Village, to be converted to tourist lodging. However, "while advocating tourism as a viable economic development strategy in the mountain South, the agency did not put its vision into practice in western North Carolina."<sup>90</sup> Although the TVA cooperated with local tourism efforts, it "did little directly to expand tourist traffic."<sup>91</sup> By 1950 Fontana Village was routinely only two-thirds full, the decision to pursue leasing it to middle-class tourists "an abysmal failure."<sup>92</sup> Even more problematic, the reservoir was subject to annual drawdowns that could start as early as July and extend for months, "significantly detracting from

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<sup>87</sup> Richard D. Starnes, *Creating the Land of the Sky: Tourism and Society in Western North Carolina*, (Tuscaloosa, AL: University Alabama Press, 2005), 125.

<sup>88</sup> Pierce, *The Great Smokies*, 185.

<sup>89</sup> Pierce, *The Great Smokies*, 192.

<sup>90</sup> Starnes, *Creating the Land of the Sky*, 126.

<sup>91</sup> Starnes, *Creating the Land of the Sky*, 126.

<sup>92</sup> Taylor, *The New South's New Frontier*, 126.

the value of the area as a tourist attraction during what would otherwise have been the peak of the tourist season,” prompting one Swain County Commissioner to exclaim “who wants to view a lake that is nothing but mud and a trickle of water?”<sup>93</sup> As a result, “the economic boon from lake traffic that Swain and Graham counties hoped for never arrived.”<sup>94</sup> As noted by scholar Stephen Taylor, the “TVA exercised too much and too little influence over the region’s unsteady growth as a tourist center.”<sup>95</sup> A review of TVA activities acknowledged that the agency “had been less successful in the development of land resources in its geographic area and still less so in bringing about the social and economic changes required for economic development.”<sup>96</sup>

However, as anyone who has tried to navigate past the endless pancake shops and through the throngs of tourists along the main strip of Gatlinburg on a nice summer afternoon can attest, failing to recreate that experience in North Carolina may be a good thing. Brendan Martin, a professor at Middle Tennessee State University, has studied the growth of the tourism industry in the area surrounding Gatlinburg and Pigeon Forge. He notes that at the outset of the twentieth century “out-migration to the industrial centers of Appalachia appeared to be the only viable option - and viewed as one of last resort - for local residents seeking non-farming employment” and “while logging provided a temporary solution to this problem, tourism seemed to offer a long-term source of jobs.”<sup>97</sup> Growth in Gatlinburg and Pigeon Forge came as GSMNP

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<sup>93</sup> Taylor, *The New South's New Frontier*, 128.

<sup>94</sup> Brown, *The Wild East*, 168.

<sup>95</sup> Stephen Wallace Taylor, “Building the Back of Beyond : Government Authority, Community Life and Economic Development in the Upper Little Tennessee Valley, 1880-1992,” (PhD Diss., University of Tennessee, 1996.) 158-159.

<sup>96</sup> Gilbert Banner, “Toward More Realistic Assumptions in Regional Economic Development,” in *The Economic Impact of TVA*, ed. John R Moore, (Knoxville, TN: University of Tennessee Press, 1967), 123.

<sup>97</sup> C. Brenden Martin, *Tourism in the Mountain South : A Double-Edged Sword*, (Knoxville, TN: University of Tennessee Press, 2007), 129.

was completed and the federal government constructed roads into the area, and for a time local families controlled and profited from that development. As one local proprietor noted, however, “what really changed Gatlinburg was when people who owned the businesses got too tired or too old, and they either leased or sold.”<sup>98</sup> By the 1980s outside developers threatened the local control of Gatlinburg, and “by the late 1990s it was estimated that, although local families still own(ed) most of the land in Pigeon Forge, more than 75 percent of tourism profits (were) funneled out of the community.”<sup>99</sup> In other words, while early local investors may profit from the initial growth of tourism in an area, increasingly profits over the long-term flow to corporate, absentee owners.

Scholars have considered this “absentee” ownership issue in the tourism industry, noting “it is important to carefully analyze the industry’s economic ramifications, especially in light of the historical commodification of the Appalachia region as a travel destination and the way tourism has been historically linked to the outside control of the region’s resources” and further that “there is evidence to indicate that ‘economic development’ linked to the tourism industry is unstable and suspect.”<sup>100</sup>

Martin summarizes that “the economics of modern tourism cut two ways. Although tourism provides income, revenue, and entrepreneurial opportunities to local residents, it generates primarily low-wage, seasonal jobs and creates additional tax burdens for resort

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<sup>98</sup> Martin, *Tourism in the Mountain South*, 128. Quoting Wilma Maples, proprietor of the Gatlinburg Inn.

<sup>99</sup> Martin, *Tourism in the Mountain South*, 128, 132.

<sup>100</sup> Stephen Paul Whitaker, “A New Wave of Colonization: The Economics of the Tourism and Travel Industry in Appalachian Kentucky,” *Journal of Appalachian Studies* 6, no. 1/2 (2000): 39, 45.

communities” and “moreover, the distribution of economic benefits tends to favor outside investors over local interests.”<sup>101</sup>

As was the case with local enthusiasm over the creation of GSMNP, it is obvious that the motivation for Swain County’s leaders in pursuit of the TVA’s involvement was purely economic. They pursued short-term gains in the form of depression-era jobs and promises of tourism to the detriment of all other factors, including notably the welfare of many of their own residents as well as the permanent impact of ceding county lands to the federal government.

Fontana Dam flooded the Little Tennessee River valley with a reservoir approximately seventeen miles long, and absent federal government involvement Swain County would have been able to control the private development of the entire north shore of that riverfront. It is not a difficult leap to look at residential and commercial examples in nearby counties and consider the property tax revenues and other economic benefits that could result from the commercial or residential use of miles-long riverfront land with proximate access to a national park.

Swain County civic leaders led a century-long, quixotic quest to convert their “investment” in GSMNP into tourism dollars. Fresh from their pursuit of GSMNP in the 1920s, in less than two decades Swain County leaders repeated the process by courting the TVA in the late 1930s and early 1940s. It is clear that, expectations to the contrary, the Fontana Dam project did not result in the economic development that was expected based on TVA representations. In hindsight, and in consideration of the tourism industry’s impact on other Appalachian communities, perhaps local leaders’ failure to complete that linkage is not entirely a bad result. What is clear, however, is that leaders prioritized pursuit of tourism to the potential detriment of

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<sup>101</sup> Martin, *Tourism in the Mountain South*, 138.

other community needs; the opportunity costs of those decisions continue to impact Swain County to the present day.

Given the TVA's powers of eminent domain the Fontana project probably would have proceeded with or without the endorsement of Swain County leaders. As was the case with the GSMNP courtship, however, local civic leaders prioritized the TVA project to the detriment of other projects, and failed to apply proper due diligence to claims and projections made by the TVA. Had they applied better scrutiny to these projections, they perhaps could have better negotiated Swain County's position in the Fontana project. Once again, in hindsight it appears to be a missed opportunity that resulted in long-lasting ramifications for all Swain County residents.

Richard Starnes notes that "federal holdings, in large part, (dictate) the future course of mountain economic development." The conversion of lands to federal ownership limits access for timber, mining and other extractive industries that have long provided jobs in the region, which in turn makes "extensive industrialization economically nonviable, limiting the availability of high-wage industrial jobs." Concerning federal encroachment into western North Carolina, Starnes succinctly and soberingly concludes that "persistent poverty was the most important result of federal projects for nearby mountain communities."<sup>102</sup>

Economist Matthew Kahn is of the opinion that for economic growth, rather than courting federal projects, "Appalachia must focus on a homegrown strategy of educating its own young and then encouraging a large fraction of this group to remain in the region through economic opportunity, social networks, family, and a taste for living in one's region of birth."<sup>103</sup>

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<sup>102</sup> Starnes, *Creating the Land of the Sky*, 126.

<sup>103</sup> Kahn, "Cities, Economic Development, and the Role of Place-Based Policies," 160.

Swain County leaders time and again made the conscious decision to pursue large federal projects, often to the detriment of their own citizens, in pursuit of economic development centered on an increased tourism trade. To that end they willingly accepted the rosy forecasts promulgated by national park boosters and the TVA. They enthusiastically ceded control of county property to the federal government in pursuit of these financial gains. And when the tourism revenues did not materialize, county leaders were resigned to accept funding from a federal program that does not appear to provide an equitable result and subjects the county to budget uncertainty. The unavoidable conclusion is that the pursuit of federal projects, undertaken not for conservation purposes but for economic gain, did not result in the anticipated financial prosperity for Swain County residents.

## Chapter Two

### North Shore Residents Seek Judicial Relief

*“Far better that the Government should lose some money  
than deprive a single humble citizen of his individual right”*

President Franklin Roosevelt had initially called for the creation of the TVA in April 1933, asking Congress to create “a corporation clothed with the power of government but possessed of the flexibility and initiative of a private enterprise. It should be charged with the broadest duty of planning for the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and its adjoining territory . . . (and) should also be clothed with the necessary power to carry these plans into effect.”<sup>104</sup>

Congress followed Roosevelt’s bidding with the passage of the TVA Act of 1933 and subsequent amendments in 1935.<sup>105</sup> The 1933 TVA Act (and its 1935 amendments) permitted the agency to conduct its own land condemnation and could “decide which lands were needed, employ its own appraisers, and make non-negotiable offers to landowners.”<sup>106</sup> The Act granted the TVA broad powers of eminent domain, stating it “(s)hall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail and *refuse to sell to the Corporation at a price deemed fair and reasonable by the Board*, then *the Corporation may proceed to exercise*

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<sup>104</sup> Marguerite Owen, *The Tennessee Valley Authority*, (New York, NY: Praeger Library of U.S. Government Departments and Agencies, no. 35, 1973), 14.

<sup>105</sup> *Tennessee Valley Authority Act of 1933*, [48 Stat. 58-59, 16 U.S.C. sec. 831]

<sup>106</sup> Brown, *The Wild East*, 159.

*the right of eminent domain, and to condemn all property that it deems necessary* for carrying out the purposes of this Act.”<sup>107</sup> (*emphasis added*). In other words, the TVA had the sole power to determine what property it needed, determine its valuation of the “fair and reasonable” price it was willing to pay, and seize the property of anyone that disagreed.

When property owners did not willingly convey their property to TVA for TVA’s stipulated price, TVA’s Legal Division followed a unique condemnation process in which the case was first sent to a commission of three “disinterested local residents,” appointed by the area’s U.S. District Court, who had the power to adjust the valuation of the property. If either the landowner or TVA took exception to the commission’s valuation, the case was heard before a panel of three District judges. These results could be further appealed to the Circuit Court of Appeals. The process of condemnation hearings was “specifically drafted for protection against ‘unreasonable jury awards’” by litigious “complicated kinship networks of the region.”<sup>108</sup> From TVA’s perspective the process resulted in a consistency of condemnation awards and accordingly was a success; landowners, in contrast, had the realization “there is little probability that they will obtain through litigation a substantial increase over the amount” originally “offered” by TVA. This perception of futility by property owners no doubt “contributed greatly to TVA’s success in acquiring the land needed for its projects by voluntary purchase and sale.” This sense of apparent pointlessness was evidenced by a 1949 assessment of TVA’s land acquisition

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<sup>107</sup> Sec. 4(i), *Tennessee Valley Authority Act of 1933*, [48 Stat. 58-59, 16 U.S.C. sec. 831]

<sup>108</sup> McDonald and Muldowny, *TVA and the Dispossessed*, Quote from TVA Assistant General Counsel Charles J. McCarthy, author of TVA document “Land Acquisitions,” 138.

practices which noted that only 3% of the tracts acquired for all projects through that date had been the result of contested condemnation proceedings.<sup>109</sup>

TVA utilized these policies and procedures for the land acquisitions pursuant to the Fontana project, noting “prices to be paid for the land were fixed by TVA’s appraisal staff.” Regarding the ability for landowners to provide additional factors for the valuations or to propose counteroffers, TVA stated “no price-trading was permitted to enter into the negotiations and the property was either purchased at the appraised price or condemned.”<sup>110</sup>

In addition to issues surrounding valuation, TVA had also been subject to scrutiny and controversy over its policy of “overpurchase,” that is, acquisition of private lands in excess of that needed directly for dam construction or the resulting reservoir pools, which were typically acquired in fee simple terms. The conflict boiled down to disagreements over land that abutted the intended normal high water mark of the reservoir and surrounding properties; if the land had the potential to flood “once a year or once every fifty years” should the Authority simply purchase a flowage easement from the impacted property owner and allow private use of the land to continue subject to that easement, or should the impacted property be purchased outright in fee simple terms to facilitate the more general objectives of TVA related to reforestation, retirement of marginal farmlands, and conservation? From 1933 until 1942 TVA “pursued a policy of heavy purchase of land in fee simple.” For the Norris Dam project in the mid 1930s, for example, TVA purchased 153,008 acres, of which 120,000 acres, or 78.4% of all purchases, were above normal pool elevation of the reservoir; only 51 acres of flowage easements were purchased.<sup>111</sup>

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<sup>109</sup> McDonald and Muldowny, *TVA and the Dispossessed*, 138. Quoting McCarthy, *ibid.*

<sup>110</sup> *The Fontana Project*, 478.

<sup>111</sup> McDonald and Muldowny, *TVA and the Dispossessed*, 128-129.

Criticism of this policy led TVA to reconsider their policy regarding fee simple versus flowage easement acquisitions. In February, 1942, the TVA Board of Directors adopted a resolution addressing the “question as to the nature and amount of lands and interests in land to be acquired by the Authority for dam construction and reservoir purposes” and noted that “it now appears desirable for the Board to establish the general policies to be followed in the future in the acquisition of land and interests in land for all such projects.” The Board resolved that “all future purchases” for dams and permanent structures should be acquired in fee simple, as well as generally construction-related facilities and housing, as well as “in general, tracts of land to be flooded permanently or frequently, for long periods.” However, it was further “hereby declared to be the policy of the Board to limit the purchase of land for reservoir purposes to the minimum appropriate for the particular project” and “in general, land lying above the zone of reservoir fluctuation shall not be purchased in fee simple, except where it is found that such purchase is necessary or expedient.” The Board then listed several circumstances in which it might be considered “necessary or expedient” to acquire above-reservoir land, including “impracticable severances, isolation of property or disproportionate road relocation costs”; however, “such purchases whenever practicable shall be by easements.”<sup>112</sup>

Thus as the Fontana Project was initiated TVA land acquisition personnel were clearly instructed by the TVA Board to minimize fee simple acquisitions and, wherever possible, allow private ownership of land to continue pursuant to a flowage easement. TVA personnel in charge at Fontana, however, continued to espouse a broad definition and concept of the “greater good”

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<sup>112</sup> “Notice of Action Taken By The Board of Directors,” from A. Fletcher Percefull, Tennessee Valley Authority, February 12, 1942. Included in Appendix B of *Land Purchase Control for the Fontana Project*, Tennessee Valley Authority, March 1948.

mindset, stating that when it came to the right of individual property owners, “foremost among the considerations is the precept that any dam and reservoir project constructed by the Authority is a public enterprise and the paramount interests are those of the public. Therefore, precedence can only be given to the special interests of individual property owners affected so long as they are consistent with those of the public.” The construction of a reservoir with “public funds” created “peculiar values” which were not inherent in “the conception of private ownership of real property.”<sup>113</sup>

TVA personnel at Fontana relied on a “purchase doctrine” that incorporated conceptions from “the standpoint of ultimate, over-all economy,” a subjective and discretionary evaluation entirely of the TVA’s purview. Regarding the potential sever-ability of private lands that were only partially needed for the Fontana Project, TVA staff took it upon themselves to consider whether the remaining land would have “any substantial value to the owner,” whether access would be prohibitively expensive, or whether the land was potentially needed for ongoing development “by another Federal agency, such as the Park Service or Forest Service.” TVA personnel even undertook “certain considerations of a more or less abstract nature” including the perceived “psychological effect on the owner” if left with only a portion of their original holdings.<sup>114</sup>

Given that they employed wide discretion and embraced concepts that broadly embraced even the vaguest concept of operating in the “public interest” it is not surprising that TVA land acquisition personnel at Fontana defaulted to acquiring property in fee simple, even for land

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<sup>113</sup> *Land Purchase Control for the Fontana Project*, Tennessee Valley Authority, March 1948. 2.

<sup>114</sup> *Land Purchase Control for the Fontana Project*, Tennessee Valley Authority, March 1948. 2-4.

tracts potentially dividable or for tracts entirely above the reservoir high water mark. The final land acquisition report notes “although the acquisition program for the Fontana Reservoir came under policy criteria definitely emphasizing application of the flowage easement principle, which in itself limits the extent of acquisition to a bare minimum, in practice the purchase of easements proved to be impractical except at the upstream limits of the reservoir.”<sup>115</sup>

TVA’s final published report on the Fontana Project quantifies the results of these land acquisition policies. Land acquisitions totaled 68,292 acres, of which 67,214 acres were acquired in fee simple, and only 829 acres and 249 acres were acquired as flowage and highways easements, respectively.<sup>116</sup> Thus, in spite of TVA Board policies explicitly to the contrary, 98.4% of all acquisitions for the Fontana Project were in fee simple form. The report states that “although [the flowage element policy was] observed as literally as practicable, circumstances peculiar to the Fontana project were not conducive to the extensive application of the flowage element principle.”<sup>117</sup>

The detail of land acquisition results provided by TVA’s internal-use report, *Land Purchase Control for the Fontana Project*, provide even more insightful data relative to the landowners on the North Shore. Of the final tally of 67,144 acres obtained in fee simple for the dam site and and reservoir, only 25,216 acres needed to be acquired based on the originally-envisioned footprint of the Fontana Project, 1,962 acres for the dam site and 23,254 acres for the reservoir. Additionally, of the 23,254 acres needed for the reservoir, 13,592 acres were in possession of the Aluminum Company of America (“ALCOA”), property which TVA had

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<sup>115</sup> *Land Purchase Control for the Fontana Project*. 5.

<sup>116</sup> *The Fontana Project*, 479.

<sup>117</sup> *The Fontana Project*, 473.

already negotiated to obtain; thus, only 11,624 acres remained to be acquired. In other words, for the project as originally envisioned, TVA already had more than half the total land needed.

However, the “four-way agreement” between the TVA, the State of North Carolina, Swain County, and the National Park Service in late 1943 that resulted in TVA forcibly acquiring all of the North Shore properties and transferring the entire parcel to the National Park Service necessitated additional land acquisitions of 40,054 acres. In other words, of the total fee simple properties obtained by TVA in the amount of 67,144 acres for the Fontana Project, 40,054 acres, or *60% of all the land obtained for Fontana* came from North Shore landowners. Further, considering the acreage already deeded from ALCOA to TVA, *75% of all the land remaining to be obtained for Fontana* came from North Shore landowners.<sup>118</sup> In spite of the criticisms of the “over purchase” policy on previous TVA projects such as the Norris Dam, and resulting directives to keep fee simple acquisitions to a minimum, the results of land acquisitions for the Fontana Project mirrored the final tally at Norris Dam that garnered so much controversy.

The North Shore properties were portrayed by TVA as a land acquisition “problem,” with inference that this land was somehow incidental to the larger, overall project. Based on acreage, the North Shore landowners collectively were by a significant margin the majority counterparties to TVA’s plans in the Fontana region. As evidenced by their total exclusion from the “four-way agreement,” however, their property rights never received equitable treatment from TVA or the other parties involved in the land acquisition decisions.

Policies such as fixed appraisals, no negotiations, and forced condemnations coupled with an apparent proclivity to err on the side of over-purchase if there was any question about a

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<sup>118</sup> *Land Purchase Control for the Fontana Project*, Tennessee Valley Authority, March 1948. Appendix D, Table 3., 41.

property's potential use, as well as a near-exclusive practice of fee simple acquisitions allowed TVA officials an almost ruthless expediency regarding land acquisitions. Yet it was within this context and against this backdrop that a select group of North Shore landowners, faced with condemnations of their land, decided their only remaining option was to pursue legal recourse against the TVA.

TVA had adjusted the anticipated completion date of Fontana Dam several times but by early 1944 was targeting November 7, 1944, as the day the floodgates on the new dam would close and begin filling the reservoir. The prospect of increasingly rising waters slowly cutting-off access to the remaining hold-out property owners on the North Shore as Highway 288 flooded ramped-up the stakes for all parties involved. Accordingly, from March through May, 1944, TVA followed condemnation proceedings against the remaining landowners by filing *ex parte* (i.e., one-sided) petitions obtaining "Declaration of Taking" Orders from the United States District Court. Undeterred by these practices by the TVA, or simply out of other options, North Shore residents Philip Rust, Fred Lollis, Arnold Bradshaw, Abraham "Cole" Hyatt, John Burns, and Columbus Welch each refused to comply with the Court's orders. It was an interesting and disparate group of landowners that thus joined together in this cause.

Philip Rust was not the typical North Shore landowner. Originally from Boston, he graduated from the Massachusetts Institute of Technology in 1920 and worked for several years as a research chemist for the American Viscose Company in Marcus Hook, Pennsylvania.<sup>119</sup> The American Viscose Company was the first company in North America to commercially manufacture an artificial fiber, Rayon. While originally intended for clothing purposes as an

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<sup>119</sup> "Mrs E.F. DuPont To Wed P.G. Rust This Afternoon," *The News Journal*, Wilmington, Delaware, May 9, 1931, 6.

affordable alternative to silk, Rayon quickly developed several important military uses, particularly as threading within tires, thus extending critical rubber needs in World War I and World War II; the company expanded rapidly throughout the 1920s.<sup>120</sup>

In 1931 Rust married Eleanor Frances du Pont, the daughter of Mr. and Mrs. Irene du Pont, a vice president at the Du Pont de Nemour Company.<sup>121</sup> A man of many interests, Rust eventually worked as a stockbroker for Laird & Company and was an accomplished flutist who occasionally played with the Wilmington (Delaware) Symphony Orchestra.<sup>122</sup>

Rust purchased a 4,365 acre parcel of former timberland located immediately outside the southern confines of Great Smoky Mountains National Park and established an ambitious reforestation plan, planting 40,000 white pine and walnut trees on the denuded slopes.<sup>123</sup> Rust visited the property frequently and hired four caretakers, one of which, Cole Hyatt, became a fellow litigant against the TVA. In addition to the forest propagation effort, the property also included a fish hatchery, a weather station, and a well-maintained thirty-mile network of trails. A private hydroelectric power plant provided electricity to the compound, which was rumored to have once hosted visiting members of the Rockefeller family.<sup>124</sup>

Abraham “Cole” Hyatt and his wife “Fanny” owned and cultivated more than 200 acres along Goldmine Branch. When Cole Hyatt became a caretaker for Philip Rust they leased their

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<sup>120</sup> “The American Viscose Company,” *Explore PAHistory.com*, <http://explorepahistory.com/hmarker.php?markerId=1-A-315>

<sup>121</sup> Irene du Pont’s Daughter Wed To Philip G. Rust,” *Daily News*, New York, New York. May 10, 1931, 61.

<sup>122</sup> “Philip G. Rust,” Obituary, *The Morning News*, Wilmington, Delaware, October 11, 1986, 1.

<sup>123</sup> *Land Purchase Control for the Fontana Project*, 182. for acreage and “W.W. Jenkins Removal Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B. for tree-planting program.

<sup>124</sup> Taylor, *The New South’s New Frontier*, 119.

farm to a tenant farmer and moved the family into a house on the Rust estate. The “beautiful seven-room house” was “far above average in this community” with numerous plantings and shade trees, and was “well furnished and kept in a neat orderly manner.” Cole Hyatt was noted as a lifelong resident of the neighborhood and an active participant in community affairs; the couple was described as “hard-working respected citizens.”<sup>125</sup> Youngest son Lawrence Hyatt recalls an idyllic existence, with days full of fishing and exploring the Rust property and beyond.<sup>126</sup> In 1942 a TVA worker noted that “Mr. Hyatt desires that the Authority not purchase the [above reservoir land]” and thus “a problem is anticipated in dealing with Mr. Hyatt.”<sup>127</sup> In May, 1944, the TVA recorded that “Mr. Hyatt has refused to sign a contract for the sale of his land on Goldmine Branch.” Indeed, Lawrence Hyatt remembers that “the TVA men would come and talk to father and mother for hours trying to get them to sell their land.”<sup>128</sup>

Arnold Bradshaw owned five separate tracts of land within the Fontana project footprint, totaling more than 300 acres.<sup>129</sup> He and his wife “Meeter” lived with three children in the Epp Springs neighborhood. A former merchant for more than twenty-five years, Bradshaw now farmed. TVA noted that Bradshaw “is probably the most influential citizen in this section” having previously served as the foreman of the Swain County Grand Jury and had recently taken a lead role in circulating petitions calling for the relocation of Highway 288. The file takes a slightly disparaging tone, however, noting that while the Bradshaw house is “a little better than the

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<sup>125</sup> “Cole Hyatt Removal Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

<sup>126</sup> Lawrence Hyatt. Personal interview. October 30, 2020.

<sup>127</sup> “Cole Hyatt Removal Sheet,” Tennessee Valley Authority.

<sup>128</sup> Lawrence Hyatt. interview.

<sup>129</sup> *Land Purchase Control for the Fontana Project*, 49.

average condition in this neighborhood,” and in the TVA worker’s opinion “the family does not live on the level that would be expected” given “Mr. Bradshaw’s standing in the community.” The worker also apparently misjudged Bradshaw’s resolve, stating in February, 1943, that regarding displacement, “no problem will be involved, provided Mr. Bradshaw receives what he thinks is a fair price for his property.” By May, 1944, however, the TVA noted that “Mr. Arnold Bradshaw has refused to sign a contract for the sale of his property,” apparently insisting that he was not receiving just compensation. TVA noted “a problem is expected in the removal of Mr. Bradshaw.”<sup>130</sup>

Fred Lollis owned almost 200 acres on Canebrake Branch with his brother, Arthur Lollis.<sup>131</sup> A lifelong bachelor, Fred is remembered as “a gentle man who adored children” and a “tall, dark and handsome sort of fellow who always dressed up for church.” Lollis’ homeplace was in a “broad, gently-sloping hollow” and the nearby creek powered a small electric generator that he constructed. Even today roses and daffodils continue to bloom on the site, decades after Lollis planted them. Lollis farmed his land, had worked for the survey crew mapping Great Smoky Mountains National Park, and was employed by the TVA constructing Fontana Dam when he was drafted into the Marines not long after the onset of World War II. Lollis had the misfortune to be away from home, serving his country, when the decision was made by TVA to seize the land on the North Shore. By the time he got home from his military service he found that his land, fully three-fourths of a mile from the new reservoir, had been taken.<sup>132</sup> To add

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<sup>130</sup> “Arnold Bradshaw Removal Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

<sup>131</sup> *Land Purchase Control for the Fontana Project*, 98.

<sup>132</sup> Don Casada, “The Fred Lollis Story,” *Blind Pig and the Acorn*, website, <https://blindpigandtheacorn.com/the-fred-llolis-story/>

insult, the TVA had even given permission for another farmer to temporarily graze their cows on his land <sup>133</sup>

John Burns was a lifelong resident of the Epp Springs community. He and his wife, Julia, owned tracts of 82 areas and 72 acres, respectively, and had been on their present property for thirty years.<sup>134</sup> They were in their late fifties and had raised a large family, many of which continued to live nearby, including two married sons with homes on the same property. TVA's case file on the Burns family appears undeniably biased, asserting that John Burns was not "active in community affairs, other than his participation in political campaigns." The file seemingly contradicts this by also noting that John Burns had been a WPA foreman for eight years. The file begrudgingly acknowledges the Burns' six-room painted house (a nice rarity, according to the TVA official) and then proceeds to delineate perceived family faults such as "heavy drinking" by Mr. Burns, allegations of moonshining, a unmarried daughter on public assistance with children, a son that had served time in prison "on liquor charges," and so on. The tone of the file probably reflects TVA's frustration in dealing with John Burns, as evidenced by records from a May, 1944, visit which noted "Mr. John Burns has refused to sign a contract for the sale of his property to the Authority" and, further noting the expectation that Burns would be pursuing legal options, concludes that "a problem is anticipated."<sup>135</sup>

S. Columbus Welch and his brother, J.C. Welch, came from a large family with long ties to the area. The family homeplace, an impressive two-story frame house with several

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<sup>133</sup> Christine Cole Proctor and Leonard Cole. Personal interview. July 30, 2020.

<sup>134</sup> *Land Purchase Control for the Fontana Project*, 51. and "John Burns Removal Sheet," Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

<sup>135</sup> "John Burns Removal Sheet," Tennessee Valley Authority.

outbuildings and a painted fence, fronted the railroad tracks that ran through Bushnell. The Welches had sold the property to Nantahala Power and Light in anticipation of NP&L's small dam project, but continued to rent the house and property back from the utility and lived and farmed there, jointly raising their orphaned niece. Columbus Welch had an additional 162 acre plot farther-up the mountain that he leased to another farmer.

These six individuals, Rust, Hyatt, Bradshaw, Lollis, Burns, and Welch, represented some of the most prominent North Shore property owners and long-time residents. The group included august and respected local citizens such as a grand jury officer and a returning veteran, citizens active in community affairs, and an educated and affluent conservationist from New England. Most had raised families on these lands and had farms of 150 acres or more. They were hardly the motley rustic rubes that TVA liked to portray as the native Fontana populations. And all took issue with TVA's contention that their land, in some cases up to four miles away from the new reservoir, were needed for the Fontana Dam project.

By late 1944 and early 1945 the waters of the reservoir lapped across NC Highway 288 and the sole means of ingress and egress for the North Shore properties disappeared. The TVA could wait no longer and petitioned the federal District Court of the United States for the Western District of North Carolina, Asheville Division, which was meeting in Shelby, North Carolina, to enforce the "Declarations of Taking" that had been issued in early 1944 against the six respondents. The crux of the respondents' argument against this action was that the TVA had overstepped its authority and their lands should not be subject to eminent domain proceedings by the TVA, as the lands were above the Fontana reservoir and thus not needed by the TVA, and

further that one federal agency should not condemn land only to transfer it to another federal agency.

The respondents' cases were scheduled to be heard by Judge Edwin Yates Webb, and if they were hoping for a Republican-leaning, advocate of laissez-faire government to serve as the arbiter hearing their concerns about the far-reaching impacts of one of President Franklin Roosevelt's New Deal programs, they had to be disappointed. Edwin Webb was a native of Shelby who attended Wake Forest College and then law school at the University of North Carolina, graduating in 1893 and 1894, respectively. He quickly became a rising young star in the Democratic party, serving as temporary chairman and a keynote speaker for the North Carolina Democratic Convention in 1900, was elected a state senator, and then was elected to Congress from 1903 until 1919.<sup>136</sup> At only forty years of age Webb was selected as chairman of the House Judiciary Committee.<sup>137</sup> In this role he earned "a reputation as a congressman who had 'introduced and successfully piloted through'" more measures for the administration of Woodrow Wilson than any other member of Congress.<sup>138</sup> While in Congress Webb was an ardent advocate of prohibitionist causes, helping to draft the Webb-Kenyon Act restricting interstate commerce of alcohol, aided the writing of the eighteenth amendment implementing prohibition, and introduced the 1918 Sedition Act, a controversial measure that made certain criticisms of the government illegal. In recognition of his to ability to promote the administration's legislative objectives, President Wilson appointed him as a federal district judge in 1919.<sup>139</sup> Together with

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<sup>136</sup> "Carolinians in Washington," *The Charlotte Observer*; November 9, 1941, 18.

<sup>137</sup> "Mr. Webb's Promotion Just Reward of Merit," *Greensboro Daily News*, May 14, 1914, 7.

<sup>138</sup> Richard L. Watson, Jr., "Principle, Party, and Constituency: The North Carolina Congressional Delegation, 1917-1919," *The North Carolina Historical Review*, Vol. 56, No. 3. (July 1979): 300.

<sup>139</sup> Watson Jr., "Principle, Party, and Constituency," 301.

his brother James L. Webb, himself a superior court judge, the brothers formed a core of political power within the region that came to be known as the “Shelby Dynasty.” Their name continues in the area to this day in Gardner-Webb College (now “University”), a Baptist-affiliated institution they helped found.

So it may have been with some trepidation that the six respondents came before Judge Webb in his courtroom. Called as witnesses to provide testimony on behalf of the petitioner, TVA, were Robert Frierson, TVA Senior Civil Engineer in charge off the Land Purchase Control Section; Frank Webster, head of the Highway Division at TVA; Charles Ross, General Counsel and Acting Chairman of the Sate Highway Commission of North Carolina; Percy Farrabee, Commissioner for the State Highway Commission of the State of North Carolina; and Howard Menhinick, Director of the Department of Regional Studies at the TVA. Pursuant to leading questions by William Fitts, counsel for TVA, these five witnesses relayed the considerations and negotiations that had resulted in the “four-way agreement” between TVA, the State of North Carolina, Swain County, and the National Park Service that ultimately gave rise to TVA’s condemnation of the North Shore property-holders’ lands; to these witnesses for the petitioner, it was the most economical manner to resolve issues regarding TVA’a potential liability for flooding NC Highway 288, which was owned by the State of North Carolina but remained subject to a large outstanding debt balance owed by Swain County. Under questioning and aided by TVA maps, the witnesses conceded that the need for access roads into the area was now greatly diminished because TVA had already acquired the vast majority of the properties. To access John Burns’ property a road of approximately one mile in length at a cost of \$40,000 was estimated, while to reach Columbus Welch’s property would take a road of twelve of thirteen

miles at a very rough estimate of \$450,000 to \$500,000. To provide access to the the properties of Rust, Lollis, Hyatt, and Bradshaw, which were clustered toward the far eastern side of the North Shore tract, the cost was estimated at more than \$300,000. The estimate of replacing NC Highway 288 with a new road of similar quality was \$1,400,000, but due to the poor condition of the original highway, the witnesses thought rebuilding such a thoroughfare would be a waste of money with little value to anyone other than the respondents.

Further testimony by the TVA witnesses concerned the inadvisability of leaving private enclaves of land within the national park, particularly if no means of access were provided. The witnesses for TVA acknowledged, however, that none of the properties in question were anticipated to be flooded, except for approximately one acre of Columbus Welch's 162-acre tract.

At one point while the TVA witnesses were laying-out these concerns and rationales, Judge Webb, questioning Commissioner Farrabee of the North Carolina Highway Commission, wryly remarked "I think your plan was good, if you can just get the land that belongs to these fellows here." To Frank Webster of the TVA highway department Judge Webb gets to the heart of the legal issues he's wrestling with, saying "I think you gentlemen acted with the very finest motives and my heart is absolutely with you, but the question worrying me is whether or not, under all these circumstances, you can go and take a man's land away from him when the project under which you are operating doesn't need it for project purposes, just because you want to give it to another branch of the government or turn it over to the state, or just because you don't want to build a road. Anything else?"<sup>140</sup>

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<sup>140</sup> US for the Tennessee Valley Authority vs. Lollis, Bradshaw, Rust, and Hyatt, District Court of the United States for the Western District of North Carolina, Asheville Division. March 16, 1945.

When the TVA witnesses were done, Columbus Welch was called to the stand as the lone witness for the respondents. He was asked only a few questions, all concerning what value his land would have without road access. Well, Welch responded, “I thought somebody might build one through there,” although, without a road, he conceded you “couldn’t farm it much.”

As part of the administrative procedures prior to trial, Rust, Lollis, Bradshaw and Hyatt had jointly agreed with their counsel, the petitioner TVA, TVA’s counsel, and the Court, that it made sense to consolidate their cases together for purposes of considering evidence and conducting the hearing. Further, all parties, including Welch and Burns, agreed that the evidence presented in their case could be applied to all respondents and, if after the initial verdict the cases proceeded to appeals, the six cases could be combined because they “involve common questions of law and fact” and “their consolidation will serve the convenience of the Court and of the parties and will tend to avoid unnecessary costs and delay.”

On March 16, 1945, Judge Webb filed his opinion in the cases of TVA versus Rust, Lollis, Bradshaw, and Hyatt. Webb noted that he had reviewed the statutory legislation authorizing the TVA, and while the Authority undoubtedly had the power of eminent domain for all lands necessary for the construction and maintenance of dams and reservoirs, he did “not think Congress ever intended that the power of eminent domain granted in [the TVA Act] should be liberally construed. The power of eminent domain is so supreme and imperial that, in my opinion, it stood be construed strictly.”<sup>141</sup> Webb considered prior eminent domain cases that professed “laws which require the taking of private property for public use should be strictly construed” and “held strictly within the bounds provided by the constitution and the laws”;

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<sup>141</sup> US for the Tennessee Valley Authority vs. Lollis, Bradshaw, Rust, and Hyatt, District Court of the United States for the Western District of North Carolina, Asheville Division. March 16, 1945.

continuing, “the appropriation of private property under the rights of eminent domain is an exercise of sovereign power” that, again, “must be strictly construed.”<sup>142</sup> Webb further cited a legal constitutional text that instructed “so high a prerogative as that of divesting one’s estate against his will should only be exercised when the plain letter of the law permits it”<sup>143</sup>

In consideration of this guidance, Judge Webb opined “Congress never dreamed that the Authority, in order to save some money in building a substitute road, would undertake to buy or condemn 44,000 acres of land for the purpose of dispossessing the occupants of these lands and making it unnecessary to construct the road.” While Webb stated that TVA’s plan might save some money and in that respect be a good plan, and also that “some of the landowners, who refused to sell their homes and lands, where they have lived for years, are a little perverse or stubborn” he refused to “punish their ‘perverseness’ by ‘stretching’ an act of Congress.” The State of North Carolina, not the TVA, had powers of eminent domain to condemn property for inclusion in the GSMNP and that was the established regulatory method to obtain property for the NPS, noted Webb. Finally, while he professed to be sympathetic to the Authority’s desire to save the government money, he refused to “violate [his] conception of the Constitution and the law in order to do this.” Webb concludes, “far better that the Government should lose some money than deprive a single humble citizen of his individual right.” The “Declarations of Taking” condemnation orders that have previously been issued on behalf of the TVA against the landowners were expressly stricken and set aside.

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<sup>142</sup> Webb cites *Refining Company v. Elevator Company* 82 Mo. 121 and *Hervey v. Railroad*, 174 Ill. 295.

<sup>143</sup> Webb cites Judge Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* (1868), 763.

Judge Webb's ruling in favor of the North Shore landowners was quickly publicized by the press, relaying that in the opinion of the Court the TVA "is not authorized and empowered under the acts of congress creating the Tennessee Valley Authority to condemn the lands" because "the lands sought to be condemned in this action are not sought to be condemned for any purpose or use connected with the building or maintenance of the Fontana project" and that the Court had applied "the most liberal construction which the court could place" but still could not justify TVA's actions.<sup>144</sup>

The next day, March 17, 1945, Judge Webb issued similar opinions in the cases of Burns and Welch, the only difference being Welch agreed to convey to the TVA the approximately one acre of his land that would be under water, and both Welch and Burns agreed, presumably because of their more remote locations, not to hold the TVA, the State of North Carolina, the United States, or Swain County liable for any diminishment of value in their lands or for lack of access. And with those conditions, the petitions of Welch and Burns to have their condemnation proceedings overturned were also granted.

The sense of victory was short-lived as the TVA quickly appealed the case to the U.S. Fourth Circuit Court of Appeals in Richmond, Virginia. As previously agreed, as the cases moved to appeals court, the individual cases of Rust, Lollis, Bradshaw, Hyatt, Welch and Burns were consolidated. Welch had engaged prominent Bryson City attorney McKinley Edwards for representation, while the rest employed George Ward of Asheville.

Similar to the District Court, presumably the litigants and their counsel looked ahead at the presiding judges at the upcoming level to try and determine strategy or gauge likelihood for

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<sup>144</sup> "Condemnation Exceeded TVA Power, Court Holds," *The Asheville Citizen Times*, March 17, 1945, 9.

various outcomes. Once again, the North Shore property owners likely hoped for equitable treatment from learned and impartial judges. If the respondents desired a judicial decision that garnered respect they could do no better than the three-judge panel of Armistead M. Dobie, John J. Parker, and Morris A. Soper, the current justices on the Fourth Circuit Court of Appeals. In fact, Dobie, Parker, and Soper have been acknowledged as “the Great Triumvirate” of appeals court justices.<sup>145</sup>

Armistead Dobie grew-up in Norfolk, Virginia and attended the University of Virginia, where he joined the faculty at the School of Law not long after graduation. His lectures became popular public events, particularly his annual Easter lecture, such that “students often brought dates to the event to hear the master orator working his unique magic with the English language.” Federal jurisdiction was Parker’s area of expertise, and he authored several books on the subject. He was appointed by President Franklin Roosevelt to the District Court in 1939 and, less than a year later, to the Court of Appeals for the Fourth Circuit.<sup>146</sup>

John Parker hailed from Monroe, North Carolina, a distinction he was proud of his entire life, and as such he may have had more personal empathy for the concerns of his fellow western North Carolina citizens. Described as extremely intelligent, he attended the University of North Carolina and became politically active as a young man, running for governor of North Carolina on the Republican ticket in 1920 and, after losing, dedicating himself to the study and practice of law. President Calvin Coolidge appointed him to the Court of Appeals for the Fourth Circuit in 1925. He was nominated for the Supreme Court in 1930 but the nomination was opposed by the

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<sup>145</sup> “Remembering the Fourth Court Judges: A History from 1941 to 1998,” *Washington and Lee Law Review*, Vol. 55, Issue 2, (Spring 3-1-1998): Article 5, 518.

<sup>146</sup> “Remembering the Fourth Court Judges,” 491-492.

AFL-CIO and NAACP. Staying on the Fourth Circuit Court of Appeals, he became Chief Justice in 1931.

Morris Soper came from humble beginnings in Baltimore and attended the University of Maryland. He entered the practice of law and, passionate about educational opportunities for African Americans, served as the Chairman of the Board of Trustees for historically Black Morgan College for thirty-five years. With a “searing intellect” he was known to “invariably ask the questions that attorneys hoped to avoid.”<sup>147</sup>

Collectively, the three-judge panel of Dobie, Parker, and Soper “were recognized across the nation as first-class jurists.”<sup>148</sup> The North Shore litigants could only hope that, should their cases prevail at the Fourth Circuit Court of Appeals, the very reputation of the deciding panel might end their legal battles.

The TVA argued at appeals that their rights and responsibilities extended beyond the physical structures involved in a project, and were not “complete until the legal interests of the state, the counties, and the landowners in the highway and other facilities had finally been settled” and further, that “its board of directors has the power to decide, without court review, what is necessary to complete such a project.”<sup>149</sup> The property-owning defendants argued that the TVA was seeking to take their land not for an approved public use, but rather an excess of what was needed for the approved project, the dam and reservoir. The appeals court opinion states that

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<sup>147</sup> “Remembering the Fourth Court Judges,” 514, 517.

<sup>148</sup> “Remembering the Fourth Court Judges,” 492.

<sup>149</sup> “TVA May Appeal N.C. Land Ruling,” *The Knoxville News Sentinel*, July 22, 1945, 20.

“we think, as did [District Court Judge Webb] that this position is well taken,” further stating “TVA seeks to spell out an almost unlimited power of condemnation.”<sup>150</sup>

TVA was essentially arguing that their Board alone had the ability to determine what was necessary for TVA purposes, and such determinations were beyond judicial review. The Court acknowledged this general principle, that the “necessity of a taking for public use is a legislative and not a judicial question . . . when determined by the legislature, or by an agency created for that purpose.” However, the Court pushed back at TVA’s assertion, noting that “it is equally well settled, however, that the nature of a use, whether public or private, is ultimately a judicial question.” The Court cited several cases in which a municipality had condemned land to build a public street and then sell any remaining excess land at reduce the overall cost of the project, citing “the more fact that the land may be resold at a profit . . . does not justify the excess taking . . . [and] whether the particular use authorized is public is always a question for the judiciary.”<sup>151</sup>

TVA cited a Supreme Court case that permitted the condemnation of land for a reservoir, which in turn relied on a case involving condemnation of land for a railroad, but the Court distinguished the instant case from those, stating “when TVA attempts to condemn lands, not for a substitute roadway, but in order that it may convey them to a public park in order to obtain from the state a release of damages for flooding the road, a very different question is presented. No authority is cited which even remotely sustains such exercises of power, and we know of none.”

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<sup>150</sup> United States Tennessee Valley Auth. v. Welch, 150 F.2d 613 (4th Cir. 1945).

<sup>151</sup> The Court specifically cited *Richmond v. Carneal*, 129 Va. 388, 106 S.E. 403 14 A.L.R. 1341 and *City of Cincinnati v. Vester*, 271 U.S. 439, 446.

Akin to the District Court, the Court of Appeals noted the availability of the Weeks Law, stating that if the United States wanted the land for the national park, they could condemn the parcels when they had funds available; “the TVA, however, has no right to condemn the land for such purposes; and for the reasons above stated, we do not think that it may do so merely because by doing so it can settle a liability for flooding a highway.” And thus, on July 21, 1945, the Fourth Court of Appeals once again determined that the TVA’s plan was an overreach and abuse of its powers of eminent domain, and in doing so confirmed the decision of the District Court and found for the North Shore property owners.<sup>152</sup>

At this point the respondents Rust, Lollis, Bradshaw, Hyatt, Welch and Burns had recorded two straight victories over the TVA. Their position had been validated and eloquently explained by Judge Webb at the District Court level. The TVA’s counter argument, that the decisions of the TVA’s board were beyond the purview of the judicial system, had been roundly rejected by the Appeals Court, who also found for the respondents. The TVA, however, no doubt mindful of the future potential trouble that could be caused by allowing an unfavorable eminent domain judgment to stand, decided to appeal the case once again, this time to the final arbiter, the Supreme Court.<sup>153</sup> In an interesting sidenote to these judicial wranglings resulting from the Fontana Project, which had been promulgated as a patriotic necessity, only a few weeks after the Appeals Courts verdict in July, World War II came to an end with armistice on August 14, 1945, and the surrender of Japan on September 2, 1945. Any lingering assumptions or TVA positions based on the need of the North Shore land as part of some larger “war effort” argument, or that

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<sup>152</sup> United States Tennessee Valley Auth. v. Welch, 150 F.2d 613 (4th Cir. 1945).

<sup>153</sup> “TVA May Appeal N.C. Land Ruling,” *Knoxville News Sentinel*, July 22, 1945, 20. and “TVA Denied Right to Condemn Land,” *The Knoxville Journal*, July 22, 1945, 5.

the construction of a replacement road would by necessity come under the purview of the War Production Board, was extinguished.

TVA's appeal to the Supreme Court continued on an expedited basis and the high court took up the case in early 1946. The high court considered the prior arguments made by the petitioner TVA and the respondents, Rust, Lollis, Bradshaw, Hyatt, Welch, and Burns, in the lower District Court and on appeals. TVA counsel presented a written brief reasserting their position that the court decisions to date were improperly inconsistent with other cases, cited similar policies that had been in place on other TVA projects, and asserted that the respondents simply wanted their parcels to be "surrounded by a national park and served by a parkway, [and thus] their lands would be a recreational paradise."<sup>154</sup>

The respondents' attorneys, McKinley Edwards, G.L. Jones, and George H. Ward, likewise filed a brief in opposition. This counsel noted that of the much-discussed four-way contract, "none of the landowners are parties to the contract, and there is nothing in the record in any of these cases to indicate that any of them participated to the slightest extent in any of the negotiations or conferences which culminated in the contract." The brief refuted each of the cases cited by TVA, and reiterated that the respondents' land is not needed for any purposes specified under the Acts authorizing the TVA, and further, among other arguments, that such excess takings of private property are prohibited by Constitutional limitations.

In what had to be surprise to some parties given the consistent findings of the lower courts, the Supreme Court issued a unanimous 8-0 decision in March, 1946, finding that in fact

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<sup>154</sup> United States ex rel. TVA v. Welch, 327 U.S. 546 (1946). Brief prepared on behalf of TVA by J. Howard McGrath and Thomas J. Griffin, Solicitors, Tennessee Valley Authority. October, 1945.

the TVA had not overstepped its authority.<sup>155</sup> The Supreme Court held that the District Court had “reasoned that a common law rule of construction requires that statutory powers to condemn be given a restrictive interpretation” and in doing so had limited “the Authority's power so that it can condemn only those lands which are needed for the dam and reservoir proper.”<sup>156</sup> Instead, the high court looked to the language in the TVA Act that “expressly provides that the Act shall be 'liberally construed to carry out the purposes of Congress.’”<sup>157</sup> The Supreme Court thus took a very broad interpretation of the TVA’s powers, overriding the limited interpretation applied by the lower courts. Park promoters announced it as “a sweeping victory for the TVA and the National Park Service” that assured the park “40,000 additional acres and a high grade road that will lead to unopened scenic wonderlands.”<sup>158</sup>

Perhaps the decision by the Supreme Court wasn’t a surprise to everyone, especially those savvy enough to be mindful of the transformation of the Court under President Franklin Roosevelt. Roosevelt was elected in 1932 at the peak of the Great Depression and, upon taking office in 1933, his administration immediately implemented the unprecedented federal stimulus initiatives of the New Deal. Controversies surrounded the extent of many New Deal programs, and while the TVA had survived judicial review when initially contested at the Supreme Court level, other legislation had not fared as well when tested by the high court.

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<sup>155</sup> United States ex rel. TVA v. Welch, 327 U.S. 546 (1946). Interestingly, Justices Reed and Frankfurter and Chief Justice Stone, while concurring with the overall opinion, issued separate opinions further clarifying that the TVA’s actions are not above judicial review, as TVA had claimed in the appeals court.

<sup>156</sup> *TVA v. Welch, et al.*, Par. 551.

<sup>157</sup> Sec. 31, *Tennessee Valley Authority Act of 1933*, [48 Stat. 58-59, 16 U.S.C. sec. 831]

<sup>158</sup> “Park is Assured of 40,000 Acres Next to TVA Lake,” *The Knoxville News-Sentinel*, March 26, 1946, 16. and “Supreme Court Backs TVA Move,” *The Tennessean*, March 26, 1946, 11.

On “Black Monday,” May 27, 1935, in three 9-0 decisions, the Court invalidated the National Industrial Recovery Act (“NRA”) and two other New Deal initiatives. The President found the unanimity of the Court “bewildering.”<sup>159</sup> The President lambasted the Court, saying their interpretation of the NRA would place limits on interstate commerce that would take the United States back to “the horse and buggy days” and, if followed in future decisions, virtually tied “the hands of the Federal Government on all economic and social questions.”<sup>160</sup> Based on these Supreme Court decisions and other unfavorable decisions, the President began to formulate alternative plans to preserve his legislative agenda from hostile judicial review.

Roosevelt was overwhelmingly reelected in 1936 and perceived an opportunity. In early 1937, “fresh from a landslide election and with a 74-19 Democratic majority in the Senate, [Roosevelt] tried to pack the Court to overcome a conservative majority that had struck down New Deal economic initiatives.”<sup>161</sup> Explaining that his plan addressed the workload of the Court and expressing concern for the age of the justices, Roosevelt proposed adding a new Supreme Court justice for each of the six existing judges age 70 or older, which would bring the Court to a total of fifteen judges. Many in the public saw through this attempt; “Mr. Roosevelt did not know what he was taking about when he started NRA and he did not know what he was talking about when the Supreme Court stopped NRA,” declared the *Baltimore Sun*, derisively telling his

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<sup>159</sup> William E. Leuchtenburg, *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt*, (New York, NY: Oxford University Press, 1996), 89.

<sup>160</sup> “Roosevelt Deplores Supreme Court Act,” *The Boston Globe*, June 1, 1935, 2.

<sup>161</sup> Dan McLaughlin, “The Court Packing Peril: A Terrible Idea is Getting New Support,” *National Review*, (June 24, 2019): 38.

supporters to “tell the Supreme Court to bow down as Congress has bowed down” and “make Franklin Delano Roosevelt absolute and all will be well!”<sup>162</sup>

Roosevelt’s plan was “dead on arrival,” but ultimately the unpopularity of his “court-packing” proposals didn’t matter, as “three of the justices were gone by mid-1938, [and] seven by mid-1941” through death or retirement.<sup>163</sup> Roosevelt nominated Alabama senator Hugo Black as his first Supreme Court nominee in August 1937, sending a message with his selection of an ardent New Deal supporter. The nomination “dropped like salt into already raw political wounds,” as “liberals erupted in paeans of joy” while “most conservatives, stunned and horrified, went into spasms of teeth gnashing.”<sup>164</sup> It was Justice Black that less than seven years later wrote the Supreme Court decision that upheld the power of the TVA against the claims of the North Shore residents. By 1946 when the North Shore case reached the Supreme Court, seven of the nine justices were Roosevelt nominees (date nominated): Hugo Black (August 12, 1937), Stanley Reed (January 15, 1938), Felix Frankfurter (January 5, 1939), William O. Douglas (March 20, 1939), Frank Murphy (January 4, 1940), Robert H. Jackson (June 12, 1941) and Wiley Blount Rutledge (January 11, 1943). At the time the North Shore case was heard, Jackson, who frequently took issue with Black over concerns of personal bias, was on leave from the Court and serving on the post-World War II International Military Tribunal in Nuremberg. Thus the unanimous finding by the Supreme Court against the North Shore respondents was only 8-0, without a ninth judge opining.

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<sup>162</sup> “The President Speaks,” *The Baltimore Sun*, March 6, 1937, 10.

<sup>163</sup> McLaughlin, “Court Packing Peril,” 38.

<sup>164</sup> Roger K. Newman, *Hugo Black : A Biography*, (New York, NY: Oxford University Press USA, 1997), 239.

Chief Justice Stone, a Coolidge nominee to the Supreme Court, had been promoted to his position by Roosevelt in June, 1941. The remaining justice that joined in the North Shore case decision, Harold Burton, was a September, 1945, nominee of Roosevelt's Vice President and successor, Harry Truman. Roosevelt had passed away on April 12, 1945, but his transformation of the Supreme Court was complete and well-placed to preserve his New Deal legacy.

As noted recently by a Supreme Court scholar, "the Court is a partisan institution [and] nothing is going to change that."<sup>165</sup> The North Shore residents, endeavoring to save their North Shore homesites and emboldened by initial judicial success, realized that in the most-painful ways possible. Based on the findings at the District Court and Court of Appeals, they probably had no idea the long odds they faced when their cases reached a stacked Supreme Court.

The respondents took different paths after the final verdict. With the legal case lost, Philip Rust continued to challenge TVA's appraisal of his large tract and its improvements; to bolster their case, "TVA officials requested and received copies of the Rust family's income tax returns from 1933 through 1945 from the Internal Revenue Service."<sup>166</sup> Philip Rust eventually purchased an historic property, the Grimshawes Boarding House, on more than 500 acres in the shadow of Whiteside Mountain near Cashiers, North Carolina as well as the Winnstead Plantation in the sandhill area of Thomas County, Georgia, where he raised champion Santa Gertrudis cattle.<sup>167</sup>

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<sup>165</sup> Mark Walsh, "Justice by Numbers," *ABA Journal*, Vol. 105 Issue 4 (May, 2019) 20-21. The article quotes Aaron Belkin, a political science professor at San Francisco State University.

<sup>166</sup> Taylor, *The New South's New Frontier*, 120. And as if that wasn't enough, in 1949 the United States Attorney General pursued anti-trust charges against members of the extended du Pont family, including originally 58 children, of which 4 were the Rust children. One can understand if the Rust family emerged from this whole process with a jaundiced view of federal government agencies. See "U.S. Will Drop Names of 83 From du Pont Family Suit," *The News Journal*, Wilmington, DE, January 3, 1953, 1.

<sup>167</sup> "Grimshawes' House Saga Reaches End," *The Charlotte Observer*, June 30, 1946, 45. and Daniel W. Sanford, *Winnstead Plantation*, (Thomasville, GA: Thomas County Museum of History, undated).

Fred Lollis was so upset by the way the TVA negotiations played-out that he took his share of the proceeds from the land he owned jointly with his brother and “got about as far away, geographically and otherwise as he could while remaining in the continental U.S., moving to San Francisco” where he worked as a baker.<sup>168</sup> Lollis eventually returned to the area, however, and ran a small fish hatchery. Cole Hyatt moved his family to a new farm north of Murphy, North Carolina, about half the size of the farm he’d lost on the North Shore. His son, Lawrence Hyatt, said that it was important to his father that the family have access to an appropriate church; the whole process, he recalled, had been extremely upsetting for his mother.<sup>169</sup> John Burns purchased property near Bryson City and moved there in May, 1946. Arnold Bradshaw’s daughter, Peggy Bradshaw Medford, recalled “how sad my father was and my mother was, too, when they found out the [Supreme Court’s] outcome,” adding “it was like a death.”<sup>170</sup> The Bradshaws left the North Shore in May, 1946, using a small boat to shuttle a few belongings across the reservoir in route to a small leased farm outside Bryson City. Many household furnishings, including their stove and some beds, had to be left behind. Medford concludes “it’s just sad . . . there’s a lot of anger still there.”<sup>171</sup>

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<sup>168</sup> “The Fred Lollis Story,” *The Acorn and the Pig*.

<sup>169</sup> Lawrence Hyatt, Personal interview.

<sup>170</sup> “Pave or Preserve? North Shore debate lingers,” *The Asheville Citizen-Times*, December 1, 2006, 1,4.

<sup>171</sup> “Pave or Preserve? North Shore debate lingers,” 4.

## Assessment of TVA's Published Statistics on Fontana Population Readjustment

### *"Their economic status should be improved"*

Throughout its formative years in the 1930s the objectives and priorities of the TVA were a source of controversy within the agency. In 1933 President Roosevelt recruited civil engineer, college president and community developer Arthur Morgan to serve as the first TVA Chairman. It was Morgan's impression that the President envisioned a TVA board of three members, and in an effort to construct a board with complementary skills sets, Morgan quickly recruited David Lilienthal, a labor attorney with ties to the utility industry, and Harcourt Morgan (no relation), an esteemed agricultural biologist.<sup>172</sup> Conflicts erupted almost immediately, and with each member having equal power, resolution was uncertain. Arthur Morgan felt strongly that rather than a singular focus on capital improvements, President Roosevelt had a "more inclusive vision in mind for the Tennessee Valley" and wanted "to give a new life and culture to the long-neglected descendants of those indentured servants who had, before the days of slavery, largely made up the working class of southern agriculture." Morgan further felt that Roosevelt's vision for TVA espoused "the principle of the all-round development of life" and told Harcourt Morgan that the president "had spent very little time discussing dams, power plants, power distribution, or fertilizer, but had talked primarily about the general advancement of the Tennessee Valley region."<sup>173</sup> TVA policies regarding "social planning," with perceived implications for community

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<sup>172</sup> Morgan, *The Making of the TVA*, 6, 20-23.

<sup>173</sup> Morgan, *The Making of the TVA*, 54-55.

benefits at the cost of personal liberties, resulted in disagreements.<sup>174</sup> This internal power struggle over TVA's mission ultimately led Arthur Morgan to step-down as chairman in 1938.

But ostensibly during its formative years in the 1930s the TVA had an objective that included comprehensive community development, a process that was intended to include considerations for the populations directly impacted by TVA projects as well as the larger Tennessee River Valley. Accordingly the original TVA Act of 1933 was subsequently amended in 1935 in part to specify that the TVA "shall have power to advise and cooperate in the readjustment of the populations displaced by the construction of dams, (and) the acquisition of reservoir areas."<sup>175</sup> TVA's first major project was Norris Dam with construction beginning in October, 1933. By 1935 approximately two-thirds of of the families facing displacement due to Norris had been removed, many with the assistance of the state Agricultural Extension Services ("AES"). In recognition of the primarily rural, farming communities facing relocation, the TVA had contracted with the state AES to assist the relocation and readjustment of farm families.

However, TVA recognized the need to supplement these efforts and in September, 1935, created the Reservoir Family Removal Section, a distinct unit of the Authority's Coordination Division. In the summer of 1937 a reorganization of TVA resulted in the transfer of this unit to the newly-created Reservoir Property Management Department and henceforth it was referred to under the euphemistically-titled "Population Readjustment Division."<sup>176</sup>

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<sup>174</sup> "'Social Planning' is Integral Part of TVA Program," *Charlotte Sunday Observer*, September 25, 1938, 1.

<sup>175</sup> Tennessee Valley Authority Act of 1933, [48 Stat. 58-59, 16 U.S.C. sec. 831]; Section 13(l) per 1935 Amendment

<sup>176</sup> "Handbook," Tennessee Valley Authority, Reservoir Property Management Department, Population Readjustment, Knoxville, Tennessee, March, 1940. Section I, Page 1.

TVA believed that “the readjustment of families and communities is regarded as a long-time program,” and therefore the local regions, continuing communities, and permanent (i.e., non-TVA) agencies “have a responsibility and should participate.”<sup>177</sup> Accordingly, increasingly convinced that many perceived issues faced by the displaced populations could be addressed by various other agencies, by 1940 TVA felt “it was considered wise not to duplicate the programs of any of these (external) agencies but rather to stimulate their interest and and enlist their support in an activity which will continue many years after the construction program of the Authority is completed.”<sup>178</sup> Embodying that intent, the primary functions of TVA’s population readjustment department thus became:

“to *assume responsibility for an orderly evacuation* of each reservoir area within an allotted period and to *advise and cooperate with the affected families and the cooperating agencies* in effecting the evacuation in a manner whereby the social environment and economic opportunity of the families will be as desirable or better than were available to them prior to their removal from land purchased by the Authority.”<sup>179</sup> (*emphasis added*).

Thus TVA only wanted responsibility for the timely “evacuation” of impacted populations, any assistance to those families was limited to “advice and cooperation.” Under this operating paradigm the files of TVA’s of population readjustment offices became primarily a “clearing

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<sup>177</sup> “Handbook,” Population Readjustment, Sec.I, 2.

<sup>178</sup> “Handbook,” Population Readjustment, Sec. I, 3.

<sup>179</sup> “Handbook,” Population Readjustment, Sec. I, 4.

house and exchange for all information pertaining to the readjustment of families and resources available for the readjustment of reservoir populations.”<sup>180</sup>

By focusing primarily on construction program schedules and abdicating responsibility for any continued involvement with the displaced populations of Tennessee River Valley, TVA implicitly acknowledged that it had abandoned its core founding principle of betterment for the populations of the region and shifted primary responsibility for assimilating dispossessed populations to external agencies.

Pursuant to these policies and procedures TVA included a section in its final report on the Fontana project under the euphemistic heading of “population readjustment” detailing in aggregate statistical terms the results of the populations dispossessed by the dam project, including the North Shore residents.<sup>181</sup> TVA justified displacement based on their appraisal of the limited cultivatable land in the area and a stated impression that most residents were struggling financially, existing on small-scale subsistence farms, dwindling timber industry jobs, limited retail businesses, and copper mining. Their report declared “many of these families are on the ragged edge of the subsistence level, and some were on some sort of relief or another” and further that the departure of the timber industry had left “a large portion of the families practically stranded.” The TVA considered in part these factors to reduce land valuations, stating “(t)he over-all average per acre cost of \$37.76 is one of the lowest for any reservoir acquired to date and reflects the mountainous character and remoteness of the reservoir setting.”<sup>182</sup> The report further speculated that the project “probably will cause a net loss of population to the

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<sup>180</sup> “Handbook,” Population Readjustment, Sec. I, 5.

<sup>181</sup> *The Fontana Project*, 483-486.

<sup>182</sup> *The Fontana Project*, 475, 486, 483, 479.

counties of the area” as most displaced families were expected to have to move a significant distance to obtain affordable replacement property. This proved true, as because of the low valuations most displaced residents experienced significant difficulty locating and purchasing tracts similar to those they had sold to TVA. Additionally, limited supply caused prices to rise in Bryson City during dispossession due to the influx of transplants, making it even more difficult to achieve economic parity with the TVA buyouts.<sup>183</sup>

TVA initially estimated that a total of approximately 275 families would be displaced pursuant to the Fontana project, a number that was quickly determined to be a substantial understatement. An additional 125 families were forced to relocate to accommodate the rerouting of roadways and railroads, and the decision to include the North Shore population necessitated the removal of approximately 200 more families. Thus a total of 600 existing families faced dispossession by the TVA due to the Fontana project. However, the large project required up to 5,000 men at its peak and transient labor flooded the area seeking employment, ultimately resulting in an additional 711 families emigrated into the area on a temporary basis. This “transient flux” created issues for the TVA, as while the labor was necessary for the project, “the task in population readjustment became for a time as much a problem of temporary repopulation as of permanent family removal.” Thus, combined, a total of 1,311 families, both “original” existing and “transient” incoming migrants, eventually had to be relocated out of the reservoir’s footprint as the project approached completion.<sup>184</sup> TVA tracked these two populations separately but provided most statistics regarding the results of relocation in aggregate.

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<sup>183</sup> Alan Jabbour and Karen Singer Jabbour, *Decoration Day in the Mountains : Traditions of Cemetery Decoration in the Southern Appalachians*. (Chapel Hill, NC: The University of North Carolina Press, 2010), 95.

<sup>184</sup> *The Fontana Project*, 483, 485.

TVA concluded with vague optimism that for residents displaced by the Fontana project, their “economic status should be improved and has been improved in many known instances.” However, the only statistics TVA provided in support of this conclusion were a purported 32% post-relocation increase in home ownership and an 18% increase in farm residences, the latter a result of transient families becoming farmers after the conclusion of the project. The TVA notes that these conclusions for the Fontana project are “contrary to the experience in all TVA reservoir areas previously evacuated.”<sup>185</sup> Such favorable results on the Fontana project, which TVA admitted seem contrary to all previous reservoir projects, bear scrutiny. The analysis discussed in the balance of this chapter evaluates these published TVA results.

TVA established internal protocols and procedures to manage the population dispossessions made necessary by their projects. For the Fontana Dam project TVA proscribed completion of three forms for each family subject to relocation by the Authority:<sup>186</sup>

**Table 1: Family Forms Used by TVA Reservoir Property Management Department**

<b>TVA Form #</b>	<b>TVA Form Name</b>	<b>Revised</b>	<b>Purpose / Detail</b>
TVA 978	Case Record Sheet	January, 1940	Designed to capture detailed information regarding “the situation in the family at the time of first contact” by the TVA
TVA 979	Code Card	February, 1940	Summarized information regarding the status of each family on land acquired by the TVA, both at inception and after relocation.
TVA 982	Removal Sheet	May, 1940	Designed to be capture detailed relocation information for every family removed from land purchased by the TVA

<sup>185</sup> *The Fontana Project*, 483, 486.

<sup>186</sup> “Handbook,” Population Readjustment, Sec. VI, All Pages.

Other forms such as monthly progress reports (Form TVA 981) and the Report of Removed Families (Form TVA 985) were aggregate status updates filed on a monthly or periodic basis for the population(s) as a whole. Land Record Forms (Forms TVA 1877 and 1674) were completed for all land acquisitions by the TVA. A Resources Card (Form TVA 1870) summarized in aggregate services provided by external agencies.

Theoretically TVA personnel completed a Case Record Sheet, Removal Sheet, and Code Card for each impacted family. If all these procedures were followed for the Fontana project unfortunately most Case Record Sheets and Removal Sheets were not preserved. However, the Code Cards for the Fontana project were preserved in TVA archives and also made available digitally. A review of these available Code Cards indicates a total population of 1,324 impacted families, of which 601 were indicated as original to the area and 723 are notated as transient labor; note that these totals correlate very materially to the 1,311 total families indicated in TVA's Fontana Report, of which the allocation was indicated as 600 original and 711 transient. Thus this analysis collectively considers these Code Cards as the primary individual documents that materially agree to the summarized findings as reported by TVA in the Fontana Report.

TVA developed and employed a code system designed to provide a shorthand method to annotate the situation of each impacted family. The codes indicated such pertinent information as whether the resident owned or leased their land (i.e., was a tenant), was a farmer or not, their race, whether they were above the high water line of the planned reservoir, their economic status (i.e., potentially in need of aid to help with the move), and whether their case could be considered closed after relocation or whether they would potentially require additional post-move assistance.

The TVA Population Readjustment Handbook provides the following examples:

- “Code In” Example: “OWF+1” is “owner white farm above contour, ‘no aid’ needed”
- “Code Out” Example: “TWNC” is “tenant white non-farm ‘case closed’”

A summary of TVA codes is provided in the table below:

**Table 2: TVA Designations for “Code In” and Code Out”**

Code	TVA Description
O or T	Owner or Tenant
W or N	White or Negro
F or N	Farmer or Non-Farmer
+ or -	Above Contour (Plus or minus sign is used to designate location of family in relation to high pool level). (Author’s Note: This was not consistently used.)
C or F	Closed or Follow-up; Relocation is permanent/satisfactory or follow-up is recommended by one or more cooperating agencies.
1 Family Classification	“No-Aid”; Families having financial resources, ability, and inclination to make their own plans (Not consistently used)
2 Family Classification	“Resources”: Families having resources but either not the ability or inclination to make their own plans. (Not consistently used.)
3 Family Classification	“Marginal”: Families having little financial strength yet physically and mentally able to make move. (Not consistently used.)
4 Family Classification	“Sub-Marginal”: Families needing guidance, advice, and financial assistance from outside agencies or individuals. (Not consistently used.)

Care was to be exercised to “present a true picture of the nature and extent of the evacuation problem.” Further, TVA instructed its personnel that the “Code In” and “Code Out” should be reflected consistently across all of the forms (Case Record Sheet, Code Card, and

Removal Sheet) applicable to a particular family.<sup>187</sup> Thus even though only the Code Cards for the Fontana project are available, this will not limit the analysis contained herein. Additionally, due to the necessarily large influx of transient labor on the Fontana project TVA personnel indicated by hand whether the family in question was “original” or “transient.” The Code Cards also provide the TVA map number on which the family’s tract was located.

An example of a completed Code Card from the Fontana project is included below:

**Figure 1: Example of TVA Code Card From Fontana Project**

*Original*

CODE IN TWN-2 CODE OUT TWNC

NAME SURRETT, THOMAS TRACT FR-442F MAP 2

ADDRESS Fontana, N. C. COUNTY Swain

DATE MOVED 2-17-43

ADDRESS Bryson City, N. C.

COUNTY Swain STATE N. C.

TVA EMPLOYMENT \_\_\_\_\_

MAIN RESOURCES N.C.Exp. Co.

DATE 1-20-42 WORKER WALSH

TVA 979 (RPM -2-40) CODE CARD

Cooperating Agencies					
AES	FSA	FLB	SFL	SCA	
X					
WPA	NYA	CCC	FHA		
DPW	SES	LWD	CHU	CHD	CC
RC	PTA	CO	Ch.	Ind.	

<sup>187</sup> “Handbook,” Population Readjustment, Sec. VI, All Pages.

As can be determined from the relevant fields highlighted on this example (in dotted ovals, as added by author);

1. Handwritten indication of “original” or “transient” family status;
2. “Code In,” (this family was initially evaluated as “tenant-white-non farmer-below reservoir high water line, with the resources but not the ability/inclination to move”);
3. “Code-Out,” (after relocation this family was evaluated as “tenant-white-non farmer-case closed”), and;
4. TVA Map number where the family’s tract (in this case, leased) was located.

Accordingly, with an understanding of the components of both the TVA’s “Code In” and “Code Out” regarding real property ownership (either farm or non-farm) it can be determined from this Code Card that the family in question was a “tenant” both before and after their relocation and thus had no change in ownership status. By extension, performing this same analysis on all 1,324 Code Cards for the Fontana project and aggregating the results allows for a comprehensive picture of the impact on land ownership of TVA’s Fontana project on the families dispossessed by the same. The results of this exercise can corroborate, refute, or add detail to the statistics published by TVA in their Fontana Report.

Additionally, if one knows the map numbers that included the tracts of land on the “North Shore,” that is, the area above the high water line of the reservoir but “stranded” by lack of post-reservoir access, these North Shore families can be segregated by map number and the same analysis regarding pre-TVA versus post-TVA impact on home ownership can be determined.

Finally, given that each Code Card has an indicator of “original” resident versus “transient” (i.e., an individual who came into the area specifically to work on the dam) a distinction can also be made between the area’s existing residents and newcomers.

In other words, the information on the Code Cards facilitates a much more detailed analysis than was presented by the TVA in their Fontana Report. It is this “pre-TVA” and “post-TVA” ownership analysis, considering factors such as farm versus non-farm landholders, original versus transient residents, and North Shore residents versus the larger displaced populations that is undertaken and discussed herein.

Even though the TVA separately-reported some quantitative data for the families located on “the land between the reservoir and Great Smoky Mountain National Park” (i.e., the North Shore families), as previously discussed the only statistics regarding the Fontana project’s impact on land ownership were presented in aggregate as an increase of 32% in home ownership and an increase of 18% in farm ownership. TVA attributed this increase as simply resulting from “a number of transients who had been nonfarmers (becoming) farmers after relocation.”<sup>188</sup> As the analyses detailed below will show, these limited and aggregated publicized amounts do not convey an accurate portrayal of the impact on the dispossessed populations.

The total number of households impacted by the Fontana project was 1,324, of which 601 were original to the area, and 723 were transients that arrived solely for employment on the project. Of this total population of 1,324 households, 202 owned their property (either a homestead or a farmstead) as the Fontana project was initiated, for a pre-project ownership percentage of 15.3%. Upon the project’s completion, of the 1,324 total households, 269 were

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<sup>188</sup> *The Fontana Project*, 486.

relocating into either a farm or a home they owned, resulting in a post-project ownership percentage of 20.3%. Thus on a percentage basis (but not on an absolute change in percentage basis) the “percentage increase” in ownership was 32.7%; that is, the pre-project ownership percentage of 15.3% increased by 32.7% (*computed as a percentage of that beginning pre-project amount*) to the post-project ownership percentage of 20.3%. These results, including the allocation between homes and farms, are reflected in following table below:

**Table 3: Land Ownership (Farm and Home) - All Households (Original and Transient)**

	Pre-Project Property Owners	Post-Project Property Owners	Change in # of Property Owners	Pre % (A)	Post % (B)	Absolute Chg in % (B - A)	% Chg in % (B - A) / A	TVA %
<b>Farms</b>	98	133	35	7.4%	10.0%	2.6%	35.1%	18%
<b>Homes</b>	104	136	32	7.9%	10.3%	2.4%	30.4%	32%
<b>Total Owners (Farms and Homes)</b>	202	269	67	15.3%	20.3%	5.0%	32.7%	N/A

*(Based on 1,324 Total Households)*

Note that the “percentage change” (“% Chg in %”) column correlates (closely, for home ownership, approximately for farm ownership) to the results publicized by TVA (given in “TVA %”); based on the methodology described above as applied to the database comprised of all Code Cards, home ownership increased by 30.4% (compared to TVA’s results of 32%) and farm ownership increased by 35.1% (exceeding TVA’s results of 18%) *when calculated as a percentage increase based on the original percentage*. Yet also note that in absolute percentage terms home ownership only increased by 2.4% (from 7.9% to 10.3%) and farm ownership only increased by 2.6% (from 7.4% to 10.0%). The “percentage change of the original percentage”

result exceeds the “absolute percentage change” result so substantially primarily because (a) the former is a derived result based the low initial ownership percentage, which (b) was low due to inclusion of the number of transient families (723) included in the denominator. Thus TVA’s apparent use of the “percentage change of the original percentage” instead of the much more modest “absolute percentage change” appears misleading at best.

Those results are also impacted by the transient families that arrived in the area, looking for work, and lived as tenants while on the project and then saved enough money to buy their own homes or farms once Fontana Dam was completed. Of the 723 transient families that worked on the project, 70 became property owners upon its completion; it is reasonable to assume that some of these laborers may have worked on many TVA projects. While a laudable outcome, including the results for the transient families obscures the impact incurred by the original families. The transient families were in the area by choice, while the original families largely had the Fontana project thrust upon them. Accordingly, the table below utilizes the methodologies discussed above, as applied to the 601 original families in the area:

**Table 4: Land Ownership (Farm and Home) - Original Families Only (no Transients)**

	<b>Pre-Project Property Owners</b>	<b>Post-Project Property Owners</b>	<b>Change in # of Property Owners</b>	<b>Pre % (A)</b>	<b>Post % (B)</b>	<b>Absolute Chg in % (B - A)</b>	<b>% Chg in % (B - A) / A</b>	<b>TVA %</b>
<b>Farms</b>	98	112	14	16.3%	18.6%	2.3%	14.3%	N/A
<b>Homes</b>	103	86	(17)	17.1%	14.3%	(2.8%)	(16.5%)	N/A
<b>Total Owners (Farms and Homes)</b>	201	198	(3)	33.4%	32.9%	(0.5%)	(1.5%)	N/A

*(Based on 601 Total Households)*

For the existing 601 families in the area the relocation was, in aggregate for the entire population, at best approximately break-even, with a (.5%) reduction in total landownership. As detailed above, while farm ownership increased by 14 farms for this population, home ownership decreased by 17 homes.

However, included in these results were 65 original families that were tenants who became property owners after relocation, while there were 68 families who owned their land before the Fontana project, but did not after being relocated (the difference in these results is the net reduction of 3 in overall ownership in the table above). While, as with the transient families, it is a laudable outcome for tenants to become property owners, the inclusion of these conversions from tenant to landowner obscures the impact felt by the existing landowners displaced by the Fontana project. Accordingly, the following table shows the results of the forced relocation for just the existing original landowners:

**Table 5: Land Ownership (Farm and Home) - Original Land-Owners (no Tenants or Transients)**

	Pre-Project Property Owners	Post-Project Property Owners	Change in # of Property Owners	Pre % (A)	Post % (B)	Absolute Chg in % (B - A)	% Chg in % (B - A) / A	TVA %
<b>Farms</b>	98	84	(14)	16.3%	14.0%	(2.3%)	(14.3%)	N/A
<b>Homes</b>	103	49	(54)	17.1%	8.2%	(8.9%)	(52.4%)	N/A
<b>Total Owners (Farms and Homes)</b>	201	133	(68)	33.4%	22.1%	(11.3%)	(33.8%)	N/A

*(Based on 601 Total Households)*

As these results show, of the 201 families that owned their property (both farms and homes) when the Fontana project began, only 133 did so after relocation. In other words, roughly

one-third of the property owners displaced by the Fontana project were not land owners after relocation. Further, in aggregate, the brunt of this impact was on homeownership; collectively this population experienced a reduction of more than half in homes owned post-relocation.

All the analyses discussed here-to-fore have been based on the entire geography impacted by TVA's Fontana project; that is, all families located in the footprint of the dam's construction, within the confines of the dam's reservoir, and also on the "strip of land" between the reservoir and the Great Smoky Mountains National Park, aka, the "North Shore."

The TVA included on the Code Cards completed for each family a "Map Number" indicating where the families' tract of land (either lease or owned) was located. The TVA developed 51 maps to cover the entire Fontana project site, and maps 32, 33, 34, 35, 36, 38, and 39 included the land constituting the North Shore. Thus, by sorting the Code Cards for the Fontana project by Map Number and selecting only families residing on these maps it is possible to determine home and farm ownership statistics for solely the North Shore residents.

Using this methodology there were 177 families living on the North Shore at the outset of the Fontana project, of which 131 were classified as "original" to the area as opposed to transient.

The results of property ownership for these families is as follows:

**Table 6: Land Ownership (Farm and Home) - North Shore Families Only (no Transients)**

	Pre-Project Property Owners	Post-Project Property Owners	Change in # of Property Owners	Pre % (A)	Post % (B)	Absolute Chg in % (B - A)	% Chg in % (B - A) / A	TVA %
<b>Farms</b>	35	32	(3)	26.7%	24.4%	(2.3%)	(8.6%)	N/A
<b>Homes</b>	21	16	(5)	16.0%	12.2%	(3.8%)	(23.8%)	N/A
<b>Total Owners (Farms and Homes)</b>	56	48	(8)	42.7%	36.6%	(6.1%)	(14.3%)	N/A

*(Based on 131 Total Households)*

Comparing the results for the “original” North Shore families in Table 6, above, with the larger population of “original” families in the entire project area as previously shown in Table 4, who essentially “broke even” overall, the families on the North Shore fared worse in all categories.

Finally, as discussed with the larger “original” population, while it is generally laudable to have tenants convert to property owners, it is also insightful to determine how existing North Shore property owners fared due to the Fontana Project. Included in Table 6, above, are eight families that were tenants on the North Shore but became landowners after relocation; however, there were also sixteen families that owned their land on the North Shore but become tenants after the relocation caused by the Fontana project.

Accordingly, the following table considers only the results for the original landowners on the North Shore:

**Table 7: Land Ownership (Farm and Home) - Original North Shore Land-Owning Families Only**

	Pre-Project Property Owners	Post-Project Property Owners	Change in # of Property Owners	Pre % (A)	Post % (B)	Absolute Chg in % (B - A)	% Chg in % (B - A) / A	TVA %
<b>Farms</b>	35	29	(6)	26.7%	22.1%	(4.6%)	(17.1%)	N/A
<b>Homes</b>	21	11	(10)	16.0%	8.4%	(7.6%)	(47.6%)	N/A
<b>Total Owners (Farms and Homes)</b>	56	40	(16)	42.7%	30.5%	(12.2%)	(28.6%)	N/A

*(Based on 131 Total Households)*

It can be seen that, similar to the results for the greater “original” population displayed in Table 5, when the results of only existing property owners are considered, excluding any tenants that became landowners after relocation, North Shore property holders fared poorly in the relocation. In aggregate, approximately one in four was no longer a land owner, and collectively the level of homeownership dropped almost in half.

The review and analyses of the Code Cards as summarized in the tables above provides an interesting alternative perspective to the results publicized in TVA’s Fontana Report, which stated that the results at Fontana were “contrary to the experience in all TVA reservoir areas previously evacuated” in that “there was an increase of 18 percent in farm residence after evacuation because a number of transient families who had been confirmers became farmers after relocation” and “there was also an increase of 32 percent in home ownership.” The Report

also noted that original estimates of families involved almost immediately “doubled by an influx of persons who settled temporarily while seeking employment on the project.”<sup>189</sup>

Were the results at Fontana really atypical from other reservoir projects, as TVA maintained? The report acknowledged the large influx of temporary labor for Fontana, necessitated by its remote location away from sources of existing labor resources; the report further acknowledged that these transient laborers were responsible in some regard for the atypical post-project landowning result. What becomes clear, however, from the data available on the Code Cards is that, for the existing populations in the area, Fontana was not atypical compared to other TVA projects. Existing populations (owners and tenants) in the overall project area (Table 4) actually suffered modest declines in overall aggregate land ownership even when including the results of original tenants converting to owners upon relocation; similarly, existing populations (owners and tenants) on the North Shore (Table 6) likewise suffered moderate declines in overall land ownership, even including previous tenants becoming landowners after the project’s completion. When considering the persistency of land ownership for existing owners only (excluding tenants that subsequently became landowners) the results are even more unfavorable, with landowners in the overall project area (Table 5) and on the North Shore specifically (Table 7) suffering reductions in landownership of approximately 11% - 12% in absolute terms and 28% - 34% as a percentage change. In short, the existing populations within the Fontana Dam project area and on the North Shore collectively lost ground regarding land ownership, particularly for for existing landowners. It would appear that the results for these

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<sup>189</sup> *The Fontana Project*, 483, 486.

populations, contrary to assertions to the contrary in the TVA report, were not atypical from previous reservoir projects.

Further, TVA's use of "percentage change in the percentage" of land ownership, without disclosing the absolute change in land ownership (either in the percentage or the numerical quantity) exaggerated the perceived increase in property ownership, which was clouded further by TVA's alluding to the effect of transient labor on the results of ownership without providing the allocation or detail necessary to determine that impact. It is hard to view the statistics in the Fontana Report as anything but, at best, cherry-picked to provide as favorable a picture as possible; at worst, selectively chosen to be intentionally misleading.

In many ways the numerical evidence showing the difficulty existing landowners experienced trying to replace their property during the Fontana displacement is corroborated by individuals that experienced the relocation firsthand. Most families impacted by the Fontana Dam reservoir moved in 1944 and 1945 due to the rising waters.<sup>190</sup> Some families living along Hazel Creek on the North Shore lingered until the Supreme Court's decision in 1946 before finally moving from the property.<sup>191</sup>

Helen Cable Vance was born in Proctor on the North Shore and raised on land her grandfather, Samuel Cable, had first settled along Hazel Creek in 1835.<sup>192</sup> Helen recalls that "a lot of people that lived [on the North Shore] rented" and when the Fontana project was announced, those "just renting went ahead and moved in forty-one and forty-two. But now the

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<sup>190</sup> "Moving Deadline Near For Folks In Fontana Basin," *The Asheville Citizen-Times*, October 22, 1944, 17.

<sup>191</sup> Brown, *The Wild East*, 164.

<sup>192</sup> Helen Cable Vance, "Life on Hazel Creek," Ed. Leeunah Vance Woods, *Growing up on Hazel Creek and in the Fontana Basin Area*, (Sylva, NC: Catch the Spirit of Appalachia, Inc., 2016), 56-58.

ones that stayed were the people that owned land.” When asked whether more people owned their land after the displacement, as contended by TVA, Helen says, “well I doubt it, I don’t know.”<sup>193</sup>

Helen’s father, Jacob “Jake” Cable, worked for TVA building the dam until February, 1944, and on March 1, 1944, less than thirty days after his TVA employment ended, the family received a letter stating they had to move or they would be forcibly evicted by the sheriff. Helen’s father immediately traveled to Marion, NC, and Maryville, TN, looking for replacement housing but could not find anything comparable to their North Shore property. He eventually located “this little place that had an acre or less and one little frame house on it” in Sylva, N.C..<sup>194</sup> On March 17, 1944, less than three weeks after receiving the eviction threat, the Cables moved from their farm on Hazel Creek to the small house in Sylva.

While the Cables were able to find a replacement property to purchase, it didn’t compare to the farmstead they had left behind. Helen fondly recalls that the family farm on Hazel Creek had twenty or more apple trees, three or four peach trees, and “a lot, a lot of plum trees.” Their big garden provided potatoes, sweet potatoes, corn, and molasses. Every Fall they’d butcher a hog or two.<sup>195</sup> It was simply a way of life that could not be recreated on the small plot in Sylva. In recognition of lumber shortages caused by the ongoing World War II, TVA permitted families facing dispossession to dismantle their homes and take the lumber with them; alternatively, if left behind the structures were burned. Helen’s brothers were away fighting in the war, so Helen was recruited to help her father tear down the house; to keep her from falling off the roof in the

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<sup>193</sup> Helen Cable Vance. Personal interview. June 19, 2020.

<sup>194</sup> Vance, Interview, *ibid.*

<sup>195</sup> Vance, Interview, *ibid.*

process he tied a rope around her, with the other end around a large nail on the roof top. The salvaged lumber eventually made it to Sylva, where it was used to add an addition to Helen's aunts' house.<sup>196</sup>

Christine Cole Proctor and Leonard Cole are siblings that grew up in the Forney Creek area on land that is now beneath the waters of Fontana Reservoir. Their ancestors trace involvement in this part of Swain County back until at least the 1870s, and Christine was married to Tony Proctor, a direct descendant of Moses and Patience Proctor, the first settlers along Hazel Creek in the 1830s. Christine and Leonard recall that when the TVA forcibly acquired their family plot it was still held by their grandmother's estate, and the proceeds from TVA had to be split several ways among the heirs. As a result their father did not receive enough to purchase a comparable replacement property and accordingly had significant difficulty finding a new home for the family. Christine remembers that "TVA talked the talk" and tried to encourage the move, extolling the benefits of electricity and so on, but the Coles were "the last of the diehards" and held onto their home on the North Shore as long as possible.<sup>197</sup> After much searching the family ended up in a Whittier, N.C., rental house. It took the family two more years before they were able to find and purchase land suitable for farming and move again, this time into Bryson City, N.C..

Duane Oliver, former professor at Western Carolina University, was born in Judson and lived in the towns of Fontana and Proctor before the arrival of the TVA. Oliver's great-great-grandfather was Moses Proctor and he considered himself related by blood or marriage to most

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<sup>196</sup> Vance, "Life on Hazel Creek," 58.

<sup>197</sup> Christine Cole Proctor and Leonard Cole. Personal interview. July 30, 2020.

of the families that settled on Hazel Creek during the 1800s.<sup>198</sup> Oliver recalls watching abandoned buildings “being put to the torch by the TVA . . . (w)e children found this exciting, not realizing that a town and a way of life were dying.”<sup>199</sup> Christine Cole Proctor shares that “there was a lot of bitterness and a lot of sadness” over the forced relocation.<sup>200</sup>

Some residents put off the move as long as possible. Will Jenkins, living in a remote cove with his wife, continued to walk to town after the water rose and brought supplies back by mule, surviving in this manner until the winter weather made travel through the woods and mountains too difficult.<sup>201</sup>

Bryson City resident Commodore Casada noted that the dam project caused animosity in the valley, that the residents thought “they were just being pushed, they just had to go as someone else directed.”<sup>202</sup> Edna Whiteside shared that valley residents were patriotic and “they was willing to do anything to keep the country going for a war, but they wasn’t because they were losing too much land and the government didn’t pay the price for the land, I mean they would send like 3 adjusters and they would say the land was worth so and so and so, and they had to take it, they didn’t have a choice.”<sup>203</sup>

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<sup>198</sup> Oliver, *Hazel Creek from Then Till Now*, Frontspiece.

<sup>199</sup> Oliver, *Hazel Creek From Then Till Now*, 92-93.

<sup>200</sup> “Interview with Christine Cole Proctor and James L. Sizemore,” Interview by T. Rhydon Atzenhoffer. Oral History Collection, Hunter Library Digital Collections, Western Carolina University, November 20, 2009, <https://wcdigitalcollection.contentdm.oclc.org/digital/collection/p16232coll13/id/6/rec/7> .

<sup>201</sup> Proctor and Sizemore, *ibid*.

<sup>202</sup> “Interview with Commodore A. Casada,” Interview by T. Rhydon Atzenhoffer. Oral History Collection, Hunter Library Digital Collections, Western Carolina University, November 16, 2009, <https://wcdigitalcollection.contentdm.oclc.org/digital/collection/p16232coll13/id/0/rec/3> .

<sup>203</sup> “Interview with Edna and Troy Whiteside,” Interview by T. Rhydon Atzenhoffer. Oral History Collection, Hunter Library Digital Collections, Western Carolina University, November 25, 2009, <https://wcdigitalcollection.contentdm.oclc.org/digital/collection/p16232coll13/id/12/rec/8> .

Not all the ramifications of the forced relocations were bad, of course. Helen Vance recalls that even though their replacement home in Sylva was small, it did provide electricity to the family for the first time.<sup>204</sup> Life on the North Shore, particularly during the years of the Great Depression preceding the arrival of the TVA, was difficult. The remote locations of some of the homesites scattered throughout Swain County's mountainous terrain resulted in difficult travel to civic organizations such as schools, churches, and places of employment, frequently resulting in hurdles to active community participation. The resulting ramifications on family life were felt by some women in the area.

In spite of his long and extensive familial history in the area, Oliver recalled gender-related differences in his own family, "Many people looked forward to getting out in the civilized world. My father did not want to move, but my mother and grandmother were delighted to leave."<sup>205</sup>

L.W. Ammons, age 65, and his wife Ollie, age 46, lived with two sons high on a mountain overlooking the town of Judson. Their house was the last on the road and a "great distance" to the nearest church. The Ammons farmed ten acres described as very rough, difficult to cultivate, and low-yielding. A visiting TVA representative noted that Mrs. Ammon was a hard worker, cutting corn when he visited. Mrs. Ammons stated that "she had to do all the work around the place since her sons were in school and her husband was working for a local trucker" and further "expressed a desire to get out of that hole and hoped that the TVA would buy their

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<sup>204</sup> Vance, Interview, *ibid.*

<sup>205</sup> Pierce, *Hazel Creek*, 80.

property so Mr. Ammons would have to move.” He had lived there all his life and wished to continue doing so, she concluded.<sup>206</sup>

Martha Collins was even more proactive dealing with what she considered an untenable situation. When first visited by a TVA representative, she and her two children were residing in an “uninviting . . . boxed shack on a steep bank.” Her husband was described as “very shiftless” and prone to drink. Apparently Mrs. Collins shared this view, stating that he had never assisted in supporting the family; the TVA worker recorded that “disgusted with her husband’s triflingness,” she “requested that the Swain County Draft Board send him to the Army,” a request that was apparently granted, even resulting in her receiving a military spouse’s salary allotment. Mrs. Collins “stated that she is much happier now that her husband is gone and that she hopes he never returns.” Mrs. Collins eventually moved near to Bryson City, close enough to work odd jobs in town and with a few acres to continue farming.<sup>207</sup>

Jim and Mary Styles lived in the Epps Springs area along Noland Creek. Jim owned three properties and also worked as a fire and game warden on the Rust estate. They lived in an 8-room house, and the TVA considered them as “an influential family in this neighborhood.” In spite of those apparent advantages, however, the TVA reported that when they visited Mrs. Styles in December, 1943, she “expressed herself quite freely that she was glad that the TVA was giving them an opportunity to move to a new location” and further that “although she was born and reared in this community” she considered it “a hard fight at very little profit.”<sup>208</sup>

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<sup>206</sup> “L.W. Ammons Removal Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

<sup>207</sup> “Martha Collins Removal Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

<sup>208</sup> “Jim Styles Case Record Sheet,” Statistical Record and Case File, Tennessee Valley Authority Relocation Files for Fontana Project, Box #126B.

When asked about her mother's attitude about moving, and whether she was more in favor of the move than her father, Christine Cole Proctor shared that her mother was "a good wife" and did not complain either way, because "when it was time to go, it was time to go."<sup>209</sup>

Did TVA exaggerate the perceived disparity between men and women and their respective willingness to be relocated? Perhaps; the TVA certainly had a motivation to reflect the dispossession in the best possible manner, even if that meant selectively documenting the women that were more enthusiastic about the relocation than their husbands. That said, the allure of electrical power, access to commercial venues, and easier transport to churches and schools was understandably attractive to many of the women displaced by Fontana, perhaps more so than their husbands.

And this perhaps reflects a bigger perspective inherent in TVA's Fontana report. Displacement of families had to be one of the least-enjoyable aspects of the job for many of the TVA employees working on the Fontana Dam and similar projects. In addition to natural human empathy, many of these families being disposed had family members working on TVA's project. TVA was also aware of public perceptions regarding the federal government's treatment of displaced families. TVA certainly had no shortage of reasons to portray these forced relocations as positively as possible. When it was time to report the statistics and document the stories behind the family relocations necessitated by the Fontana Dam construction project, it seems evident that TVA selectively chose statistics that are, at best, misleading, in an effort to promote a picture of the project in the most beneficial light.

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<sup>209</sup> Christine Cole Proctor, *ibid.*

## Conclusion

As the civic leaders, residents, and businesspeople of Swain County and Bryson City navigate the early years of the twenty-first century, the ramifications of decisions made a century or more ago continue to impact the economic viability and cultural fabric of the county's citizenry. Overwhelming absentee ownership of the county provides ongoing challenges; perhaps no other county has had to assimilate the near simultaneous impact of both a national park formation and a large-scale federal government hydroelectric project. As noted by Sara Gregg, the "transition from farms to forest that was promoted in the 1920s and 1930s by local, state, and federal officials has been the most important causal force in reordering the mountain landscape."<sup>210</sup> One could find no better example than Swain County.

North Shore residents patriotically supported the nation's need for Fontana Dam. They only asked that if their homesites did not directly contribute toward that need that they be allowed the freedom to continue to use and preserve their property. Instead, they were confronted by a U.S. federal agency that had the sole power to determine its own property needs, the price it was willing to pay to satisfy those needs, and the full force of the U.S. government to take that property if anyone refused. Their land was sacrificed not for the war effort, but because the TVA found it more expeditious to absolve their liability by condemning the North Shore residents' land rather than rebuilding their flooded access road. When judicial checks-and balances on this power was sought, a stacked Supreme Court rubber-stamped the Authority's actions. The discounted valuations employed by the TVA resulted in the wide dispersement of former residents as they sought comparable replacement properties. As a final insult, their cries for

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<sup>210</sup> Gregg, *Managing the Mountains*, 220.

equity within their own community were dismissed and ignored by their local leaders in the name of economic progress. The results of their forced relocations were not as favorable as originally stated by the TVA. The dispossession of the North Shore residents stands as a cautionary history of the dangers of unfettered governmental power. As such it remains a worthy study in the context of economic and social marginalization occurring in events of population dispossession.

As discussed in the Introduction, this thesis was researched and prepared during a period of unprecedented measures intended to mitigate the community spread of the coronavirus disease. These measures included the closure of many archives, libraries, and repositories. While the findings and conclusions reached herein have been adequately supported with materials including scholarly publications, digitally-available resources, and personal interviews, the possibility exists that additional resources could further support or expand upon the conclusions reached herein. Additional related avenues of inquiry could include analysis of any correlation between the robustness of financial budgets for counties in central Appalachia, which tend to have high levels of federally-owned land, and the relative levels of revenues from the federal government's "payments in lieu of taxes" program; the use of TVA's Code Cards or other individual case-level population relocation resources to challenge or support the aggregate population readjustment statistics promulgated by TVA on projects other than Fontana; and further research regarding TVA's adherence to its own "flowage easement" directive on projects subsequent to Fontana. Legal research could indicate whether the conclusions reached by the Supreme Court in the case of the TVA versus the North Shore residents has been cited, used as precedence, or otherwise influenced other similar cases.

The North Shore area of Great Smoky Mountains National Park is an area of stunning natural beauty. While the pain of the North Shore dispossession lingers even today, the passage of time has provided a helpful perspective, as noted by long-time North Shore resident Helen Cable Vance, who shares “[o]ur first home place was special . . . the Great Smoky Mountains . . . hold a special place in our lives and our families’ lives. These were our mountains that we loved and roamed. We are so thankful and appreciative that they will be saved for my great grandchildren and everyone to enjoy.”<sup>211</sup> Perhaps that’s ultimately the objective North Shore residents fought so hard to protect.

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<sup>211</sup> Vance, “Life on Hazel Creek,” 58.

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## **Vita**

Lance Hardin was born in Lafayette, Indiana, and was raised in Newport News, Virginia. Before attending Appalachian State University, Lance attended East Carolina University where he earned a Bachelor of Sciences in Accounting, graduating with Magna Cum Laude distinction in 1991. Lance also completed accounting-related graduate course work at North Carolina State University. Lance was employed by the accounting and advisory firm Ernst & Young LLP for more than two decades.

While at Appalachian State University Lance's research focused on the populations impacted by the creation of Great Smoky Mountains National Park and the construction of Fontana Dam. Lance also completed ancillary research on behalf of the Highlands-Cashiers Land Trust.

Lance currently resides in Raleigh, North Carolina, and Highlands, North Carolina.