

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

DONNA W. SHERWOOD, et al.,)
)
 Plaintiffs,)
)
v.)
)
TENNESSEE VALLEY AUTHORITY,)
)
 Defendant.)

No.: 3:12-CV-156-TAV-HBG

INJUNCTION ORDER

For the reasons discussed in the Memorandum Opinion and Order entered contemporaneously with this Injunction Order, and for good cause being shown, it is hereby ordered, adjudged, and decreed as follows:

IT IS ORDERED that TVA is **ENJOINED** from further implementing the transmission line right-of-way vegetation management practice that has come to be known in this litigation as the “15-foot rule” until TVA has prepared and published an environmental impact statement pursuant to the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370m12. TVA shall submit a request for dissolution of the injunction after completion of the procedural steps necessary to comply with NEPA. Plaintiffs will then have the opportunity to state their position with respect to the dissolution of the injunction.

IT IS FURTHER ORDERED that the terms of this injunction will remain in effect until the Court grants TVA’s request for dissolution of the injunction.

IT IS FURTHER ORDERED that TVA will maintain buffer zones on the edges of its rights-of-way as described in TVA’s 1997 and 2008 Line Maintenance Manuals:

a. When re-clearing 500-kV transmission lines on ROWs that are 200 feet wide, TVA will re-clear 150 feet, that is, 75 feet from centerline to outside edges, leaving a 25-foot buffer zone on each side.

b. On the more recently purchased 500-kV transmission line ROWs where 175 feet is all that is purchased, TVA will re-clear 150 feet, that is, 75 feet from centerline to outside edges, leaving a 12.5-foot buffer zone on each side.

c. When re-clearing 161-kV transmission lines, the structure type and height will determine the width.

i. On multiple-pole structures and single- and double-circuit steel tower lines where TVA has 150 feet of easement, TVA will re-clear 100 feet, that is, 50 feet from centerline to outside edges, leaving a 25-foot buffer zone on each side. Where TVA only has 100 feet of ROW, the entire 100 feet is re-cleared.

ii. On lines that utilize single-pole structures where TVA has an easement of 75 feet, the entire 75 feet will be re-cleared.

iii. On 69-kV transmission lines, re-clearing will be accomplished.

d. On easements with multiple transmission lines, the “centerline to outside edges” will apply to the transmission line nearest the outside boundary.

TVA will leave the existing trees in the wire zone so long as they do not pose an immediate hazard to the transmission lines.

TVA may remove or trim any trees in the wire zone of the right-of-way, or in the buffer zones of the right-of-way, or any danger tree outside the right-of-way, in accordance with its contract rights, that it deems to present an immediate hazard to its transmission lines.

In using the term “re-clearing” in this Order the Court is simply utilizing the terminology that TVA has used in its Line Maintenance Manuals and is making no determination as to whether TVA either has or has not cleared the right-of-way previously.

IT IS FURTHER ORDERED that where TVA has previously allowed a given landowner to trim his or her own trees, TVA shall continue to do so, except that TVA will have the right to immediately remove or trim any tree that it deems to present an immediate hazard to its transmission lines.

The Court accepts TVA’s representations that it has budgeted \$15 million for its yearly vegetation management and \$14 million for vegetation management during Fiscal Year 2018 through 2020. TVA shall report its quarterly and cumulative annual spending levels to plaintiffs when those figures are reasonably available through its accounting department.

IT IS FURTHER ORDERED that TVA shall post a copy of this Order and any subsequent substantive Order in a prominent location on its website to inform the public and in particular the landowners on the right-of-way that TVA has been enjoined from further implementing the 15-foot rule, and to inform the public and landowners as to the practices that TVA is being ordered to follow pursuant to this Order.

IT IS FURTHER ORDERED that TVA is required to pay plaintiffs' reasonable attorney's fees and costs in this litigation related to the NEPA and mootness issues pursuant to the Equal Access to Justice Act ("EAJA") with reasonableness to be determined by the Court in accordance with the EAJA if the parties cannot agree on the amount.

TVA will inform the Court within **thirty (30) days** after entry of this Order of the measures taken to inform TVA employees and contractors involved in transmission line right-of-way vegetation management of the terms of this injunction.

If a party seeks to modify any provision of the injunction, the parties must first meet and confer, in order to attempt to reach agreement before applying to the Court.

The Court retains continuing jurisdiction to enforce this Order through contempt or otherwise, to clarify the injunction should the need arise, to determine whether the injunction should be dissolved, and for such other proceedings as may be appropriate.

IT IS SO ORDERED.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE