

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

DONNA W. SHERWOOD, ET AL.,
Plaintiffs,

v.

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

TENNESSEE VALLEY AUTHORITY,
Defendant.

CONFESSION OF JUDGMENT IN PLAINTIFFS' FAVOR

Defendant, Tennessee Valley Authority (“TVA”), hereby makes the following confession of judgment in Plaintiffs’ favor and consents to the entry of a judgment in favor of Plaintiffs and against TVA as specified below:

1. TVA consents to the entry of a judgment declaring that TVA’s implementation of the transmission line right-of-way vegetation management practice that has come to be known in this litigation as the “15-foot rule” violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 et seq., and its implementing regulations because it was a major federal action significantly affecting the quality of the human environment that was not properly studied under NEPA prior to its implementation.
2. TVA now has published notice in the Federal Register pursuant to NEPA, *see* 82 Fed. Reg. 7913-15 (Jan. 23, 2017), that it is preparing a programmatic, system-wide Environmental Impact Statement (“EIS”) of its transmission line right-of-way vegetation management practices in which one of the alternatives studied will be the clearing of all vegetation on transmission line rights-of-way except for low-growing vegetation, which would encompass the scope of clearing specified by the 15-foot rule.

3. TVA consents to the entry of a judgment enjoining TVA from further implementing the 15-foot rule until it prepares and publishes, pursuant to NEPA, an EIS or otherwise complies with NEPA.
4. TVA consents to the entry of a judgment awarding Plaintiffs their 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.

Respectfully submitted,

s/Frances Regina Koho

Edwin W. Small, Deputy General Counsel
Frances Regina Koho, Attorney
TVA GENERAL COUNSEL'S OFFICE
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1401
Telephone 865.632.2410
frkoho@tva.gov

Attorneys for Tennessee Valley Authority

41120908

CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically through the Court's ECF system on the date shown in the document's ECF footer. Notice of this filing will be sent by operation of the Court's ECF system to all parties as indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF system.

s/Frances Regina Koho
Attorney for Tennessee Valley Authority