



Greenburgh
Environmental
Forum

Mark Hegerle
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Docket No. AD11-2-000

January 26, 2011

Dear Director Hegerle,

In this letter, I would like to follow-up on and re-emphasize concerns and observations about transmission line vegetation management regulatory issues which the GEF LORAX Working Group believes may be appropriate for consideration and resolution at the federal level.

We heard at the October 29, 2010 technical conference that the TVMP of each utility is reviewed and approved both at the state level (by the associated PUC or PSC) and at the federal level (by NERC). None of the TVMPs that LORAX has reviewed explicitly call out clear-cutting as a preferred (or even applicable) approach to ROW management. Nor does FAC-003-1 require or mention it. Thus, **there is a disconnect between approved methods and actual in-field methods applied by various utilities.** Without on-going in-field review (monitoring by transmission utility regulators at both state and federal levels), TVMP performance/compliance evaluation has effectively occurred due only to the cries and complaints of landowners who have experienced (or are threatened with) clear-cutting implementations.

We have heard expert testimony at the conference from Dave Morrell of the NYSPSC that he believes the clear-cutting choice has been made by utilities not as on the basis of cost savings, but rather as **a means to avoid FERC compliance fines.** Changing FERC/NERC fine structures so as to clearly handle the difference in risk profiles of a *Clearance 1* vs. a *Clearance 2* infraction is key to stopping this utility recourse to clear-cut. Having a tree grow into an arbitrary *Clearance 1* zone (which is based upon the utilities' own TVMP cycle definition) is clearly different than having one grow into the "flash-over" zone or actually contacting a line!¹

¹ The spark-over *Clearance 2* is science-based with IEEE-provided tables giving required distances, unlike the arbitrary *Clearance 1* value which is never provided in any formal specification reference.

We also heard mention of **advanced techniques such as LIDAR scanning of transmission corridors** so that complete 3D mapping of vegetation can occur, allowing computerized analysis and detection of "problem areas". With such technology allowing the early and easy detection of infractions into *Clearance 1* zones, the actual *Clearance 1* distance established by a utility could be modified to be more "lenient". There would be a highly targeted "on-demand" TVM response to any such specifically detected incursions (not a broad-brush clear-cutting of the entire ROW). This would also most likely result in significant annual TVM program cost savings for the utilities.

Lack of environmental analysis and remediation is a major weak link in the current regulations. At both the state and federal levels, TVMP is considered to be a "maintenance" operation and thus is excused from any environmental quality review processes (unlike new transmission line construction). However, actual in-field reports demonstrate that there are widespread and serious environmental, health, and property value impacts for landowners - both along and nearby the ROW - resulting from current TVM practices. These impacts occur along private and municipal easements, as well as in state and national parklands and preserves. To prevent or minimize future impacts, the basic FAC-003 regulations should emphasize environmental stewardship in conjunction with reliability: the "model TVMP" as outlined therein must thus include requirements for scientifically-sound tree resource valuation (as outlined by the USDA Forest Service) as a basis for planned mitigation and/or remediation for all TVM actions. Such analysis would be based upon actual (pre-TVM) environmental conditions of each ROW segment.

"One size fits all" for TVM planning is a related issue: **FAC-003 regulations should explicitly call out the need for "alternative" TVMPs for high density population areas and other environmentally sensitive areas** (such as parklands, preserves and corridors.)

Finally, as discussed at the conference, **the utilities' reliance on IVM - Integrated Vegetation Management - (as outlined in ANSI A300 Part 7) needs to be questioned.** The scientific findings relied upon by the IVM spec (based upon years-old studies in limited regions of the US) appears to be at odds with current studies reported by researchers in Pennsylvania and New York: in controlled studies of forest and woodland clear-cutting, natural regeneration of native species no longer occurs due to excessive deer herbivory. Deer populations are explosively rising in the Northeast and the expansion of deer-friendly feeding territory caused by clear cutting the ROWs will directly result in greater expansion of populations. Only non-native invasive plants will be able to repopulate the ROW lands, unlike the IVM model of a naturally generated/re-seeded native ecosystem. Unfortunately, reliance on the currently espoused IVM methods including repeated and wide-spread application within the ROWs of herbicide "touch-ups" year-after-year will not provide a viable foundation for desired ecosystem recovery. Active mitigation / restoration and on-going horticultural maintenance will be required. (Again, this long-term process will require oversight monitoring by regulatory agencies.)

To summarize:

Changes to FERC/NERC fine structure and fine infraction types (esp. regarding *Clearance 1*) could be undertaken directly under existing regulation without requiring further legislative action. Such changes - and the reasons for them - should be clearly communicated to all state PSCs/PUCs as well as to the utilities themselves, along with a request to review and modify their current practices in light of these changes.

This needs to be coupled with enhanced federal in-field monitoring and inspections - as proven by events/complaints over the last couple of years, FERC/NERC cannot rely solely upon state public utility commissions to perform this oversight in a timely manner. The core issue is whether or not approved TVMPs are being followed "to the letter" of FAC-003 or are greater (more excessive) TVM actions being undertaken unnecessarily? If so, these should be stopped with the threat of significant (new) FERC/NERC fines for non-compliance to regulations.

General TVM guidelines (similar to the technical advisory guidelines developed to accompany FAC-003-2 draft) should be issued covering the recommended use of LIDAR techniques in TVM, as well as expanding the emphasis on use of the modified WZ/BZ (wire zone/ border zone) management approach which allows vegetative buffers to coexist along ROW edges and outer margins (e.g.; vegetation height is based upon distance from centerlines of the transmission towers in conjunction with terrain, topography, species and climate/bio-zone.)²

In addition, the problems of relying in TVMPs upon IVM (Integrated Vegetation Management) as defined by ANSI A300 Part 7 should be emphasized. A scientifically sound, updated approach to ROW ecosystem restoration after TVM operations needs to be made part of any TVMP approval/review - and should be part of the FAC-003-2.

FERC should also emphasize the need the need for effective and agreed-upon (with landowner) environmental mitigation or remediation, planned at the outset and required to be part of any TVMP. Again, this is striking a balance between reliability and environmental concerns that should not require legislative action, but simply a re-emphasis within FAC-003 regulations and enforced via the TVMP review process.

These final points imply another significant change which FERC could undertake immediately: the regulatory specification process (as embodied by the current FAC-003-2 draft update) should be broadened to include the landowner's perspective within the creation/review/approval process. Allowing landowner input and feedback could only strengthen the resulting specifications.

² In the context of this "Tiered WZ/BZ" methodology, the current FAC-003-2 draft should not include predetermined maximum vegetation height specifications for the Border Zone.

Thank-you for including LORAX in this discussion. I and my LORAX Working Group associates are available for further follow-up.

Regards,

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