

U.S. Department of Energy

ORDER



Western Area
Power Administration

WAPA O 430.1C

DATE: 02-16-2017

SUBJECT: RIGHT-OF-WAY MANAGEMENT GUIDANCE FOR VEGETATION, ENCROACHMENTS, AND ACCESS ROUTES

1. **OBJECTIVE**. This Order delegates and clarifies responsibilities and establishes right-of-way (ROW) guidance and organizational support for the safe and reliable operation of the power system owned and/or maintained by the Western Area Power Administration (WAPA).
2. **CANCELLATION**. This Order cancels WAPA O 430.1B, *Right-of-Way Management Guidance for Vegetation, Encroachments, and Access Routes*, dated 04-18-2014.
3. **SCOPE**. The provisions of this Order apply to all organizational elements of WAPA.
4. **REFERENCES**.
 - a. WAPA O 450.1B, *Western Environmental Protection Program*, latest version,
 - b. WAPA Engineering Manual (EM) 6460.3, *Property Damage Investigation Appraisal and Settlement*, latest version.
 - c. WAPA EM 6404, *Construction Management Practices and Procedures*, Chapter V, Real Estate, latest version.
 - d. WAPA O 450.3C, *Transmission Vegetation Management*, latest version.
 - e. *Occupational Safety and Health Administration Code of Federal Regulations* (C.F.R.) 29 C.F.R. § 1910.333.
 - f. Southwire Sag10 Software, latest version.
 - g. National Electric Safety Code (NESC), latest version.
 - h. North American Electric Reliability Corporation (NERC) FAC-003-4, *Transmission Vegetation Management*.

DISTRIBUTION:

Available Online: <http://intranet.wapa.int/programs/directives/Pages/Alphadir.aspx>

INITIATED BY:

*Office of Asset
Management*

5. DEFINITIONS.

- a. Danger Trees. Trees located within or adjacent to the ROW that present a hazard to employees, the public, or power system facilities. Characteristics used in identifying a danger tree include, but are not limited, to the following:
 - (1) Encroachment within the safe distance to the conductor as a result of the tree growing into or bending, swinging, or falling toward the conductor.
 - (2) Deterioration or physical damage to the root system, trunk, stem, or limbs and/or the direction and lean of the tree.
 - (3) Vertical or horizontal conductor movement and increased sag as a result of thermal, wind, and/or ice loading.
 - (4) Exceeding facility design specifications.
 - (5) Fire risk.
 - (6) Other threats to the electric power system facilities or worker/public safety.
- b. Emergency Situations. An emergency situation occurs when a danger tree or encroachment poses an immediate danger to WAPA's facility, as well as, the welfare of the public and WAPA's maintenance personnel. For these situations, it is not necessary to notify a landowner or government entity prior to removing the danger tree or encroachment.
- c. Encroachments. Encroachments are conditions or developments that occur within the transmission line ROW that impair WAPA's rights to operate and maintain the facilities or present a hazard to the safe operation of the power system. Examples of potential encroachments are houses, businesses, signs, light structures, outbuildings, landfills, roadways, vegetation, etc.
- d. Right-of-Way (ROW). WAPA acquires easements across State and private lands, is issued grants, permits or easements across Federal lands, and has assumed the Bureau of Reclamation (Reclamation) responsibilities set forth in various agreements historically negotiated between Reclamation and other Federal agencies, such as the Bureau of Land Management, Bureau of Indian Affairs, National Park Service, and United States Forest Service. As applied to a specific situation, ROW refers to the rights acquired by WAPA as set forth in the applicable document.

- e. WAPA Authorized Representative. The field representative who has the authority to take a maintenance action (this will be the Regional Manager or their designee).
6. POLICY. Maintenance managers have the authority and responsibility for implementing and overseeing the proper maintenance of WAPA ROWs. This includes all activities within the ROW that ensure the safe, secure and reliable operation of the power system, as well as protection of the environment, the public, and maintenance personnel. These activities include routine maintenance of access routes, vegetation management, identification of potential encroachments, and development of positive landowner relations. Regional vegetation management specialists, realty specialists, environmental managers, safety managers, and when necessary, the Office of General Counsel (OGC) and the Natural Resources Office (NRO) will provide support to maintenance managers.
 7. BACKGROUND. WAPA ROWs provide rights to maintain vegetation, access the power facilities, and prohibit uses that interfere with or encroach upon the ROW.
 - a. State and Private Lands. Generally, the ROW agreement provides for the perpetual right to access, construct operate, and maintain the power system facility in a manner that ensures safe operation and system integrity.
 - (1) Vegetation Management and Control. Responsibility of these functions is often WAPA's and may, based upon the terms of the easement contract or other agreement, require compensation to the landowner for the damages to crops or trees. Contracts are generally reviewed by the Regional realty specialists to determine the extent of WAPA's right to maintain or clear vegetation.
 - (2) Landowner Use of the ROW Area. The ROW provisions specify WAPA's rights to operate and maintain the power facilities. Where landowners add or propose uses or developments in the ROW, the maintenance managers determine the use or development must cease, be removed or mitigated some other way to protect WAPA's right.
 - (3) Access Rights. Access rights are usually provided in the ROW. When access questions arise, the realty specialist will thoroughly research and verify access.
 - b. Federal Lands. The ROW authorizations are sometimes limited to a specific term and specify stipulations or conditions associated with vegetation management, compatible land uses, and access rights.

- (1) Vegetation Management and Control. WAPA's responsibilities are affected by land and resource management plans, or other planning instruments approved by the land management agency. These plans dictate tree removal or trimming within and adjacent to the ROW.
- (2) Land Use and Development. Uses or developments within WAPA ROWs are authorized by the Federal entity managing the land and are usually reviews and concurred upon by a WAPA authorized representative prior to the use being authorized.
- (3) Access Rights. Access rights can be authorized in the same ROW authorization or in a separate authorization. The authorizations may contain specific terms and conditions that restrict the season of use and/or construction or road improvement activities allowed on the authorized access routes.

8. RESPONSIBILITIES.

- a. Regional Managers. Provide oversight of the ROW program in their respective Regions.
- b. Regional Maintenance Managers. Develop long-term strategies and programs in coordination with safety, environment, vegetation management and realty personnel to resolve vegetation, encroachment and access problems in and along WAPA's transmission line ROW.
- c. Regional Safety Managers. Support the maintenance managers providing guidance for resolution of safety concerns as well as ensuring the Regional ROW program meets WAPA's safety goals and objectives.
- d. Regional Environmental Managers. Support the maintenance managers in ensuring that maintenance activities employed to resolve vegetation, encroachment, and access problems comply with environmental laws and regulations.
- e. Regional Vegetation Management Specialists. Support the maintenance managers in ensuring that vegetation maintenance activities comply with WAPA's overall Vegetation Management Program Policy.
- f. Regional Realty Specialists. Support the maintenance managers in the identification of the land rights and resolution of vegetation, encroachment, public relations, and access problems.

- g. Office of General Counsel (OGC). Provides legal advice, counsel, and representation.
 - h. Natural Resources Office (NRO). Provides advice and support to the maintenance managers, realty specialist, and environmental managers in order to resolve vegetation, encroachment, and access problems.
9. GENERAL GUIDANCE. As a component of each Regional Office's routine maintenance activities, the maintenance manager will develop ROW maintenance performance measure and coordinate implementation with Regional safety, environment, vegetation management and realty personnel, as well as OGC and NRO when necessary. This includes a long-term strategy to inventory WAPA's rights as they pertain to vegetation management, encroachments, and access, identification of potential problem areas or situations to be resolved, and oversight of the resolution process.
- a. Vegetation Management. It shall be the responsibility of the Regional realty specialists to inventory the vegetation management rights, including any compensation rights to landowners, for a power facility. Prior to vegetation management activities, an effort will be made to notify landowners or the proper government entity. Such notifications or attempts to notify landowners/land management agency shall be documented.
 - (1) Where provided in the ROW agreement or authorization, the maintenance manager shall manage the vegetation within and adjacent to the ROW in accordance with the most current version of WAPA O 450.3C, *Transmission Vegetation Management*.
 - (2) Where the ROW agreement or authorization does not provide for the rights to manage vegetation in or adjacent to the ROW, or if the rights are limited, the following shall apply in accordance with the most current version of WAPA O 450.3C, *Transmission Vegetation Management*.
 - (a) Emergency Situations. The maintenance manager determines how to address emergency situations, including danger tree removal, if necessary.
 - (b) Non-Emergencies. If vegetation is not causing an emergency situation, WAPA will work with the landowner or Federal entity to conduct the required vegetation management activity. If necessary, WAPA will expand its land rights to manage the vegetation within or adjacent to the ROW.

- (c) Where land use plans or terms of the ROW agreement or authorization dictate trees may only be trimmed (sides or on top) within the ROW, the realty specialist will assist the maintenance managers in obtaining modifications to the ROW agreement or authorization to allow of all required vegetation management activities.

(3) Tree Removal Criteria. Criteria that will be used to determine the need for tree removal activities include either of the following two conditions:

(a) Any tree classified as being a “danger tree” as defined in Paragraph 5a above.

(b) Requirements established in WAPA O 450.3C, *Transmission Vegetation Management*, latest version.

(4) Vegetation Management Clearance. It is WAPA’s policy to proactively manage vegetation to ensure compatible plant communities and mitigate wildfire risk to obtain a desired condition as defined by WAPA O 450.3C, latest version. If the desired condition cannot be obtained, WAPA has carefully analyzed, evaluated and set WAPA’s minimum clearance requirements for vegetation after treatment in WAPA O 450.3C, *Transmission Vegetation Management*, latest version.

b. Encroachments.

(1) State and Private Lands. Potential encroachments are identified by the maintenance managers and verified and resolved by the realty specialists. WAPA will license compatible encroachments. For incompatible encroachments, the realty specialist shall coordinate their removal or mitigate their use or development. The realty specialist may consult or ask assistance from the OGC and/or NRO in those cases involving complex legal issues and landowner investments.

(2) Federal Lands. Where uses or developments are located within ROWs on Federal lands that appear to impair WAPA’s rights to operate and maintain its facilities, the realty specialist will be responsible for contacting the Federal entity and resolving the problem. If necessary, the realty specialist may consult with or as assistance from the NRO and/or OGC.

c. Access Routes.

(1) To ensure safe, reliable access to WAPA’s facilities for maintenance purposes, the maintenance manager will identify and locate access routes across private, State, and Federal lands. Maintenance managers have the

discretion to reopen blocked access routes where WAPA's right of access is being impeded. Realty specialist will coordinate the reopening of such routes with the landowners and/or Federal entities and will be supported by NRO and OGC, as necessary.

- (2) Where new access is needed, the realty specialist must consult with the environmental manager and the NRO to obtain an access ROW. Western will strive to obtain access routes with the fewest restrictions as to season of use or impacts to resources.

10. CONTACT. Questions concerning this Order should be addressed to the NRO at (720)962-7252.

A handwritten signature in black ink, appearing to read 'Mark A. Gabriel', with a large, stylized flourish at the end.

Mark A. Gabriel
Administrator