

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FRIENDS OF THE CAPITAL CRESCENT )  
TRAIL *et al.*, )

Plaintiffs, )

v. )

FEDERAL TRANSIT ADMINISTRATION )  
*et al.*, )

Defendants: )

Civil Case No. 17-1811 (RJL)

**FILED**  
SEP - 8 2017

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

ORDER

(September 8, 2017)

On September 5, 2017, plaintiffs filed a Complaint in this action alleging that defendants committed numerous violations of the Administrative Procedure Act in the course of funding and implementing plans to construct the Purple Line light-rail project (“Purple Line”) in Maryland. *See* Compl. [Dkt. # 1]. Plaintiffs also filed that day a Motion for a Temporary Restraining Order (“TRO”) requesting that this Court stop defendants from engaging in Purple Line project construction activities on the Capital Crescent Trail and informing the Court of their intention to file a preliminary injunction motion in the near future. *See* Pls.’ Mot. TRO [Dkt. # 2]. On September 6, 2017 at midday, defendants

filed their oppositions to the TRO motion. *See* Dkts. ## 4, 6. I held a hearing on the TRO motion later the same day.

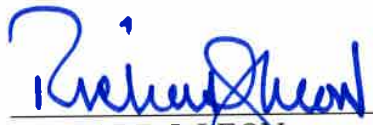
At the hearing, the Court questioned the parties about whether it has jurisdiction to entertain the plaintiffs' new filing in light of the fact that my prior decision vacating the Record of Decision and ordering a Supplemental Environmental Impact Statement ("SEIS") is currently on appeal in the D.C. Circuit. Not surprisingly, given the hurried nature of the TRO proceedings, the parties were less than clear about this Court's power to entertain the present action and the relationship of plaintiffs' assorted new claims to those currently on appeal. In light of the present posture of the case, the Court directed defendants' counsel to consult with their clients to determine whether the large-tree clearing within the Georgetown Branch right-of-way portion of the Capital Crescent Trail, currently scheduled to begin on September 18, 2017, could be delayed until September 25, 2017 to allow the Court additional time to consider forthcoming briefings on the motion for a preliminary injunction. The Court also set the briefing schedule for plaintiffs' preliminary injunction motion and set a September 19, 2017 hearing to hear arguments on the motion.

On the afternoon of September 7, 2017, defendant Maryland Department of Transportation ("Maryland") provided an update to the Court indicating that a one-week delay in the planned tree-clearing activities could result in substantial costs. *See* Md.'s Supplemental Resp. to Pls.' Mot. TRO at 4-5 [Dkt. # 8]. Maryland further noted, however,

that it was “willing to delay tree-clearing within the Georgetown Branch right-of-way until Wednesday, September 20, 2017”<sup>1</sup> to allow the Court additional time to consider the issues raised by plaintiffs. *Id.* at 5.

Relying on Maryland’s representations, it is hereby

**ORDERED** that this Court will defer ruling on plaintiffs’ TRO motion until it has had an opportunity to receive and review the parties’ briefing on the preliminary injunction motion and hear argument on the motion at the September 19, 2017 hearing. Deferring a ruling on plaintiffs’ TRO motion until that time will allow the Court to assess the complicated jurisdictional questions presented in this case, including whether plaintiffs’ current claims are inextricably intertwined with my earlier decision on appeal in the D.C. Circuit and the extent to which granting plaintiffs’ requested relief would effectively be undercutting the D.C. Circuit’s July 2017 order staying my earlier order and reinstating the Record of Decision in that case. *See Fitzgerald v. Fed. Transit Admin.*, No. 17-5132 (D.C. Cir. July 19, 2017) [Dkt. # 4-1].

  
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RICHARD J. LEON  
United States District Judge

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<sup>1</sup> Defendants’ counsel indicated at the hearing that the tree clearing due to commence prior to the eighteenth would be limited to trees nine inches in diameter or less. *See* 09/06/17 TRO Hearing Tr. at 20:10-18 [Dkt. # 13]. As such, the clearing of any trees larger than that size by defendants prior to that date will be considered to be actions in contempt of this Court and punished appropriately. Accordingly, defendants’ counsel are hereby directed to additionally inform all work crews to avoid clearing any trees larger than nine inches in diameter prior to the 20th of September.