



Power line spraying ignites concern

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Published in the Blount Countian

Oct. 12, 2022

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When Jolie's land was sprayed with herbicides, her sons Andrew and Joel and the family's Newfoundland dog, Al, walked through the sprayed area before they knew what had happened. Angela stopped picking her blackberries after workers directed their spray

wands at the canes. Sylvia's elderberry bush was targeted, just as a cluster of fruit was ready to harvest for the 20 pounds she was collecting to make wine.

Dave lost his favorite hydrangea. He stopped drinking from his property's natural spring when the surrounding fern garden was desiccated by chemical sprays. Raetta worried about her bloodhounds' and horses' exposure to herbicides sprayed in the yard and through the pasture. The wildflowers in her honeybee garden were killed. Mysterious crop failures plagued her orchard and garden – barren cherry, apple, peach, and pear trees; a blueberry bush that almost died; disfigured tomato plants that produced no fruit.

Herbicide applications on these Remlap, Pine Mountain, and Holly Springs properties were part of a massive, continual effort “to keep the lines serving our communities operating safely and reliably,” according to Alabama Power spokesperson Alyson Tucker. Herbicide, a type of pesticide that targets unwanted plants, is used “to manage woody vines, shrubs, and trees that could interfere with our lines,” Tucker explained.

The power company's access to 10 to 15 feet on each side of the line is granted by easements, most of which were created decades ago as a condition of establishing of electrical service to the property or area and remain in effect in perpetuity.

To maintain this land, crews contracted by Alabama Power apply a mix of three herbicides: Accord XRT II, Milestone, and Arsenal. These “are EPA approved, non-restricted formulas,” Tucker wrote, “and are applied by certified applicators selectively, rather than broadcast, to target woody vegetation.”

The glyphosate-based herbicide Accord XRT II is a 30% more concentrated formula than Monsanto's Roundup. Glyphosate's ties to non-Hodgkin's lymphoma have resulted in billions of dollars in court rulings and settlements. Next year, Bayer will remove glyphosate from lawn and garden formulations of Roundup in the U.S. “exclusively to manage litigation risk and not because of any safety concerns,” according to a statement from the company.

Aminopyralid, Milestone's active ingredient, has caused severe crop loss via spray drift and contaminated manure and compost. Residues from sprayed plants are passed through to manure, do not break down in compost, and can last for years in garden soil. Exposure to the chemical causes deformation and poor or non-existent yields of potatoes, tomatoes, peppers, carrots, lettuce, peas, beans, cotton, fruit trees, ornamentals, and other plants. Milestone's label requires applicators to “Avoid application under conditions that may allow spray drift because very small quantities of spray may seriously injure susceptible crops.”

The thin, twisted stems and cupped leaves that Raetta observed on her and husband Rickey's tomato plants are symptomatic of aminopyralid exposure. Their large garden is located across the driveway from a fence line that was sprayed. Additionally, Rickey amended the soil with composted manure from their horses which, he later learned, had grazed in a pasture that had been sprayed.

Beyond Pesticides, a nonprofit organization headquartered in Washington, D.C., has written about imazapyr, Arsenal's active ingredient, as having "harmful endocrine and chronic toxicological effects," "deleterious impacts on butterflies and other non-target organisms," and causing groundwater contamination that persisted for eight years after application.

Legal use of each product requires that the label's instructions be followed. "Unlike other types of product labels, pesticide labels are legally enforceable, and all of them carry the statement: 'It is a violation of Federal law to use this product in a manner inconsistent with its labeling,'" according to EPA documentation. "In other words, the label is the law."

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947 assigned states with the "primary enforcement responsibility for pesticide use/misuse violations," according to the EPA. Alabama law, in turn, assigns administration of enforcement to the state's Department for Agriculture and Industries (ADAI) in the Alabama Pesticide Act.

In his 25 years on the job, Tony Cofer, Pesticide Management Division Director at ADAI, said the department has received complaints about "applications in other areas, not necessarily within the easement itself, but maybe something drifted onto someone's garden, where [the product] was not used correctly, maybe the wind was blowing too hard," he said. "You have to do it at the right time and in the right way."

Labels dictate these conditions in lengthy detail. Accord XRT II's label, available from the EPA website as a 136-page PDF, includes a requirement to "Keep people and pets off treated areas until spray solution has dried." When residents are unaware of spraying on their property, how can they know to direct children to play inside, to avoid the area themselves, or to ensure pets stay away?

"You wouldn't necessarily," said Cofer.

"All solutions are quick drying," said Tucker.

"Labels often include language that imposes restrictions on the presence of people or animals during application or prohibits access until a specific condition (e.g., product has dried) or interval of time has passed," explained Cathy Milbourn, EPA spokesperson.

“Generally, it is the responsibility of the pesticide applicator/user to ensure these restrictions are met.”

Most U.S. states also require notification of those affected by spraying, said Drew Toher, Community Resource and Policy Director at Beyond Pesticides. Alabama does not.

“There’s no state-specific regulation that requires posting,” said Cofer. “Sometimes when people have their yards treated and they’re hiring a company to do that, that company will post it. That is not a state requirement, that is what the company has chosen to do to protect their own customers.”

None of the community members who spoke about spraying were notified. Many residents walked out to find crews already spraying, or discovered desiccated grass, flowers, and bushes in the following days.

“If they wanted to have a notification, they could call Alabama Power and get on their notification list,” Cofer suggested. “That’s something that may be helpful for folks that have concerns. Cause I wouldn’t necessarily want my animals running through there either,” he said.

“I’m not necessarily aware of a list,” answered Meredith, a customer service representative at Alabama Power, when I asked to be added to the notification list. “That’s not come up for me before.” Meredith placed the line on hold to ask. “Letters can be sent out only if power is disrupted when work is being done,” she said upon return. “That’s not the case with herbicides.”

Each of the herbicides in Alabama Power’s cocktail includes first aid instructions in case of exposure: *Rinse skin for 15 to 20 minutes. Take off contaminated clothing. Do not induce vomiting. Call the (product-specific) emergency hotline. Watch for symptoms of gastrointestinal irritation in dogs and other domestic animals. Have the product label on hand when calling a poison control center or doctor.*

Without notification, residents or their animals may be affected without knowing that herbicide is the culprit. Accurate diagnosis and appropriate treatment become all the more challenging in the absence of a product name or label.

Only after three weeks of requests did Alabama Power disclose the herbicides used. On multiple calls, I heard variations of *I’m not comfortable talking about that and I’ll reach out to my supervisor*. When the supervisor called, he referred all questions to the PR department.

These herbicides carry page after page of cautions, hazards, recommendations, and risks even when used as directed. “The label is really the minimum requirements,” said Beyond Pesticides’ Toher.

“The EPA’s pesticide office granted 972 industry requests to waive toxicity tests between December 2011 and May 2018, 89 percent of all requests made,” Sharon Lerner reported in [“The Department of Yes: How Pesticide Companies Corrupted the EPA and Poisoned America,”](#) an extensive article published in 2021 by the non-profit news organization The Intercept. The waived tests would have examined developmental neurotoxicity, chronic cancer studies, and immune system harm, Lerner wrote.

“Just because a state may grant a utility company rights to go on properties does not mean that these companies abandon their duty to not harm their customers,” explained Barbara Kibbey, Esq., regarding questions of legal herbicide use. “If there is a showing of true negligence or reckless disregard for someone’s health and safety, a utility company could be liable for damages.” Failure-to-Warn cases are a specialty of [Kibbey’s Florida-based practice.](#)

Safety is a concern of Sharon of Pine Mountain, whose beautyberry bush was targeted before she saw what was happening. “There are berries, but nowhere near the typical harvest,” Sharon said. “Plus knowing they sprayed, I can’t use the berries now for jam.” Contractors sprayed “about 300 feet along the drive. Dead, dead, dead,” she said. “I guess herbicides and Parkinson’s, or cancer, don’t mean a thing to them.”

“Studies have shown a link between exposure to chemicals in pesticides and herbicides, and the incidence of Parkinson’s disease,” asserted Johns Hopkins Medicine in [“Can Environmental Toxins Cause Parkinson’s Disease?”](#) In a 2018 [University of Guelph study,](#) a professor “determined that low-level exposure to the pesticides disrupts cells in a way that mimics the effects of mutations known to cause Parkinson’s disease.”

The World Health Organization’s International Agency for Research on Cancer [concluded](#) in 2015 that glyphosate is “probably carcinogenic to humans.” The EPA is [required to issue a re-assessment](#) this month of the chemical’s risks to people, pollinators, and ecosystems, after the 9th Circuit Court [threw out](#) the EPA’s 2020 safety claims.

[A study by the CDC in 2021 found](#) that 81% of the 2,310 participants (children as well as adults) had glyphosate in their urine.

These herbicides can also be dangerous to dogs, horses, pollinators, and other animals. [Milestone’s label](#) requires relocating grazing animals: “Herbicide application may increase palatability of certain poisonous plants. Do not allow livestock to graze treated areas until poisonous plants are dry and no longer palatable to livestock.”

How can the label be followed if residents are not told that they need to relocate horses, cows, sheep, goats, and other animals? “To tell you the truth, I don’t have a good answer for you,” said Cofer, Alabama’s pesticide regulator.

Sylvia, who lives in Holly Springs, was rattled by the unmarked truck on her dead-end driveway. Upon seeing workers spraying, “I ran out there like a madman, in my pajamas, big black cat hissing behind me.” She would prefer to be contacted first so she can take care of any problem foliage herself.

This time, though, the edible and medicinal greens and berries that Sylvia nurtures near the power lines had already been sprayed, including the ripening elderberries that she was collecting. She will not harvest them.

“Do not use on food crops,” reads [Arsenal’s label](#).

Still, Sylvia was sympathetic to Alabama Power’s responsibility, which includes maintenance of approximately 60,000 miles of distribution easements and 10,000 miles of transmission right of way, according to Tucker. “How much manpower would it take to remove it all by hand? I get it. But it doesn’t need to be indiscriminate.”

When the crew’s supervisor came out from the truck, Sylvia said, “I took him by the arm, named each plant — ‘this is food, this is medicine.’ He went back to the truck, got out this map, circled our property, and had me sign a piece of paper saying that it wouldn’t be sprayed.”

According to Alabama Power’s Tucker, though, “There is not currently a mechanism to change or modify property owners’ vegetation management activities,” such as to opt for management with only mechanical tools. “Managing the area with a chainsaw does not accomplish the same goal since the brush and vines will flush back out as if they were pruned,” she explained.

“You must kill the plants at the root to be effective.” “There should be something that we as landowners, especially with farms, could do,” said Crystal, who opposes spraying on her property at the base of Pine Mountain, where she keeps Italian honeybees, Kunekune pigs, and chickens.

“I want to make sure I follow all the rules,” added Becky, who lives and gardens in Remlap. “Where can I get the rules regarding power lines?”

Tucker recommended Alabama Power’s [“Plant the Right Tree,”](#) available online, “for great information about what to plant near power lines.” This brochure specifically recommends hydrangea, beautyberry, and other plants less than 10 feet in height

anywhere in the power corridor, including directly under lines. The company also supports wildflowers as an ideal option, granting “[Alabama Wild Power](#)” funds to landowners who plant them.

Only those whose power line corridor consisted of freshly mowed grass or grazed pasture reported that their land was left alone. Abiding by Alabama Power’s “Plant the Right Tree” guidelines offered no protection to many local residents who shared their experience.

“Woody stems must be maintained,” said an employee of Alabama Power’s Residential Management Program in a conversation about inappropriate spraying. “The goal is to have mostly grasses, and there is some spray that impacts the grasses,” he said.

“Unfortunately that does occur.”

Those who have followed the company’s rules were especially frustrated. “I understand keeping power lines clear, but killing vegetation that is no threat is irresponsible,” said Dave, who lives on Pine Mountain. In addition to that favorite hydrangea, Dave’s blueberries and muscadines were sprayed, and he was upset to lose the use of his spring, which feeds Lost Creek.

“Do not apply this product within 1/2 mile upstream of an active potable water intake in flowing water (i.e., river, stream, etc.), or within 1/2 mile of an active potable water intake in a standing body of water, such as a lake, pond, or reservoir,” [Arsenal’s label](#) instructs.

When asked about improper spraying, Alabama Power’s Tucker encouraged those affected to contact the power company. “We haven’t received any specific complaints of this, but we would have to look at the circumstances surrounding each location,” she wrote.

Dave followed this advice, reporting his hydrangea, blueberry bush, muscadines, and the spring and its surrounding ferns. The representative wrote up a “Loss Prevention / Damage Ticket” and said someone should contact him in the next couple of weeks, Dave said. The next day, a representative of the spraying contractor, Progressive Solutions LLC, took photographs at Dave’s property and at neighbor Angela’s. “He was very respectful and apologetic,” said Dave. “He admitted it looked like his crew got lazy and sprayed too much.”

When first asked about what those affected could do, Cofer, whose Pesticide Management Division is Alabama’s designated regulatory agency, recommended calling the power company.

When asked during a second conversation, Cofer said citizens could call his agency. “We get probably on average about 50 to 100 pesticide complaints a year from the public

statewide,” he said. “What we’re looking for is, are they meeting the criteria on the label?”

Beyond Pesticides’ Toher did “a bit of digging” and found Pesticide Management’s [Consumer Complaint Form](#), which states that ADAI “requires that all Consumer Complaints be submitted in written form.” A link to the PDF form is [several pages deep](#) on the ADAI website. For easier access, go to agi.alabama.gov and search “consumer complaint form” (including the quotation marks).

“My advice to anyone wanting to see change: Write to your regulatory agency!” encouraged Justinn Overton, Executive Director of [Coosa Riverkeeper](#). Overton, an experienced advocate on environmental issues, filed a [comment letter](#) last year about pesticide applications in Alabama waters by Alabama Power and other operators.

The EPA’s Milbourn directed residents to report incidents to [ADAI](#), to the National Pesticide Information Center at npic.orst.edu, or directly to the EPA at epa.gov/pesticide-incidents.

“For anything pesticide related, we have a field staff that go out and look at those things,” said ADAI’s Cofer. “Anything that we can do to help, we try to help the public with any type of pesticide complaint.”

Cofer was sympathetic to residents’ concerns about herbicides. “In the old days, people would say, ‘Thank you for controlling the mess,’” he explained. “Now people don’t want any pesticides sprayed near them. I understand that totally.”

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Additional Citations

Community member conversations (all in 2022) with author:

- Jolie: Oct. 4 chat.
- Angela: Sept. 23 chat.
- Sylvia: Oct. 1 phone call.
- Dave: Sept. 23 Facebook reply; chats on Oct. 4, 5, and 6.
- Raetta: Sept. 23 Facebook reply; Oct. 3 phone call.
- Sharon: Sept. 24 Facebook reply; Sept. 24 chat.
- Crystal: Sept. 27 Facebook reply.
- Becky: Sept. 26 Facebook reply.

- Several other community members also provided information in conversations between Sept. 22 to Oct. 05.

Alabama Power-related citations (all 2022):

- Alyson Tucker, spokesperson: email conversations with author on Sept. 19, Sept. 27, Oct. 04, Oct. 06.
- Easement information: Pine Mountain easement records provided by Alabama Power from 1949 and 1979 for the author's property and nearby properties; Luke Brown, Alabama Power ROW Specialist for North Birmingham, phone conversations with the author, Sept. 14 and Sept. 20; Alabama Power, "[Residential Vegetation Management](#)," accessed Sept. 22.
- Meredith, Alabama Power Customer Service, phone conversation with author, Oct. 04.
- Alyson Tucker, spokesperson, emailed the specific herbicide product names on Sept. 27. I had previously asked Alabama Power Residential Vegetation Management staff members for the specific products used in phone conversations on Sept. 6 and Sept. 14 and had asked Tucker via phone and follow-up emails on Sept. 16, Sept. 20, and Sept. 23.
- Employees (not named in article) who spoke or declined to speak about spraying: phone conversations with the author on Aug. 26, Aug 29; Sept. 06, Sept. 14, Sept. 16, Sept. 20, Sept. 23.

Government, nonprofit, and legal source citations (all 2022):

- Tony Cofer, [Pesticide Management Division Director at Alabama Department of Agriculture & Industries](#): phone conversations with author, Oct. 03 and Oct. 04.
- Cathy Milbourn, EPA spokesperson: email conversation with author, Oct. 06.
- Drew Toher, Community Resource and Policy Director at [Beyond Pesticides](#): phone conversation with author, Oct. 03.
- Barbara Kibbey, Esq., of [Kibbey Wagner Attorneys at Law](#): email conversation with author, Oct. 03.
- Justinn Overton, Executive Director of [Coosa Riverkeeper](#): email conversation with author, Oct. 06. Coosa Riverkeeper's comment letter is on pages 40–46 of [this report](#).

The author thanks Blaze Newman for editing assistance; the community members, lawyers, activists, regulators, and Alabama Power employees who spoke or shared their experience for this piece, and the *Blount Countian* for providing a local forum to share important information.

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