Congress of the United States

Washington, DC 20510

March 7, 2017

The Honorable James Richard "Rick" Perry Secretary of Energy U.S. Department of Energy 1000 Independence Avenue, SW Washington, DC 20585

Dear Secretary Perry,

We are writing in opposition to the Department of Energy's (DOE) agreement to participate in the Plains and Eastern Clean Line Project (the project). This nearly 300 mile-long electric transmission line across the state of Arkansas was reviewed and rejected by our state's Public Service Commission (PSC). Despite this rejection by the state, DOE chose to evaluate Clean Line Energy Partners' (Clean Line) application for eminent domain through a never-used provision in the Energy and Policy Act of 2005. Under Section 1222, DOE can grant Clean Line eminent domain authority in Arkansas, allowing them to proceed with the electric transmission line.

Our objection to Clean Line's application should not be viewed as a fight against renewable energy; we each understand the importance of having a reliable electricity grid and are strong advocates of a diverse energy portfolio, including wind, solar, hydropower, renewable biomass, and nuclear energy. Likewise, we do not take issue with the building of national infrastructure; robust infrastructure investments, including the enhancement of the electrical grid, are often productive undertakings.

Instead, our objections relate to the vast overreach the Obama Administration employed, allowing this project to skip the necessary protections which exist to protect state sovereignty and private property rights.

Throughout the history of electric transmission, factors for the approval of these lines have been reviewed and decided at the state level. As the nonpartisan Congressional Research Service has noted:

"The location and permitting of facilities used to transmit electricity to residential and commercial customers have been the province of the states (with limited exceptions) for virtually the entire history of the electricity industry. State and local governments are well positioned to weigh the local factors that go into siting decisions, including environmental and scenery concerns, zoning issues, development plans, and safety concerns".

The rejection of the transmission line by Arkansas's (PSC) forced DOE and Clean Line to resort to using Section 1222. This is the first time DOE has used Section 1222 to authorize the development,

¹The Federal Government's Role in Electric Transmission Facility Siting, CRS Report R40657

construction, or operation of transmission facilities, and the only partnership the Department has (to date) with an entity to do so.

According to DOE, "The purpose of the 1222 program is to reduce electric transmission congestion and/or increase electric transmission capacity." However, the proposed route is not located in a "designated congestion area" as defined in the Federal Power Act, Section 216(a), nor is it in a national interest electric transmission corridor, and therefore does not fit the requirements of the statute. The use of Section 1222 to advance the project limits states', as well as local communities', ability to consider and/or mitigate any concerns that may arise.

Like many policies that were proposed by the Obama Administration, the DOE/Clean Line agreement is currently tied up in the courts. DOE is involved in a lawsuit, forcing the agency to address the lingering doubts regarding the legal justification for the department's decision.

If these concerns are ignored and the project is allowed to move forward, not only are Arkansans facing the prospect of losing their property due to a decision by the federal government, but your department risks codifying into law the practice of federal eminent domain seizures. This dangerous precedent is antithetical to your distinguished record as a champion for states' rights in the face of federal overreach.

In order to provide clarity to the law and restore rights to all states, we reintroduced the *Assuring Private Property Rights Over Vast Access to Land (APPROVAL) Act*. The legislation makes it clear that these kinds of projects must receive state approval, thereby restoring the voice of the citizens of Arkansas and all Americans.

To help you make an informed decision, we have attached letters of support for the APPROVAL Act from numerous Arkansas organizations who have been or will be negatively affected by this blatant example of government overreach. We hope you will thoroughly review the documents provided and take their concerns to heart.

Throughout your career you have been a champion of states' rights. This Administration has promised to give a voice back to its citizens. This is a good way to show that commitment.

We will continue working to halt the project, not only because it violates property rights of Arkansans, but also because it violates the rights of all Americans to have their voices heard at the state and local level. We hope you can appreciate our concerns and work with us to fight against this lingering overreach of the Obama Administration.

Sincerely,

John Boozman

U.S. Senator

Tom Cotton U.S. Senator

Sind Chas

Rick Crawford Member of Congress

Steve Womack

Member of Congress

French Hill

Member of Congress

Bruce Westerman

Member of Congress

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

As you are well aware, the Arkansas Soybean Association has many members, partners, and producers that will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern Clean Line Transmission Line Project. Undoubtedly, the construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on the land. For those impacted in Poinsett County where I live, the effects will be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities. Aerial applications of crop protection products to our soybean and rice fields may be compromised along the proposed route. Irrigation of these crops will also be negatively affected by the constrution of the towers on existing farms.

Appreciating these concerns and the important role of our state authorities, our organization developed clear policy that expresses our concern with the siting of electric energy transmission facilities without appropriate review and approval of the relevant state authorities <u>and</u> the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Accordingly, we write to offer the Arkansas Soybean Associations support for the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

We close by expressing our sincere thanks and deep appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been remarkable and have not passed unnoticed back home.

Sincerely,

Brad Doyle,

Brad Dayl

Arkansas Soybean Association, membership chairman American Soybean Association, board of directors for Arkansas



February 15, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

As you are well aware, AACD has many members, partners, and producers that will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern Clean Line Transmission Line Project. Undoubtedly, the construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on the land. For those impacted, the effects can be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities.

Appreciating these concerns and the important role of our state authorities, our organization developed clear policy that expresses our concern with [or opposition to] the siting of electric energy transmission facilities without appropriate review and approval of the relevant state authorities <u>and</u> the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Accordingly, we write to offer [our organizations] support for the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

We close by expressing our sincere thanks and deep appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been remarkable and have not passed unnoticed back home.

Sincerely,

Martha Manley, President

AGRICULTURAL COUNCIL OF ARKANSAS P.O. BOX 250909 LITTLE ROCK, AR 72225 PHONE: 501.376.0455 | FAX: 501.376.0081 WWW.AGCOUNCIL.NET



WEST HIGGINBOTHOM DOW BRANTLEY MATT HYNEMAN CAL MCCASTLAIN ANDREW GROBMYER

President
1st Vice President
2nd Vice President
Treasurer
Executive Vice President

February 17, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

On behalf of the members of the Agricultural Council of Arkansas (Ag Council), especially our members directly affected by the Department of Energy and Plains and Eastern Clean Line Transmission Line Project, we'd like to offer our sincere appreciation for your efforts to enact legislation that would enhance states' rights and private property rights as they relate to Section 1222 of the Energy Policy Act of 2005.

The Clean Line project and any future project under Section 1222 places landowners and states in a position of disadvantage in having any influence on the planning, citing, or construction and leasing of large scale projects that can cause significant economic harm to private landowners, particularly those who depend on the land for agricultural purposes. We believe that the provision of the Energy Policy Act of 2005 should be reformed to restore states' rights and private property rights as they relate to this provision.

Therefore, we ask for your continued efforts as they relate to the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted and maintain powers to approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In the absence of the APPROVAL Act, the U.S. Department of Energy and partnering private for-profit enterprises will continue to bypass state laws, disregard state opinions, and take private land without sufficient consultation or compensation.

We greatly appreciate your efforts to date on our behalf, and we urge you to continue the effort on behalf of Arkansas and your constituents.

Sincerely,

Sillet Klappaltha J.

West Higginbothom President

Ag Council of Arkansas



Jackson County Farm Bureau

206 North Harwood - Newport, Arkansas 72112 - Phone: (870) 523-8946 - Fax: (870) 523-8947

02-17-2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

As you are well aware, Jackson County Farm Bureau has many members, partners, and producers that will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern clean Line Transmission Line Project. Undoubtedly, the construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on the land. For those impacted, the effects can be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities.

Appreciating these concerns and the important role of our state authorities, our organization developed clear policy that expresses our concern with the sitting of electric energy transmission facilities without appropriate review and approval of the relevant state authorities <u>and</u> the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Accordingly, we write to offer Jackson County Farm Bureau's support for the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

We close by expressing our sincere thanks and deep appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been remarkable and have not passed unnoticed back home.

Sincerely,

¥Young, President



3000 Prosperity Drive • P.O. Box 16060, AR 72403 • (870) 932-2288• Fax (870) 931-9063

February 23, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

Farm Credit Midsouth has many stockholders, farmers, rural residents and agriculture aviators who will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern Clean Line Transmission Line Project. The construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on agriculture for their livelihood. For those impacted, the effects can be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities.

Appreciating these concerns and the important role of our state authorities, our organization developed a clear policy that expresses our concern with [or opposition to] the placing of electric energy transmission facilities without appropriate review and approval of the relevant state authorities <u>and</u> the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Farm Credit Midsouth strongly supports the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

Rural Arkansas needs your help. Projects such as these take advantage of our less populated rural areas where the votes and the voices are much less noticeable. This project would certainly not stand a chance of going through a highly populated suburb in any of our major cities.

We would like to express our sincere thanks and appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been outstanding and have not passed unnoticed back home.

Sincerely,

Jane Pirani

Chair

Chris Roberts

Vice Chair

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

As you are well aware, Arkansas Farm Bureau has many members, partners, and producers that will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern Clean Line Transmission Line Project. Undoubtedly, the construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on the land. For those impacted, the effects can be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities.

Appreciating these concerns and the important role of our state authorities, our organization developed clear policy that expresses our concern with the siting of electric energy transmission facilities without appropriate review and approval of the relevant state authorities and the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Accordingly, we write to offer Poinsett County Farm Bureau's support for the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

We close by expressing our sincere thanks and deep appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been remarkable and have not passed unnoticed back home.

Sincerely,

Brad Doyle

Poinsett County Farm Bureau President

Weiner, AR

March 1, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, D.C. 20510

Dear Senator Boozman:

Rice is one of the most important crops produced in the State of Arkansas and contributes greatly to its economy. However, the construction and operation of a large electrical transmission line through the heart of the rice producing region of Arkansas would have a direct and significant negative impact on all farming operations the line crosses or runs close to. Rice production requires the extensive involvement of aerial application of crop protectants. A proposed line would pose serious safety risks to the aerial applicators who operate their aircraft in the vicinity of the transmission line. The siting of the proposed Plains and Eastern Clean Line Transmission Line Project would also have a huge negative annual economic impact on the production of rice in, under, around and near this line.

Our organization, USA Rice Farmers, has adopted a formal resolution opposing the U.S. Department of Energy's participation in the Plains and Eastern Clean Line Transmission Line Project. To that end, we fully support your efforts and offer our help to you and your staff as you introduce the *Assuring Private Property Over Vast Areas Act (APPROVAL Act)*. This Act would serve to prohibit the U.S. Department of Energy from circumventing the wishes, decisions and authority of state and local regulatory agencies. The APPROVAL Act would require projects such as this to obtain permission of the state before exercising the power of eminent domain to take private property of one individual for the benefit and profit of a private commercial operation.

We believe the ultimate authority to site projects such as this should rest in the hands of state and local governmental bodies who better know and understand the needs of its citizens and private property holders. These types of projects should not be licensed without their approval. By their actions, both the U.S. Department of Energy and Plains and Eastern Clean Line Company have demonstrated they will override the wishes and authority of the state to invoke their will on private citizens. In closing, let me say we endorse the APPROVAL Act because it helps protect and retain the historical rights and authority of states to make the final decision with respect to the siting of these types of projects.

Thank you again for all you and your staff do to protect the rights of your constituents and the citizens of the State of Arkansas.

Sincerely,

Blake Gerard, Chairman USA Rice Farmers



Arkansas Rice Federation 1020 West Third Street Little Rock, AR 72201 (501) 375-1100

March 1, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

As you know, the Arkansas Rice Federation has many farmer members who will be negatively impacted by the decision of the U.S. Department of Energy to participate in the Plains and Eastern Clean Line Transmission Project. As a farmer owned and operated organization, we have policy that opposes the U.S. Department of Energy's participation in the Plains and Eastern Clean Line Transmission Line Project. While we are not opposed to renewable energy sources, we do not support the use of federal eminent domain to take the property of one private individual for the benefit and profit of a private commercial company. Nor do we support the path Clean Line has taken to circumvent the authority and decisions of Arkansas regulatory authorities with respect to the siting and construction of this transmission line by partnering with the U.S. Department of Energy. This project will have a huge negative impact on the value of the farmland it crosses and the economical production of crops, especially rice, that are produced in and near the fields where this transmission line is present. Additionally, this project will set a dangerous precedent not only for the property owner affected by this project, but for property owner along the route of similar projects in the future.

To assist you in your efforts to protect the property rights of the citizens of our great state, the Arkansas Rice Federation offers its full support for the "Assuring Private Property Over Vast Areas of Land Act" (APPROVAL Act). Without the APPROVAL Act, the U.S. Department of Energy has demonstrated it is willing to bypass the authority of state laws and regulatory agencies. In our view, the APPROVAL Act serves to protect states' rights and keep the final decision regarding projects such as this in the hands of local and state regulators who best understand the needs of their citizens.

Please know that we greatly appreciate the exceptional past efforts of both you and your staff on our behalf with respect to this proposed transmission line.

Sincerely,

Ben Noble, CEO

Arkansas Rice Federation



Arkansas Rice Farmers 1020 West Third Street Little Rock, AR 72201 (501) 375-1100

March 1, 2017

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

I write you today on behalf of the many farmer members of the Arkansas Rice Farmers Association. Our organization has adopted a formal resolution opposing the U.S. Department of Energy's participation in the Plains and Eastern Clean Line Transmission Line Project. Likewise, we are highly disturbed by the efforts of Plains and Eastern to override the authority and decision of our state and local regulatory agencies by their efforts to partner with the U.S. Department of Energy in this project. This project will have a huge negative impact on the value of the farmland it crosses and the economical production of crops, especially rice, that are produced in and near the fields where this transmission line is present.

We are keenly aware of your past legislative efforts to protect those impacted by this project and we thank you for those efforts. Therefore, we offer the Arkansas Rice Farmers Association's full support to you and your staff for your efforts to address these inequities through the "Assuring Private Property Over Vast Areas of Land Act" (APPROVAL Act). This Act provides the framework necessary for states to retain authority over this type of siting project and requires their approval before the federal government can exercise the authority of eminent domain. To summarize, the APPROVAL Act helps protect and retain the historical rights and authority of the states to make the final decision with respect to these types of projects.

In closing, let me once again thank you and your staff for all your efforts to protect the rights of your constituents and the citizens of the State of Arkansas.

Sincerely,

Dow Brantley, Chairman

Arkansas Rice Farmers Association



Bill J. Reed Senior Vice President Corporate Communications and Public Affairs

March 1, 2017

The Honorable John Boozman United States Senate Washington, D.C. 20510

Dear Senator Boozman:

The farmland of Eastern Arkansas is ideally suited to produce rice as well as other crops which contribute to the economic vitality of the region's farmers as well as to the State of Arkansas and the nation. The proposal to construct and operate large electricity transmission lines in this region, however, would have a major impact on farming operations as land would be taken out of production and aerial spraying of crop protectants and plant food would be inhibited.

The Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act) which you authored would amend the Energy Policy Act of 2005 to prohibit the Secretary of Energy and the Administrators of the Western Area Power Administration and the Southwestern Power Administration from using the power of eminent domain to implement modernization of electricity transmission infrastructure, unless they have received explicit permission to do so by the appropriate state's governor and the head of the public service commission, and the head of the governing body of each Indian tribe whose land would be affected.

We believe the siting of electric energy transmission facilities without the review and approval of state officials is inappropriate. The potential of the federal government to exercise the power of eminent domain to take property from private individuals to benefit private corporations is simply unacceptable. Without the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to disregard state decisions and to bypass state laws.

Thank you for your efforts to protect Arkansas landowners and farmers and to preserve the traditional responsibilities of the states.

Sincerely,

Bill J. Reed

Senior Vice President

Dies S. Reel

Corporate Communications and Public Affairs



POINSETT COUNTY CONSERVATION DISTRICT

505 BROOKS AVENUE - HARRISBURG, AR 72432

Phone: 870-578-2444 ext. 3 Fax: 855-652-2089 www.poinsettcountycd.com

The Honorable John Boozman United States Senate 141 Hart Senate Building Washington, DC 20510

Dear Senator Boozman,

As you are well aware, Poinsett County has many members, partners, and producers that will be directly and significantly impacted by the U.S. Department of Energy's participation in the Plains & Eastern Clean Line Transmission Line Project. Undoubtedly, the construction and operation of large overhead transmission lines dramatically impact property use and values, while also burdening the agricultural operations that are tied to and depend on the land. For those impacted, the effects can be devastating. These local impacts justify the critically important role that local and state authorities must play in the review of overhead electric energy transmission facilities.

Appreciating these concerns and the important role of our state authorities, our organization developed clear policy that expresses our concern with [or opposition to] the siting of electric energy transmission facilities without appropriate review and approval of the relevant state authorities <u>and</u> the exercise of the federal power of eminent domain to bypass state review. The potential exercise of such power is particularly pernicious when it takes from one private individual to benefit another private merchant and supports no true public use.

Accordingly, we write to offer Poinsett County Conservation District support for the Assuring Private Property Over Vast Areas of Land Act (APPROVAL Act). The APPROVAL Act provides the clarity necessary to ensure that affected states are consulted with and approve of merchant transmission projects before the federal government exercises the extraordinary power of eminent domain. In short, the APPROVAL Act helps preserve and protect the traditional responsibilities of the state. In the absence of the APPROVAL Act, the U.S. Department of Energy has demonstrated a willingness to bypass state laws and disregard state decisions.

We close by expressing our sincere thanks and deep appreciation for your attention to this matter and your diligent efforts to protect Arkansas and its constituents. Your leadership and the hard work of your staff and your Congressional colleagues have been remarkable and have not passed unnoticed back home.

Charles Glover, Chairman