

**From:** [Plains and Eastern Website](#)  
**To:** [CES.CommentsPlainSandEasternEIS](#)  
**Subject:** Plains and Eastern Website feedback  
**Date:** Monday, April 20, 2015 2:42:44 PM  
**Attachments:** [20150420134239\\_Oklahoma Attorney Generals Office Comments on Draft EIS.pdf](#)

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## Comments Form

**Please include if your comment  
pertains to a specific route segment**

### Comment

### Attachment

20150420134239\_Oklahoma Attorney Generals  
Office Comments on Draft EIS.pdf

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**\* Protect Private Information?**

Submitted by 10.5.6.10



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

April 20, 2015

**Sent via email to: [comments@PlainsandEasternEIS.com](mailto:comments@PlainsandEasternEIS.com)**

Plains & Eastern EIS  
216 16th Street, Suite 1500  
Denver, Colorado 80202;

Re: Oklahoma Attorney General's Office Comments on the DOE Plains and Eastern Environmental Impact Statement

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In 2010, the Department of Energy ("Department") issued a call for proposals of transmission line projects. Clean Line Partners LLC filed a proposal for the creation of a Plains and Eastern Clean Line ("the Line") to deliver power from renewable wind energy generation in the Oklahoma and Texas panhandles to the southeastern United States. The project would largely be dedicated to moving energy generated in Oklahoma to consumers several states away in the Southeast. While considering whether it should participate in the development of the Line, the Department has gathered information on the environmental impact of the project under the National Environmental Policy Act and its implementing regulations. Pursuant to these legal obligations, the Department published a draft Environmental Impact Statement for notice and comment. The draft Statement finds that no major environmental consequences would result from the development of the Line. This letter comments on that draft Environmental Impact Statement, criticizing its preparation and conclusions on three major grounds: 1) it did not result from a sufficiently inclusive process, 2) it does not give sufficient attention to significant environmental impacts resulting from the construction and maintenance of the Line, and 3) it has serious impediments that favor the No Action alternative available to the Department.

The development of the Line as well as the draft Environmental Impact Statement did not meet the expectations of an inclusive, community-driven feedback process we expect from administrative agencies. Landowners in Oklahoma did not have sufficient opportunity to have meaningful input on the route of the Line, and significant communities have been ignored. For example, the Tribal Council of the Cherokee Nation has passed a resolution opposing the Line. The Town Council of Vian, Oklahoma, also passed a resolution opposing the Line. Groups have even organized on Facebook—including the Block P and E: Plains

and Eastern "Clean" Line group. These facts show that the project has not been seriously conformed to input received on the Line.

The lack of adequate process is particularly troubling given the actual state of power generation in the Oklahoma and Texas panhandles. No wind farms have yet been built to supply the Line with wind energy. There should not be any rush to complete this process, and landowners as well as tribal and local communities should have greater opportunities to be included in routing decisions because of the ample time available.

The most disturbing aspect of this process and the way it ignores the input of the community is that the State of Oklahoma will bear the brunt of tax subsidies helping to finance the wind generation in the Oklahoma panhandle. Yet that clean energy will not go to Oklahomans: it will be delivered to customers several states away, such as in Tennessee. If the State of Oklahoma can be expected to help pay for the power generation involved here, the process should involve more than *lip service* to Oklahomans' input on the route of any related transmission lines.

The draft Environmental Impact Statement notes several environmental consequences from the construction of the Line. It may result in changes or damage to land use, including to agriculture; deleterious air emissions; significant noise; and have negative impact on wildlife and vegetation. Not enough attention has been paid to some of these important impacts. Large transmission line towers and the cables running between them may disrupt the ordinary patterns of migration of many of Oklahoma's wildlife and bird species. Such disruptions may result in unnecessary animal and bird deaths or relocation. Further, many parts of the Line's route through Oklahoma travel through heavily forested areas. The transmission towers and cables, along with the requirements of their construction, could lead to the destruction of significant numbers of trees in these forests. These are not an easily replaced heritage in our State. The route of the Line should be reconsidered to avoid all such old growth forests in Oklahoma.

Soil is a precious resource in Oklahoma. The draft Statement does not give sufficient attention to the impact the construction of the line may have on the soil resources along the proposed route, nor are there adequate safeguards being considered to prevent soil erosion. These changes may result in reduced or eliminated productivity for prime agricultural land in Oklahoma. Productive farmland may not be able to be used agriculturally because of the presence of transmission towers, access roads for maintenance, and converter stations. The Line's route proposal should be reconsidered to avoid prime agricultural land and reduce this significant environmental impact. Likewise, the plan does not consider the impact on sub-surface mineral resources and their opportunity for development.

Water also represents a key concern in Oklahoma, particularly in the western part of the State where a large portion of the Line will run. Changes in land use, particularly during construction of the line and converter stations, could negatively impact runoff into rivers and streams. Such negative impacts on western Oklahoma's water resources may have notable ripple effects on wildlife by, for example, destroying habitats; it could also negatively impact

agricultural land uses. These effects could be magnified by contamination of groundwater along the route of the Line. Hazardous materials, fluids, or fuels could spill into Oklahoma's waterways, decimating the viability of the region's already scarce water resources.

Another significant environmental impact has not received sufficient attention in the draft Statement. Many Oklahomans make a serious, intentional decision to enjoy a rural lifestyle because of the freedom it allows them in their property usage, the scenic beauty they can enjoy every day, and because of the peace and quiet they obtain. Oftentimes these Oklahomans have significant parts of their personal assets tied up in their property, and the value of that property is directly tied to the aesthetic quality, quiet, and freedom available there. Particularly during the *years* of construction anticipated during this project, the Line will also bring loud noises and increased traffic. The Line thus threatens to ruin the most important qualities of rural life for many Oklahomans, reducing both the quality of life reasons for choosing their residences' locations in the first place and reducing their property values. Tall transmission line towers will not have a positive environmental impact for many affected Oklahomans.

Finally, there are serious obstacles that should prevent this project from proceeding with Department support. Section 1222 of the Energy Policy Act of 2005 requires that a project "will reduce congestion of electric transmission in interstate commerce" or "is necessary to accommodate an actual or projected increase in demand for electric transmission capacity." 42 U.S.C. § 16421(b)(1). The Line does not satisfy these requirements because there is no indication that the Southwest Power Pool or that the areas served by the Tennessee Valley Authority suffer from any congestion that this will alleviate—actually, additional construction will have to be completed in Tennessee to prevent the Line from adding reliability and congestion problems. Further, the only demand to be served by the Line will be demand Clean Line attempts to drum up itself. It is surely a suspect move to use government support for a transmission project where the anticipated demand for the project is being secured largely because of the transmission project itself being completed.

Perhaps the strangest aspect of using Section 1222 to justify Department support of this project is that no aspect of this project will benefit the energy grid in Oklahoma. Section 1222 only authorizes Department support for projects in the Southwestern and Western power areas. *See* 42 U.S.C. § 16421. But, ultimately, the energy grid being benefited by the Line will be in the southeastern United States. The Department would be using legal authority granted with a clear purpose to benefit particular power systems in order to provide benefits to another, completely different power system. Such an exercise of authority would be beyond what the statute grants.

Further, the Department should not proceed with the use of the federal government's eminent domain power mainly for the benefit of a private company. The Line's private developers should be able to negotiate themselves for property necessary for the development of the Line or, in the alternative, should be able to navigate the legal framework of Oklahoma before engaging in the serious exercise of property seizure within the state. This is particularly so when there is no compelling and immediate need for transmission

capacity from western Oklahoma to the southeastern United States. Hence, the Department should take no action and decline to participate in development of the Line, it should reconsider many of the negative environmental impacts to which it has not given enough attention, and it should make use of a more inclusive process for considering the input of Oklahomans.

Thank you for the opportunity to comment.

Sincerely,

P. Clayton Eubanks  
Deputy Solicitor General