

**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**Record of Decision in re Application of Clean Line Energy Partners LLC**

**AGENCY:** Department of Energy.

**ACTION:** Record of Decision.

**SUMMARY:** Section 1222 of the Energy Policy Act of 2005 (EPAAct 2005) grants the Secretary of Energy the authority to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, and owning new electric power transmission facilities and related facilities located within any state in which the Southwestern Power Administration (Southwestern) operates. In response to an application submitted by Clean Line Energy Partners LLC on behalf of itself and several corporate affiliates (collectively, Clean Line or the Applicant) the Department of Energy (DOE or the Department) announces its decision to participate in the development of approximately 705 miles of  $\pm 600$  kilovolt (kV) overhead, high-voltage direct current (HVDC) electric transmission facilities and related facilities from western Oklahoma to the eastern state-line of Arkansas near the Mississippi River (the Project). This decision implements DOE's preferred alternative in Oklahoma and Arkansas as described in the *Final Environmental Impact Statement for*

*the Plains & Eastern Clean Line Transmission Line Project* (Final EIS) (DOE/EIS-0486). Clean Line, acting on its own and without the Department's participation, would build additional facilities that would connect to the Project in Texas and Tennessee.

Collectively, the facilities built by Clean Line would have the capacity to deliver approximately 4,000 megawatts (MW) from renewable energy generation facilities, located in the Oklahoma Panhandle and potentially Texas Panhandle regions, to the electrical grid in Arkansas and Tennessee. The potential environmental impacts associated with the Project, plus the additional facilities in Texas and Tennessee, are analyzed in the Final EIS. DOE's review included consultations in accordance with Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA). DOE's decision requires the implementation of mitigation measures, and a complete list of these measures can be found in the Mitigation Action Plan (MAP).

**ADDRESSES:** Information regarding Section 1222 of EPAAct 2005 can be found on the DOE website at <http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222>. The determination by the Secretary of Energy, Summary of Findings, and Participation Agreement are available on the DOE website at <http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0>. The Final EIS, associated errata, MAP, and this Record of Decision (ROD) are available on the DOE National Environmental Policy Act (NEPA) Website at <http://energy.gov/nepa> and on the Plains & Eastern EIS website at <http://www.plainsandeasterneis.com/>.

**FOR FURTHER INFORMATION CONTACT:** For information on the Section 1222 process, contact Mr. Christopher Lawrence, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; email at [Christopher.Lawrence@hq.doe.gov](mailto:Christopher.Lawrence@hq.doe.gov); or phone (202) 586-5260.

For information on the EIS or the consultation processes under Section 106 of the NHPA (54 U.S.C. 300101) or Section 7 of the ESA (16 U.S.C. 1531 et seq.), contact Jane Summerson, Ph.D., DOE NEPA Document Manager, U.S. Department of Energy, DOE NNSA, Post Office Box 5400 Building 391, Kirtland Air Force Base East, Albuquerque, NM 87185; email at [Jane.Summerson01@nnsa.doe.gov](mailto:Jane.Summerson01@nnsa.doe.gov); or phone (505) 845-4091.

For general information about the DOE NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC-54), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; or phone at (202) 586-4600; voicemail at (800) 472-2756; or email at [askNEPA@hq.doe.gov](mailto:askNEPA@hq.doe.gov). Additional information regarding DOE's NEPA activities is available on the DOE NEPA Website at <http://energy.gov/nepa>.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Section 1222 of EAct 2005, 42 U.S.C. 16421, grants the Secretary of Energy authority, acting through the Western Area Power Administration (WAPA), Southwestern, or both, to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating,

maintaining, and owning new electric power transmission facilities and related facilities located within any state in which WAPA or Southwestern operates. In June 2010, the Department issued *Request for Proposals for New or Upgraded Transmission Line Projects Under Section 1222 of the Energy Policy Act of 2005* (75 FR 32940; June 10, 2010). In response to the request for proposals (RFP), Clean Line Energy Partners LLC of Houston, Texas, the parent company of Plains and Eastern Clean Line LLC and Plains and Eastern Clean Line Oklahoma LLC, submitted a proposal to DOE in July 2010 for the Plains & Eastern Clean Line Project. In August 2011, Clean Line modified the proposal and, at DOE's request, subsequently submitted additional information (referred to as the Part 2 Application) in January 2015.

This ROD uses two terms that describe related elements of the application being discussed. **The Project**<sup>1</sup> refers to those facilities in Oklahoma and Arkansas included in DOE's decision to participate, e.g., approximately 705 miles of  $\pm 600$  kV overhead, HVDC electric transmission facilities running from western Oklahoma to the eastern state-line of Arkansas near the Mississippi River and related facilities, including a converter station in Arkansas. **Applicant Proposed Project**<sup>2</sup> refers to the Project plus the additional facilities that Clean Line, acting on its own and without the Department's participation, would build in Texas and Tennessee to connect to the Project. Collectively, the facilities would have the capacity to deliver approximately 4,000 MW from

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<sup>1</sup> In the Final EIS, "the Project" is used as a broad term that generically refers to elements of the project as proposed by Clean Line and/or DOE Alternatives when differentiation between the two is not necessary. The definition of "the Project" used in the Final EIS is distinct from the meaning of "the Project" in this ROD.

<sup>2</sup> In the Final EIS, the term "Applicant Proposed Project" refers to the project as described in Clean Line's modified proposal to DOE. This is described in Section S.5.2 of the Final EIS and does not include the converter station in Arkansas or alternative routes for the HVDC transmission line that are referred to in the Final EIS as "DOE Alternatives."

renewable energy generation facilities, located in the Oklahoma Panhandle and potentially Texas Panhandle regions, to the electrical grid in Arkansas (500 MW) and Tennessee (3,500 MW).

### **Section 1222 Authority**

Parallel with the NEPA process, DOE evaluated Clean Line's application under Section 1222 of the EAct 2005. This evaluation under Section 1222 included a review of the application against statutory eligibility criteria and certain evaluation factors listed in the 2010 RFP. To aid in this review, Clean Line's Part 2 Application was made available for public comment from April 28, 2015 until July 13, 2015 (80 FR 23520 and 34626). Clean Line's application remains available on DOE's website at <http://www.energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0>. The results of DOE's evaluation under Section 1222 are addressed under the **Decision** section below in this ROD.

### **NEPA Review**

DOE prepared the EIS and this ROD pursuant to NEPA (42 U.S.C. 4321 et seq.), the Council on Environmental Quality (CEQ) NEPA regulations (40 Code of Federal Regulations [CFR] parts 1500 through 1508), and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's purpose and need for agency action is to implement Section 1222 of the EAct 2005. In the Final EIS, DOE analyzed the potential environmental impacts from the Applicant Proposed Project, as the term is used in this ROD, the range of reasonable alternatives, and a No Action Alternative.

Major facilities associated with the Applicant Proposed Project include converter stations in Oklahoma, Arkansas, and Tennessee; approximately 720-miles of  $\pm$  600 kV

HVDC transmission line facilities; an alternating current (AC) collection system; and access roads.

In response to public comments on the Draft EIS, DOE and Clean Line developed 23 route variations for the Applicant Proposed Route<sup>3</sup> for the HVDC transmission line, which were evaluated in the Final EIS. These route variations involved minor changes to the segment lengths and were developed with the intent of reducing land use conflicts or minimizing potential environmental impacts of the route as analyzed in the Draft EIS. In all but one instance, Clean Line concluded that the route variations were technically feasible and expressed support for DOE's adoption of these route variations (the instance is described under the **Basis for Decision** section below in this ROD).

The analysis of potential environmental impacts for the HVDC transmission facilities, including the 23 route variations addressed in the Final EIS, was based on a representative 200-foot-wide right of way (ROW) within a 1,000-foot-wide corridor. The final location of the transmission line ROW could be anywhere within this 1,000-foot-wide corridor and would be determined following the issuance of this ROD based on the completion of final engineering design, federal and state related construction permits and authorizations, ROW acquisition activities, and the incorporation of all measures identified in the MAP. Determination of this final location of the ROW within the 1,000-foot-wide corridor is referred to as micrositing.

In addition to the HVDC transmission facilities, the Applicant Proposed Project would include construction, operation, and maintenance of an AC collection system. The

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<sup>3</sup> The Applicant Proposed Route, as used in the Final EIS and this ROD, refers to the single 1,000-foot-wide route alternative defined by Clean Line to connect the converter station in the Oklahoma Panhandle to the converter station in western Tennessee. The Applicant Proposed Route is described in Section S.5.3.2 of the Final EIS.

collection system would consist of four to six AC transmission lines up to 345 kV from the Oklahoma converter station to points in the Oklahoma Panhandle region and potentially Texas Panhandle region to facilitate efficient interconnection of wind energy generation. The Final EIS evaluated 13 possible routes, each consisting of a 2-mile-wide corridor within which a 200-foot-wide ROW could be located. The specific locations of these transmission lines cannot be known at this time and would depend on the locations of future wind farms in this area. DOE's analysis in the Final EIS also includes the potential environmental impacts resulting from connected actions (wind energy generation and currently identified substation and transmission upgrades related to the Applicant Proposed Project).

On February 26, 2016, DOE issued errata to correct errors, inconsistencies, and omissions in the Final EIS. These included, for example, correcting inconsistencies in two tables identifying the lengths of the HVDC transmission line routes, updating emissions estimates for air quality impacts, correcting socioeconomic and transportation impact estimates to account for the Arkansas converter station, and including and responding to 26 comment documents that were inadvertently left out of Appendix Q of the Final EIS. DOE considered each of the errata individually and collectively and determined that they do not represent significant new information relevant to environmental consequences and do not change the conclusions in the Final EIS.

### **Cooperating Agencies**

DOE was the lead federal agency for the preparation of the EIS and, pursuant to 40 CFR 1501.6, prepared the EIS in consultation with the following cooperating agencies: Bureau of Indian Affairs (BIA), Natural Resources Conservation Service

(NRCS), Tennessee Valley Authority (TVA), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency, and U.S. Fish and Wildlife Service (USFWS).

BIA, NRCS, TVA, USACE, and USFWS can, to the extent permitted by law, rely on the Final EIS to fulfill their obligations under NEPA for any action, permit, or approval by these agencies for the Applicant Proposed Project. TVA conducted studies that indicate certain upgrades to its transmission system would be necessary for TVA to interconnect with the Applicant Proposed Project while maintaining reliable service to its customers. Additionally, TVA would need to construct a new 500 kV transmission line to enable the injection of 3,500 MW of power from the Applicant Proposed Project. TVA would complete its own NEPA review, tiering from DOE's Final EIS, to assess the impact of the upgrades and the new 500 kV line. The USACE may consider the routing alternatives in Oklahoma, Arkansas, Texas, and Tennessee as presented in the Final EIS when making its permit decisions and can use the analysis contained in the Final EIS to inform all of its permit decisions for the Applicant Proposed Project.

### **Consultation**

DOE is the lead agency for consultation required under Section 106 of the NHPA. In accordance with 36 CFR 800.8(c), DOE is using the NEPA process and documentation required for the EIS to comply with Section 106 of the NHPA in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. This approach is consistent with the recommendations set forth in the CEQ NEPA regulations, 40 CFR 1500.2, and *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106*, issued in 2013 by CEQ and the Advisory Council on Historic Preservation, which encourage federal agencies to



integrate the NEPA process with other planning and environmental reviews, such as Section 106 of the NHPA.

DOE invited certain federal, state, Indian Tribes or Nations, and local agencies to consult under Section 106 of the NHPA in accordance with 36 CFR 800.2(c). The Programmatic Agreement, which satisfies DOE's Section 106 responsibilities, was executed on December 7, 2015. The Programmatic Agreement describes roles and responsibilities for DOE and the consulting parties; the tribal consultation protocol; the area of potential effects; the phased process to address historic properties, including continued consultation; procedures to address the unanticipated discovery of cultural resources or inadvertent discovery of human remains, graves or associated funerary objects; the communication plan; the historic properties management plan for operations and maintenance activities, annual reporting and close out report requirements; and dispute resolution requirements. The Programmatic Agreement is included as Appendix A of the MAP.

In March 2015, DOE and TVA requested the initiation of formal consultation and conference with the USFWS under Section 7(a)(2) of the ESA and submitted a Biological Assessment (BA) regarding the Applicant Proposed Project and its potential effects on listed species and designated critical habitat. DOE responded to USFWS's request for additional information with a revised BA in May 2015. In July 2015, DOE submitted an addendum to the revised BA to address route variations based on public comments on the Draft EIS. The USFWS issued its Biological Opinion on November 20, 2015, which concluded formal consultation. The Biological Opinion is included as Appendix B of the MAP. The Biological Opinion concluded that implementation of the Applicant Proposed

Project is not likely to jeopardize the continued existence of the affected species, but likely will result in incidental take of certain species and, therefore, includes an enforceable incidental take statement. DOE's decision is conditioned on the Applicant complying with the incidental take statement and taking all practicable means to avoid or minimize environmental harm from the selected alternative as required by USFWS in the Biological Opinion. These conditions are further described under the **Mitigation** section below in this ROD. DOE also acknowledges that re-initiation of formal ESA consultation may be required in accordance with 50 CFR 402.16.

### **Public Comments**

On December 21, 2012, DOE issued a Notice of Intent (NOI) (77 FR 75623) to prepare an EIS for the Plains & Eastern Clean Line Transmission Project. DOE conducted 13 public scoping meetings. DOE considered input from scoping in preparing the Draft EIS, which was issued on December 17, 2014. The 90-day public comment period for the Draft EIS began on December 19, 2014, and was scheduled to end on March 19, 2015 (79 FR 78079). On February 12, 2015, DOE announced in the *Federal Register* that it was extending the comment period until April 20, 2015 (80 FR 7850). As part of this public comment period, DOE invited comments on the NHPA Section 106 process and any potential adverse impacts to historic properties.

The Final EIS and errata considered and responded to all comments submitted on the Draft EIS. During the comment period, DOE held 15 public hearings in the following locations: Woodward, Oklahoma; Guymon, Oklahoma; Beaver, Oklahoma; Perryton, Texas; Muskogee, Oklahoma; Cushing, Oklahoma; Stillwater, Oklahoma; Enid,

Oklahoma; Newport, Arkansas; Searcy, Arkansas; Marked Tree, Arkansas; Millington, Tennessee; Russellville, Arkansas; Fort Smith, Arkansas; and Morrilton, Arkansas.

In addition to numerous comments that provided a statement of general opposition to or support for the Project, the primary topics raised in comments on the Draft EIS included, but were not limited to: concern about electric and magnetic fields; concern about reductions in property value; concern about impacts to agricultural resources such as crop production, irrigation, and aerial spraying; concern about the use of eminent domain; and concern about visual impacts.

### **Analysis of Potential Environmental Impacts**

The EIS analyzes potential environmental impacts associated with the alternatives for each of the following resource areas: agricultural resources; air quality and climate change; electrical environment; environmental justice; geology, paleontology, minerals, and soils; groundwater; health, safety, and intentional destructive acts; historic and cultural resources; land use; noise; recreation; socioeconomics; special status wildlife and fish, aquatic invertebrate, and amphibian species; surface water; transportation; vegetation communities and special status plant species; visual resources; wetlands, floodplains, and riparian areas; wildlife, fish, and aquatic invertebrate species; and cumulative impacts.

Analysis of the potential environmental impacts of the Applicant Proposed Project and DOE Alternatives on each resource area (Chapter 3 of the Final EIS) assumes the implementation of all Applicant-proposed environmental protection measures (EPMs) to avoid or minimize adverse impacts (summarized in Appendix F of the Final EIS). In some resource sections, DOE identified best management practices (BMPs) that could

further avoid or minimize potential adverse impacts. BMPs are summarized in Table 2.7-1 of Chapter 2 in the Final EIS.

In accordance with DOE's *Compliance with Floodplain and Wetland Environmental Review Requirements* (10 CFR part 1022), DOE prepared a floodplain assessment and has determined that the Applicant Proposed Project would avoid floodplains to the maximum extent practicable, that appropriate measures to minimize adverse effects on human health and safety and the functions and values provided by floodplains would be taken, and that the Applicant Proposed Project would comply with applicable floodplain protection standards. The Floodplain Statement of Findings (Appendix N of the Final EIS) relied on the implementation of the EPMs developed and committed to by the Applicant and BMPs identified in consultation with USACE.

DOE's selected route for the HVDC transmission line is the Applicant Proposed Route (with one exception, as noted under the **Basis for Decision** section below in this ROD). Because DOE's selected route is the HVDC route alternative with the lowest potential for environmental impacts when compared against the other HVDC route alternatives, DOE has designated it as the environmentally preferable HVDC route alternative with associated facilities. DOE's selected route incorporates input on potential environmental impacts that DOE received from the public and agencies (during scoping and in comments on the Draft EIS). The selected route was developed through a series of stages including the preliminary routing process, refinements during DOE's independent verification of that process, and further changes to address public and agency input.

While the No Action Alternative would avoid the environmental impacts identified in the EIS, adoption of this alternative would not meet DOE's purpose and need to implement Section 1222 of the EPAct 2005.

### **Comments Received on the Final EIS**

DOE distributed the Final EIS to congressional members and committees; state and local governments; other federal agencies; certain American Indian Tribes or Nations; non-governmental organizations; and other stakeholders, including members of the public who requested the Final EIS. The Final EIS also was made available to the public via the Internet. DOE subsequently received eight comment documents. As discussed in Appendix A to this ROD, DOE has concluded that these comment documents do not identify a need for further NEPA analysis.

### **Decision**

DOE has decided to participate in the Project as defined in this ROD. Thus, this decision implements the preferred alternative described in Section 2.14 of the Final EIS for the Project, which is defined in this ROD as facilities in Oklahoma and Arkansas. Concurrent with this ROD, the Secretary of Energy has issued a determination that the Project meets the criteria of Section 1222 and merits the Department's participation. (<http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0>).

### **Basis for Decision**

The decision to participate in the Project considered the analysis of potential environmental impacts in the Final EIS, other statutory requirements (e.g., ESA and Section 106 of the NHPA), and the Department's review of Clean Line's application

against the eligibility criteria in Section 1222 and the evaluation factors identified in the Department's 2010 RFP. The Department's analysis of the statutory eligibility criteria and the RFP evaluation factors is contained in the Summary of Findings, which the Department is publishing concurrent with this ROD and is incorporated herein. Also relevant to the Department's decision is the Participation Agreement, which sets forth the terms and conditions under which the Department will participate. (Both the Summary of Findings and the Participation Agreement are available at <http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/section-1222-0>).

There is no "impact-free" routing choice for a large transmission line. In some regions, where there are multiple resource conflicts, the HVDC alternative routes impact certain resources differently, and some alternative routes were included in DOE's analysis to emphasize protection of one resource or land value over another. The Final EIS analyzed potential impacts for the HVDC transmission line by resource and highlighted substantive differences between the Applicant Proposed Route, route variations, and HVDC alternative routes. A detailed discussion of the route development and basis for identification of the Applicant Proposed Route is included in Appendix G of the Final EIS. To respond to public comments on the Draft EIS, DOE and the Applicant developed 23 route variations for the Applicant Proposed Route. These route variations were developed with the intent of reducing land use conflicts or minimizing potential environmental impacts of the Applicant Proposed Route from the levels of potential impacts described in the Draft EIS. In all but one instance, the route variations replaced their corresponding segments of the Applicant Proposed Route. This exception (Region

4, Applicant Proposed Route Link 3, Variation 2; approximately 3 miles northwest of Sallisaw, Oklahoma) was carried forward as an additional alternative for comparative analysis in the Final EIS with the corresponding segment of the Applicant Proposed Route.

DOE has decided to implement the Applicant Proposed Route presented in the Final EIS, with one exception (Region 4, Applicant Proposed Route Link 3, Variation 2). The basis for DOE's selection of this route variation over the corresponding segment of the Applicant Proposed Route includes the following: 1) the route variation crosses 32 percent fewer land parcels (17 versus 25); 2) the route variation parallels more than twice the length of existing infrastructure, including transmission lines and roads (4.42 miles versus 1.85 miles); 3) the representative ROW of the route variation would be located within 500 feet of 8 fewer residences (1 versus 9); and 4) the route variation would avoid a private airstrip whose operations could be impacted by the Applicant Proposed Route.

DOE has considered the alternatives analyzed in the Final EIS and taken into consideration the comparison of potential impacts for each resource area along with comments received on the Draft EIS and the Final EIS.

### **Mitigation**

DOE's environmental analyses in the Final EIS and consultations under Section 106 of the NHPA and Section 7 of the ESA have identified all practicable means to avoid or minimize environmental harm. DOE's decision to participate in the Project is contingent upon the Applicant implementing all of the EPMS in the Final EIS to avoid or minimize potential adverse effects resulting from construction, operations and maintenance, and decommissioning. Furthermore, the Applicant will be required to

develop and implement all of the project plans listed in Appendix F of the Final EIS. DOE's decision also requires that the Applicant implement the BMPs, set forth in the Final EIS and developed by DOE and in consultation with other agencies, to further avoid or minimize potential adverse impacts. Chapter 2 of the Final EIS (Table 2.7-1) summarizes the BMPs identified for applicable resource areas analyzed in Chapter 3.

DOE's decision to participate requires that the Applicant comply with the Biological Opinion issued by USFWS on November 20, 2015. This includes adhering to the terms of the incidental take statement, and implementing all reasonable and prudent measures and implementing terms and conditions described in the Biological Opinion.

The Programmatic Agreement executed in accordance with Section 106 of the NHPA addresses historic properties identification and evaluation, assessment of effects, and resolution of effects, including avoidance, minimization, and mitigation. Federal agencies that do not adopt the executed Programmatic Agreement, but whose involvement constitutes an undertaking pursuant to 36 CFR 800.16(y) would conduct consultations with State Historic Preservation Offices and/or Tribal Historic Preservation Offices and/or other appropriate parties in accordance with 36 CFR part 800. Clean Line, as a signatory to the Programmatic Agreement, will be required to implement the stipulations as agreed to in the executed Programmatic Agreement as a condition of DOE's decision to participate.

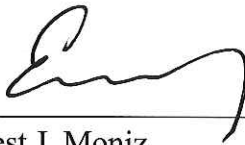
The Applicant is responsible for implementing all of the measures identified above (EPMs, BMPs, the USFWS Biological Opinion, and stipulations in the executed Programmatic Agreement), as set forth in the MAP. Additional required actions will be identified as a result of ongoing consultations (e.g., regarding Clean Water Act Section



404) between the Applicant and state and federal agencies as part of approval and permitting processes.

The MAP lists the mitigation requirements and provides for the development of the implementation and monitoring of the EPMs, BMPs, reasonable and prudent measures and other requirements identified in the Biological Opinion, and mitigation measures contained in the Programmatic Agreement. DOE will track and annually report progress made in implementing, and the effectiveness of, the mitigation commitments made in this ROD. The MAP is posted on the DOE NEPA website at <http://energy.gov/nepa> and on the Plains & Eastern EIS website at <http://www.plainsandeasterneis.com/>.

Issued in Washington, DC, on March 25, 2016.



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Ernest J. Moniz  
Secretary of Energy

## **Appendix A: Public Comments Received After the Publication of the Final EIS**

DOE received eight comment documents regarding the Final EIS after its publication. In order of their receipt, these documents were submitted by the following individuals or groups: 1) Bob Hardy; 2) Paul Nedlose; 3) Steve Clair on behalf of residents of Walnut Valley Estates (north of Dover, Arkansas); 4) Residents of Walnut Valley Estates; 5) Residents of Walnut Valley Estates; 6) J.D. Dyer; 7) Mark Fuksa; and 8) Steve Clair on behalf of residents of Walnut Valley Estates. Comment documents 4, 5, and 8 contain the same information as was presented in comment document 3.

DOE considered all comments contained in these documents. DOE has concluded that these comment documents do not identify a need for further NEPA analysis. Six of these comment documents are similar to, and in most cases the same as, comments submitted on the Draft EIS, to which DOE responded in the Final EIS. DOE responses to comments similar to Mr. Hardy's concerns regarding communication can be found in the General NEPA Process and Compliance section of Appendix Q, Chapter 3 of the Final EIS (beginning on page 3-27 of that appendix). Mr. Nedlose's comment expresses that he does not want the Project on his property. DOE responses to similar comments can be found in the Easements and Property Rights/Values and the General Opposition Comments sections of Appendix Q, Chapter 3 of the Final EIS (beginning on pages 3-103 and 3-473, respectively, of that appendix). Letters expressing similar concerns from residents of Walnut Valley Estates were submitted to DOE. Comment summaries and DOE's responses can be found on pages 3-161 and 3-338 to 3-339 of Appendix Q, Chapter 3 in the Final EIS. The discussion below summarizes the comment documents

from J.D. Dyer and Mark Fuksa, which include comments that were not addressed in the Final EIS, and presents DOE's responses.

*Comment.* Mr. Dyer described a flooding issue associated with a section of the Applicant Proposed Route in the area of Dyer, Arkansas, within the 1,000-foot-wide corridor in Region 4, Link 6. Mr. Dyer stated that transmission towers could fail during a flooding event and would be difficult to repair for a considerable amount of time. Mr. Dyer expressed concern that there could be long periods of time when the transmission line would be unable to deliver electricity to customers.

*Response.* The Final EIS evaluates the potential impacts related to floodplains. Appendix N of the Final EIS includes a Floodplain Statement of Findings in accordance with DOE's *Compliance with Floodplain and Wetland Environmental Review Requirements* (10 CFR part 1022). Appendix N states, "All structures and facilities would be designed to be consistent with the intent of the standards and criteria of the National Flood Insurance Program (44 CFR part 60, Criteria for Land Management and Use)."

Additionally, Appendix N explains that transmission line structures would not prohibit the flow of water within floodplains, because water can flow around structure foundations. Transmission structure foundation dimensions are shown in the Final EIS (Chapter 2; Table 2.1-4).

Section 7 of Appendix N includes EPMs and BMPs that would minimize potential impacts associated with flooding. Appendix N explains that the "first measure to be taken to minimize potential adverse effects to floodplains would be avoidance." In the case of siting the transmission line, the span between structures would also provide some flexibility for avoiding floodplains. That is, in some areas it would be reasonable to

minimize the number of structures in a floodplain by controlling the spans or to place the structures outside the floodplain, which would then be spanned by the transmission line.”

If a transmission structure would be required to be sited in a floodplain, it would be designed and constructed to meet the anticipated design loads from a maximally-credible flooding event in accordance with applicable regulatory standards. Therefore, a flooding event would be unlikely to result in the failure of a transmission structure.

In the unlikely event that structure failure did occur as a result of a flooding event, the system repair would be similar to failures from other off-normal events. As presented in the Final EIS comment response document (Appendix Q, page 3-307), “Temporary interruption of the power transmission system could occur to the Project from a variety of off-normal events such as natural disasters, terrorism, or accidents. The Project would be designed to prevent outages from these events to the maximum extent practicable. While it stands to reason that interruption of a smaller regional power transmission system would impact a smaller customer base than a larger system, neither situation is necessarily considered disastrous. There are multiple thousands of miles of aboveground electrical transmission lines providing electrical power to consumers over long distances in the United States. Interruptions of power have occurred to power transmission systems in the past and have been mitigated and power restored through standard industry, engineering, and security practices. The Project alone would not represent a critically high percentage of power transmission service to consumers nationally and therefore temporary disruption of the grid would be considered manageable. The Applicant would operate the system and respond to any unplanned outages according to those practices

and identified EPMs, BMPs, plans and procedures, and applicable regulatory requirements.”

Clean Line has provided additional information in their Operations and Maintenance Plan (Section 3.12; Corrective Actions), which states, “To minimize the frequency and duration of corrective activities, Clean Line has designed robust structures that incorporate the appropriate NESC [National Electric Safety Code] requirements. Current engineering plans call for stop-structures every 5-10 miles to prevent cascading events. Clean Line plans to utilize weather-monitoring systems currently in place in the project area ... and to communicate elevated risk levels to interconnecting utilities in order to ensure operational readiness. A spare parts inventory will be put in place along the route to address both high and low probability weather events. Standby contracts for labor and emergency equipment will provide for quick responses to any outages. A spare parts inventory will include information on critical components and parts, storage location, and lead times/current availability for replacement parts.”

*Comment.* Mr. Fuksa’s email states that the National Park Service added the Fuksa portion of the Chisholm Trail to the National Registry of Historic Places (NRHP) in September 2015, and designated the John and Mary Fuksa Family Farm (including dustbowl-era farmyard, buildings, and structures) as a national historic area and added it to the NRHP in December 2015. Mr. Fuksa urges DOE to adopt Alternative Route 2B instead of the Applicant Proposed Route in this location.

*Response.* The location of the Chisholm Trail relative to the Applicant Proposed Route is identified and discussed in Section 3.9.5.2 of the Final EIS. Impacts to property structures would be addressed through micrositing within the 1,000-foot-wide corridor

and implementing EPM LU-5, which states that Clean Line will make reasonable efforts, consistent with design criteria, to accommodate requests from individual landowners to adjust the siting of the ROW on their properties. These adjustments may include consideration of routes along or parallel to existing divisions of land (e.g., agricultural fields and parcel boundaries) and existing compatible linear infrastructure (e.g., roads, transmission lines, and pipelines), with the intent of reducing the impact of the ROW on private properties. DOE has developed a Programmatic Agreement that, in accordance with the regulations that implement Section 106 of the NHPA, provides a framework for the assessment of potential Project effects to historic properties (this would include potential effects to the Fuksa portion of the Chisholm Trail and the John and Mary Fuksa Family Farm), and adoption of strategies to resolve potential effects.