



# **Mitigation Action Plan Annual Report Calendar Year 2016**

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## **Plains & Eastern Clean Line Transmission Project: Environmental Impact Statement**

**DOE/EIS-0486**

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**U.S. Department of Energy  
Office of Electricity Delivery and Energy Reliability  
Washington, D.C.**

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## ACRONYMS AND ABBREVIATIONS

CFR	Code of Federal Regulations
DOE	U.S. Department of Energy
ECCR	Environmental, Collaboration, & Conflict Resolution (Policy Report)
EIS	environmental impact statement
EPAct 2005	<i>Energy Policy Act of 2005</i>
EPC	engineering, procurement, and construction (contractor)
ESA	<i>Endangered Species Act</i>
MAP	Mitigation Action Plan
NEPA	<i>National Environmental Policy Act</i>
NHPA	<i>National Historic Preservation Act</i>
PA	Programmatic Agreement
ROD	Record of Decision
SPCC	Spill Prevention, Control, and Countermeasure
SWPPP	Stormwater Pollution Prevention Management Plan
U.S.C.	U.S. Code
USFWS	U.S. Fish and Wildlife Service

# Annual Mitigation Action Plan Report—Calendar Year 2016

## DOE/EIS-0486 Plains & Eastern Clean Line Transmission Project

### 1.0 INTRODUCTION

Section 1222 of the *Energy Policy Act of 2005* (EPAAct 2005) (Pub. L. 109–58) grants the Secretary of the U.S. Department of Energy (DOE) 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 operates. In response to an application to construct a new transmission line submitted by Clean Line Energy Partners, LLC on behalf of itself and several corporate affiliates (collectively, Clean Line), DOE decided to participate in the development of approximately 705 miles of ±600-kilovolt overhead, high-voltage, direct current electric transmission facilities and related facilities from western Oklahoma to the eastern state line of Arkansas near the Mississippi River (the Project). DOE’s 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 Project* (Final EIS) (DOE/EIS-0486).<sup>1</sup> In addition, Clean Line, acting on its own and without DOE participation, would build additional facilities that would connect to the Project in Texas and Tennessee. The potential environmental impacts associated with the Project, plus the additional facilities in Texas and Tennessee, are analyzed in the Final EIS.

The environmental analyses in the Final EIS and consultations under Section 106 of the *National Historic Preservation Act* (NHPA) and Section 7 of the *Endangered Species Act*<sup>2</sup> (ESA) identified all practicable means to avoid or minimize environmental harm. DOE’s participation in the Project is conditioned upon Clean Line’s implementation, throughout the Project, of environmental protection measures and best management practices set forth in the Final EIS; compliance with the Biological Opinion dated November 20, 2015, as amended or updated as required, and issued by the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of ESA; and implementation of the stipulations in the Programmatic Agreement (PA) executed December 7, 2015, to satisfy Section 106 of the NHPA. These actions and requirements are identified in the *Mitigation Action Plan for the Plains & Eastern Clean Line Transmission Project*<sup>3</sup> that DOE prepared in March 2016 and revised in October 2016 to ensure implementation of commitments made in the ROD.

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<sup>1</sup> Information regarding Section 1222 of EPAAct 2005 can be found on the DOE website at <http://energy.gov/oe/services/electricity-policy-coordination-andimplementation/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-andimplementation/transmission-planning/section-1222-0>. The Final EIS, associated errata, Mitigation Action Plan (MAP), and 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/>.

<sup>2</sup> *Endangered Species Act of 1973*. 16 U.S.C. § 1531 et seq. <http://uscode.house.gov/view.xhtml?path=/prelim@title16/chapter35&edition=prelim>.

<sup>3</sup> DOE (U.S. Department of Energy) 2016. *Mitigation Action Plan for the Plains & Eastern Clean Line Transmission Project* (DOE/EIS-0486). Revision 1. October 2016. <http://www.plainsandeasterneis.com/component/phocadownload/category/58-mitigation-action-plan-map?download=453:revision-1-of-the-mitigation-action-plan>

## 2.0 MITIGATION ACTION PLAN

The MAP describes and explains how measures designed to mitigate adverse environmental impacts associated with DOE’s decision announced in the ROD will be planned and implemented.

DOE Order 451.1B, Change 3, *National Environmental Policy Act Compliance Program*,<sup>4</sup> establishes DOE internal requirements and responsibilities for implementing NEPA, the Council on Environmental Quality Regulations Implementing the Procedural Provisions of NEPA,<sup>5</sup> and the DOE NEPA Implementing Procedures.<sup>6</sup> In addition to requirements established in NEPA and the regulations, DOE Order 451.1B, Section 4.g, requires:

*Tracking and annually reporting progress in implementing a commitment for environmental impact mitigation that is essential to render the impacts of a proposed action not significant, or that is made in a record of decision.*

## 3.0 SUMMARY OF MITIGATION ACTIONS IN 2016

This annual report provides a summary of actions performed during calendar year 2016 to implement the MAP. To date, no construction activity for the Project has occurred. However, the following actions applicable to the pre-construction phase of the Project have been taken: (1) development of environmental management plans, (2) development of the MAP matrix, (3) revision of the MAP, (4) preparation of annual reports from regulatory agency consultations, and (5) coordination with landowners.

### 3.1 Environmental Management Plans

Appendix F of the Final EIS lists environmental management plans that are to be developed to avoid or minimize adverse effects to environmental resources from construction, operation, maintenance, and decommissioning of the Project. Clean Line completed and DOE reviewed initial drafts of nine plans during 2016 (Table 1). While the draft plans reviewed by DOE refer to the Project in the states of Texas, Oklahoma, Arkansas, and Tennessee, as stipulated in the Introduction to this document (Section 1.0), DOE’s decision solely implements DOE’s preferred alternative in Oklahoma and Arkansas. Clean Line will update and revise these plans prior to construction and will seek input from the engineering, procurement, and construction (EPC) contractor and review by DOE before finalizing the plans. Each of the plans contains a section listing the applicable MAP measures.

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<sup>4</sup> DOE Order 451.1B, Change 3, *National Environmental Policy Act Compliance Program*. January 19, 2012. [http://energy.gov/sites/prod/files/DOEO4511B\\_011912.pdf](http://energy.gov/sites/prod/files/DOEO4511B_011912.pdf)

<sup>5</sup> 40 CFR Part 1500–1508. *Protection of Environment*. Council on Environmental Quality. <http://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=1647fb57a5df26bc22e5d79e6c632139&mc=true&tpl=/ecfrbrowse/Title40/40chapterV.tpl>

<sup>6</sup> 10 CFR Part 1021. “National Environmental Policy Act Implementing Procedures.” U.S. Department of Energy. <http://www.ecfr.gov/cgi-bin/text-idx?SID=a8b986ac7dd2766009e1453a422532c7&node=pt10.4.1021&rgn=div5>

**Table 1. List of Draft Environmental Management Plans Prepared in 2016<sup>a</sup>**

<b>Plan Name</b>	<b>Description</b>
Blasting Plan	The Blasting Plan outlines procedures, methods, and environmental protection measures to mitigate risks and potential adverse impacts associated with blasting-related activities. The purpose of the plan is to address safety and prevent adverse impacts on human health, property, and the environment that could result from the use of explosives during Project construction.
Communications Plan	The Communications Plan describes the responsibilities of the Project team for external communications, identifies the stakeholder groups who benefit from these communications, and identifies the types and timing of outreach activities to engage each audience. The objective of the plan is to support and facilitate the transparent communication of Project construction activities between the Project team and external parties. The purpose of the plan is to keep external parties informed regarding progress of the Project to help minimize impacts to the human health, safety, and quality of life of stakeholders within the affected communities.
Construction Security Plan	The Construction Security Plan outlines procedures and methods that the EPC contractor will use during construction to mitigate risks and potential impacts associated with security-related events. The objective of the plan is to avoid and/or minimize adverse effects associated with breaches in Project security during construction, including effects from terrorism, sabotage, vandalism, and theft.
Health and Safety Plan	The Health and Safety Plan contains four volumes. Volume I covers fire protection and provides fire prevention and suppression measures and procedures to reduce the risk of starting a fire and for suppressing a fire. Volume II covers emergency preparedness and response to prepare for and effectively respond to emergency situations to minimize impacts on human health and safety, private property, Project assets, and the environment. Volume III addresses the management of hazardous materials to minimize the potential for a spill of fuel or other hazardous materials, contain any hazardous material spillage to the smallest possible area, and protect areas that are environmentally sensitive. Volume IV discusses helicopter use during construction for conductor stringing and/or for transport and erection of structures.
Noxious Weed Management Plan	The Noxious Weed Management Plan addresses responsibilities, regulatory compliance, noxious weed inventory status, noxious weed management, noxious weed monitoring, herbicide use for noxious weed management, and environmental protection measures. The purpose of the plan is to identify noxious weed management methods to control the potential establishment and/or spread of listed noxious weeds during the pre-construction, construction, and operation and maintenance phases of the Project.
Reclamation, Revegetation, and Monitoring Plan	The Reclamation, Revegetation, and Monitoring Plan addresses responsibilities, regulatory compliance, existing environments, reclamation actions, reclamation success standards, and reclamation monitoring requirements. The purpose of the plan is to identify and provide reclamation actions, reclamation-related MAP measures, and other stipulations that will be implemented during the pre-construction, construction, and operation and maintenance phases of the Project.

**Table 1. List of Draft Environmental Management Plans Prepared in 2016<sup>a</sup>**

Spill Prevention, Control, and Countermeasure Management Plan	The Spill Prevention, Control, and Countermeasure (SPCC) Management Plan addresses regulatory compliance, responsibilities, oil spill reporting contacts, SPCC Plan contents, and spill occurrence procedures. The purpose of the management plan is to provide direction for the development of SPCC Plan(s) intended to prevent oil releases regulated under 40 CFR Part 112 <sup>7</sup> from reaching navigable waters or adjoining shorelines, preventing off-site migration of any spillage, and protecting sensitive environmental areas.
Stormwater Pollution Prevention Management Plan	The Stormwater Pollution Prevention Management Plan addresses regulatory compliance and Stormwater Pollution Prevention Plan (SWPPP) preparation and implementation requirements to mitigate construction-related stormwater discharges. The purpose of the Stormwater Pollution Prevention Management Plan is to provide direction for the development of state-specific SWPPPs in Texas, Oklahoma, Arkansas, and Tennessee and for a SWPPP on Tribal lands in Oklahoma.
Transportation and Traffic Management Plan	The Transportation and Traffic Management Plan provides information and direction regarding regulatory compliance, access road types, access road construction, and traffic management practices to mitigate risks and potential adverse impacts associated with transportation and traffic-related activities. The objective of the plan is to communicate the types of measures that will avoid and/or minimize adverse effects on the transportation system, including roadways, air travel, and railways.

a. All plans are initial drafts that will be finalized with input from the EPC contractor with final review by DOE.

### 3.2 Mitigation Action Plan Matrix

Clean Line prepared a MAP summary matrix (MAP Matrix) as a Microsoft<sup>®</sup> Excel<sup>®</sup> spreadsheet with review by DOE. The MAP Matrix relates each of the mitigation measures in the MAP to five primary Project elements, as follows:

1. Responsible Organization—Clean Line, DOE, USFWS, or Other regulatory entity. The matrix indicates, for each mitigation measure, whether the responsible organization has implementation (R), oversight (O), coordination (C), approval (A), or no (blank) responsibility.
2. Source Document—Final EIS, Biological Opinion, Biological Assessment,<sup>8</sup> or PA. These are documents in which mitigation measures are identified.
3. Project Phase—Pre-construction, Construction, and/or Operation and Maintenance. These are the phase(s) of the project to which each mitigation measure is applicable.

<sup>7</sup> 40 CFR Part 112. “Oil Pollution Prevention.” *Protection of the Environment*. Environmental Protection Agency. <http://www.ecfr.gov/cgi-bin/text-idx?SID=e3f62cacee35a4cd95598b841c3a4089&mc=true&node=pt40.24.112&rgn=div5>.

<sup>8</sup> The Biological Assessment prepared by Clean Line supported the development of the Biological Opinion prepared by USFWS. Any mitigation measures proposed by Clean Line in the Biological Assessment not specifically stated in the Biological Opinion by USFWS are incorporated into the Biological Opinion by reference only. The Biological Assessment is listed here as a source document because it contains the actual text of the referenced mitigation measures.

4. Environmental Resources—These are the environmental resource areas analyzed in the Final EIS for which an action is meant to mitigate a potential impact.
5. Environmental Management Plans—These are the plans, discussed in Section 3.1 and listed in Table 1, that implement mitigation measures.

### 3.3 Mitigation Action Plan Revision

The MAP was first issued in March 2016. During the process of developing drafts of the environmental management plans and preparing the MAP Matrix, DOE reviewed, revised, and reissued the MAP as Revision 1 in October 2016. As stated in the version history of the MAP, the revision clarified the definition of the Applicant Proposed Project to be consistent with the definition used in the ROD. Also, edits were made to correct minor errors identified during the development of the environmental management plans and preparation of the MAP Matrix. The MAP and Revision 1 of the MAP are available on the DOE NEPA website (<http://www.energy.gov/nepa/>) and on the Plains and Eastern EIS website (<http://www.plainsandeasterneis.com>). Any further updates to the MAP and this annual report will also be available on these websites.

### 3.4 Regulatory Agency Consultation Reports

As part of the environmental review of the Project plus the additional facilities in Texas and Tennessee, DOE and Clean Line consulted under Section 106 of the NHPA with the State Historic Preservation Offices of Oklahoma, Arkansas, Texas, and Tennessee and potentially affected federally recognized Indian Tribes and Nations. On December 7, 2015, a PA was signed and approved by the consulting parties that contains stipulations on how to manage potential adverse effects to properties listed or eligible for listing on the National Register of Historic Places. Such properties include historic properties of traditional religious and cultural importance to consulting Indian Tribes and Nations, such as graves that may contain human remains and/or associated cultural items. Section XII of the PA contains several reporting requirements. In accordance with Section XII.A of the PA, Clean Line must prepare an Annual Interim PA Report on Clean Line's actions regarding the implementation of the PA and submit the report to DOE and the Consulting Parties by January 31 following the end of each calendar year. Clean Line submitted the 2016 Interim PA report to DOE and the Consulting Parties on January 27, 2017.

In accordance with Section XII.C of the PA, Clean Line must provide to DOE annually by October 31, for the prior fiscal year, instances, data, and a supporting narrative document to assist in the compilation of the DOE Environmental, Collaboration, & Conflict Resolution (ECCR) Policy Report. The ECCR report documents the use of any collaborative process, with or without a neutral third-party, to prevent or resolve environmental conflicts. In addition, Clean Line must provide all data and information sufficient to assist DOE in the completion of the annual Department of the Interior Federal Archaeological Activities Questionnaire. Clean Line submitted these data and information to DOE on October 31, 2016.<sup>9</sup>

Pursuant to Section 7 of the ESA, DOE and Clean Line consulted with the USFWS concerning potential adverse impacts to federally listed threatened or endangered species. USFWS issued a Biological Opinion

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<sup>9</sup> Information on the DOE ECCR process and reports is available at <https://energy.gov/oha/services/applications-exceptions/alternative-dispute-resolution/environmental-conflict>. DOE will incorporate the data and information provided by Clean Line in the next annual ECCR Policy Report, which will be posted to the ECCR website (<http://www.udall.gov/OurPrograms/Institute/ECCRReport.aspx>) under the "Department of Energy (DOE)" link.

on November 20, 2015, addressing the anticipated impacts of the Project plus the additional facilities in Texas and Tennessee. The Biological Opinion contains a series of terms and conditions (i.e., mitigation measures) that must be implemented to conserve and protect threatened or endangered species that would be potentially affected by Project activities. These mitigation measures have been integrated into the MAP. One term and condition requires that DOE coordinate with the USFWS Oklahoma Ecological Services Field Office prior to the survey season in 2016 to develop and prepare an annual monitoring report to be submitted to USFWS by January 1 of each year. This report will document the effectiveness of the terms and conditions and locations of listed species observed and, if any are found dead, the suspected cause of mortality. The report will also summarize tasks accomplished under the proposed minimization measures and terms and conditions and make recommendations for modifying or refining these terms and conditions to enhance listed species protection or reduce needless hardship on DOE and its permittees as appropriate. Clean Line discussed this reporting requirement with the USFWS Oklahoma Ecological Services Field Office in June 2016 prior conducting field surveys. USFWS confirmed that the reporting requirement does not apply until construction has started and that the appropriate reporting process is to use an existing report on the USFWS Oklahoma Ecological Services Field Office website. Because construction has not started, no Biological Opinion report is required for 2016.

### **3.5 Landowner Coordination**

Coordination with landowners is a mitigation measure identified in the Final EIS and integrated into the MAP to minimize potential adverse impacts to landowners. Resource areas such as land use, agriculture, and water for which landowner coordination is required are identified in the MAP, and the applicable Project phase (pre-construction, construction, or operation and maintenance) is assigned in the MAP Matrix. Landowner coordination is an ongoing effort throughout the Project. The Project is currently in the pre-construction phase and coordination with landowners has occurred throughout the past year during Project planning and is ongoing.