



National Association of Conservation Districts

April 11, 2017

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

Dear Secretary:

The National Association of Conservation Districts represents America’s 3,000 conservation districts and the 17,000 men and women who serve on their governing boards. Conservation districts are local units of government established under state law to carry out natural resource management programs at the local level. Districts work with millions of cooperating landowners and operators to help them manage and protect land and water resources on all private lands and many public lands in the United States.

Delegates to NACD’s Annual Meeting passed a policy in January 2017 dealing with the placement of energy transmission facilities. Our policy states that NACD opposes the approval and/or placement of energy transmission facilities by DOE without prior approval from relevant state authorities. The reason we passed this policy is a direct result of recent DOE actions.

In Arkansas, the state’s Public Service Commission (PSC) reviewed the Plains and Eastern Clean Line Project. Upon completion of review, the PSC rejected the project. The Department of Energy used Section 1222 of the Energy and Policy Act of 2005 to approve the project without state approval. This was the first time DOE used Section 1222 to authorize the development, construction, or operation of transmission facilities. As you know, the purpose of Section 1222 is “to reduce electric transmission congestion and/or increase electric transmission capacity.”

Members of Arkansas’ congressional delegation recently reintroduced the “Assuring Private Property Rights Over Vast Access to Land ‘APPROVAL’ Act” (S. 529/H.R. 1373).

The act seeks to return power to the states by requiring explicit authorization by either the “the Governor and the head of each applicable public utility commission or public service commission of the affected State” or “the head of the governing body of each Indian tribe the land of which would be affected” before the federal government can utilize Section 1222 authority to acquire property through eminent domain for transmission projects. Additionally, the act seeks to reduce strains on agriculture and landowners by ensuring, to the maximum extent possible, that future projects are placed on federal land rather than private land. It is important that the power to decide where transmission lines are located be as close to the impacted landowners as possible. Ensuring decisions are made at the state level where they can be held more accountable to local governments and stakeholders, such as conservation districts, will allow states to make these decisions with the concerns of the communities impacted in mind.

NACD recommends that you issue a secretarial order halting the further use of Section 1222 until Congress has had the time to address the matter legislatively.

NACD looks forward to continuing to work with you and the Department to provide energy across our nation. If you or your staff would like more information or would like to discuss this issue further, please do not hesitate to reach out to our Director of Government Affairs Coleman Garrison (coleman-garrison@nacdnet.org).

Sincerely,

A handwritten signature in cursive script that reads "Brent Van Dyke".

Brent Van Dyke
President