

Exhibit No. 113  
Issues: Right-of-Way Acquisition,  
Landowner Protocol  
Witness: Deann Lanz  
Type: Direct Testimony  
Sponsoring Party: Grain Belt Express Clean Line LLC  
Case No.: EA-2016-0358  
Date Testimony Prepared: August 30, 2016

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. EA-2016-0358**

**DIRECT TESTIMONY OF**

**DEANN K. LANZ**

**ON BEHALF OF**

**GRAIN BELT EXPRESS CLEAN LINE LLC**

GB Exhibit No. 113  
Date 3-21-17 Reporter KB  
File No. EA-2016-0358

**August 30, 2016**

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1 I. INTRODUCTION AND PURPOSE OF TESTIMONY

2 Q. Please state your name, present position and business address.

3 A. My name is Deann Lanz. I am Vice President, Land for Clean Line Energy Partners LLC  
4 (“Clean Line”). Clean Line is the ultimate parent company of Grain Belt Express Clean  
5 Line LLC (“Grain Belt Express” or “Company”), the Applicant in this proceeding. My  
6 business address is 1001 McKinney Street, Suite 700, Houston, TX 77002.

7 Q. Please describe your educational and professional background.

8 A. I graduated *Magna Cum Laude* from Valparaiso University in 1995 with a Bachelor of Arts  
9 degree in English and obtained my Juris Doctor *Summa Cum Laude* from Tulane Law  
10 School in 1998. I have more than 18 years of experience in commercial land transactions  
11 and renewable energy, with specific expertise in land development, land acquisition,  
12 construction financing, title and survey and property administration. Prior to joining Clean  
13 Line, I was the Vice President of Land for BP Wind Energy North America (“BP Wind”),  
14 where during a three year period I oversaw the land work necessary to complete five  
15 projects that together are capable of producing more than 1,200 megawatts (“MW”) of  
16 wind energy. One of these projects was the largest single wind farm built in U.S. history. I  
17 also oversaw the land work necessary for dozens of development projects.

18 Q. Please describe your overall responsibilities as Vice President of Land for BP Wind.

19 A. During my tenure at BP Wind, I oversaw a team of 16 employees, in areas of land  
20 acquisition, title and survey, GIS and Property Administration, as well as dozens of  
21 contract right-of-way (“ROW”) agents. My team and I were responsible for (i) acquiring  
22 all land related to BP Wind’s development portfolio and operating assets in accordance  
23 with BP Wind’s Code of Conduct, (ii) ordering and reviewing all title and survey work on  
24 such land, and obtaining title curative documents when needed, in order to ensure that BP

1 Wind could effectively construct, finance, partner and operate its projects, (iii) providing  
2 GIS and mapping support to ensure the proper siting and construction of facilities, (iv)  
3 ensuring that all payments made to landowners (one-time payments, annual payments and  
4 royalty payments) were made accurately and timely, and (v) ensuring that all property  
5 records and landowner information were stored properly and safely.

6 **Q. Please describe your job responsibilities at BP Wind in each phase of development.**

7 A Prior to the construction of each of the five completed projects, in addition to the duties  
8 listed above, I was responsible for gathering and notifying the construction manager for  
9 each project of (i) all legally binding construction obligations of BP Wind as reflected in  
10 leases, easements and other legal agreements (of which there were thousands), and (ii) any  
11 other issues or preferences expressed by landowners that could affect construction (both in  
12 writing via a questionnaire or as captured by ROW agents or other employees in activity  
13 notes or obligations registers). During construction on each of the above projects, my team  
14 and I worked as a liaison between landowners and contractors to address any issues or  
15 concerns raised by landowners, such as documentation of any damages that occurred or  
16 addressing any agreements or restrictions that were not being implemented correctly by  
17 construction workers.

18 After construction, my team and I worked with landowners, crop adjusters and the  
19 construction manager to provide for the evaluation and final settlement of any crop  
20 damages or other property damages.

21 **Q. What are your duties and responsibilities as Vice President, Land at Clean Line?**

22 A. I am responsible for coordinating, managing and providing strategic direction for the ROW  
23 acquisition for all of Clean Line's transmission line projects. I manage a team of employees

1 with experience in land, development, acquisition and/or due diligence and financing (the  
2 “Land Team”). The Land Team oversees the work, on and off the field, of the ROW  
3 acquisition contractor and its employees (the “ROW agents”) to acquire the necessary  
4 easements for the Grain Belt Express Clean Line Project (“Grain Belt Express Project” or  
5 “Project”). The Land Team is responsible for maintaining the records of the easements,  
6 exhibits, easement payments, property records and all correspondence related to the  
7 acquisition efforts. In addition, the Land Team will work closely with the construction  
8 managers to ensure that all ROW acquisition efforts are consistent with construction  
9 management policies and practices, and that all legally binding construction obligations  
10 negotiated in easements and other legal agreements are provided to and implemented by  
11 construction managers and contractors in the field.

12 **Q. What is the purpose of your direct testimony?**

13 A. I will describe the steps Grain Belt Express is taking to work with the affected landowners  
14 by the Project. While some of these steps are similar to what Grain Belt Express proposed  
15 in its previous application for a certificate of convenience and necessity (“CCN”) in Case  
16 No. EA-2014-0107 (“2014 Case”), several measures are new or enhanced. I will also  
17 describe the process for providing notification to landowners and Grain Belt Express’ plans  
18 for negotiating with landowners to obtain transmission line easements and any other  
19 necessary real estate rights for the Project.

20 **II. LANDOWNER PROTOCOL**

21 **Q. Do you believe that the Landowner Protocol properly recognizes the interests of**  
22 **property owners?**

23 A. Yes. Grain Belt Express has established the Landowner Protocol as part of our approach  
24 to ROW acquisition for the Project, which we believe recognizes and respects the interest

1 of the landowners. The Landowner Protocol is a comprehensive policy of how Grain Belt  
2 Express interacts, communicates, and negotiates with affected landowners. The Landowner  
3 Protocol includes: the establishment of a Code of Conduct, our approach to landowner and  
4 easement agreement negotiations, our compensation package, updating of land values with  
5 regional market studies, tracking of obligations to landowners, the availability of  
6 arbitration to landowners, the Missouri Agricultural Impact Mitigation Protocol (the “MO  
7 Ag Protocol”) and the establishment of a decommissioning fund. The Landowner Protocol  
8 is attached as **Schedule DKL-1** to my testimony.

9 **Q. Please describe each component of the Landowner Protocol.**

10 A. a. Code of Conduct.

11 Grain Belt Express has implemented a Code of Conduct for our employees and ROW  
12 acquisition agents, with the goal of acquiring voluntary transmission line easements by  
13 respectfully talking to and understanding the concerns and priorities of landowners.  
14 **Schedule DKL-2** contains this Code of Conduct, which governs all communications and  
15 interactions with property owners and occupants of affected property. We require all of  
16 our employees, agents and representatives to follow the Code of Conduct, which among  
17 other Company principles, requires that (1) all communications with property owners and  
18 occupants be factually correct and made in good faith (2) all communications and  
19 interactions with property owners and occupants be respectful and reflect fair dealing and  
20 (3) all communications and interactions with property owners and occupants respect the  
21 privacy of property owners and other persons. Landowners are provided with contact  
22 information for both ROW agents, as well as contact information for the Clean Line  
23 corporate office, in order to ensure that a landowner can contact me, employees from the

1 Land Team, or members of the Grain Belt Express team directly to report any possible  
2 violations of the Code of Conduct. Reported violations of the Code of Conduct are taken  
3 seriously and are investigated by me and the Clean Line management team.

4 b. Approach to landowner and easement agreement negotiations.

5 Grain Belt Express is committed to conducting easement negotiations in a fair manner that  
6 is respectful of property rights. The Company desires to establish and maintain long-  
7 lasting relationships with landowners. Grain Belt Express strives to implement the  
8 following key elements as part of its approach to easement negotiations:

- 9 • Communicating the overall need for the Project to landowners;
- 10 • Seeking to actively involve landowners in the routing process during the open-  
11 house and public meetings, as well as during one-on-one meetings between land  
12 agents and landowners;
- 13 • Providing clear information to landowners on the routing criteria used by Grain  
14 Belt Express;
- 15 • Providing a review and approval process for landowner-requested micro-siting  
16 changes on their property;
- 17 • Demonstrating respect for private property rights and existing land uses;
- 18 • Offering a fair and comprehensive compensation package for transmission line  
19 easements, which is described in more detail below;
- 20 • Utilizing the same methodology for determining compensation for all  
21 landowners in order to ensure that all landowners receive fair and consistent  
22 compensation, regardless of who they are or when they sign an easement  
23 agreement;

- Listening to landowner concerns and establishing a process for negotiating easement provisions where possible to address these concerns; and
- Documenting agreements with landowners to ensure that negotiated provisions and obligations are met during construction, maintenance and operation.

The goal of these policies is to obtain voluntary transmission line easements. Because of our approach to compensation, which provides options for ongoing annual payments, we recognize that we are entering into a long-term business relationship with landowners and our intent is to start that relationship off based on a solid foundation of respect and fairness. Our approach to landowner negotiations will not change regardless of when these negotiations take place, whether they be before or after a CCN is issued.

c. Compensation.

There are three primary components to the compensation being offered to landowners by Grain Belt Express: an easement payment, structure payments, and crop or damages payments. The easement payment is meant to reflect at a minimum the fair market fee value of the easement area. The easement area is generally determined by multiplying the width of the easement ROW by the length of the transmission line route on the landowner's property for a total acreage of the easement area.<sup>1</sup> The acreage of the easement area is then multiplied by the per-acre estimated fair market value of the landowner's property to produce the total easement payment. The per-acre estimated fair market value of the landowner's property is determined by multiplying the average per acre value of recent sales for similar land types in the county by 110%. (110% is used to ensure a fair estimate.)

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<sup>1</sup> The acreage for irregular shaped parcels is determined using commercial Geographic Information Systems software.



1 The easement area of some of the easements to be acquired may be very small in size.  
2 Therefore, for such parcels Grain Belt Express will provide landowners with a minimum  
3 payment of \$2,000 per parcel, regardless of the size of the easement area on their land.

4 Structure payments are calculated based on the type of structure selected by Grain  
5 Belt Express and the number of structures located on each specific property. During our  
6 public outreach process, landowners expressed a desire to have the option for a recurring,  
7 escalating annual payment. As a result, during the easement negotiation process, Grain  
8 Belt Express will offer landowners, at their option, either a one-time payment or a recurring  
9 annual payment for each structure placed on their property. If a landowner elects to receive  
10 annual payments, such annual payments will continue to be made for so long as such  
11 structures remain on the property. Commencing on the first anniversary of the initial  
12 structure payment, such annual payments will increase by two percent (2%) each year. An  
13 example of how landowner compensation is calculated is shown in the “Landowner  
14 Compensation Example” in the Missouri Landowner Compensation Factsheet attached  
15 hereto as **Schedule DKL-3**.

16 Grain Belt Express has established several agricultural mitigation policies, as  
17 described in the Direct Testimony provided by Dr. James Arndt. While such policies are  
18 meant to prevent or reduce most agricultural impacts, we recognize that some impacts on  
19 crops or improvements may not be completely avoidable. Grain Belt Express will pay  
20 landowners for any agricultural-related impact (“Agricultural Impact Payment”) resulting  
21 from the construction, maintenance or operation of the Project, regardless of when they  
22 occur and without any cap on the amount of such damages. For example, if the landowner

1 experiences a loss in crop yields that is attributed to the operation of the Project<sup>2</sup>, then  
2 Grain Belt Express will pay the value of such loss in yield for so long as such losses occur.  
3 In other words, the intent is that the landowner be made whole for any damages or losses  
4 that occur as a result of the Project for so long as the Project is in operation. Grain Belt  
5 Express will pay landowners an advanced Agricultural Impact Payment prior to  
6 construction, based on the estimated anticipated damages, with a true-up payment, if  
7 needed, paid after construction. Landowners may, at their option, choose to negotiate  
8 ongoing recurring Agricultural Impact Payments based on anticipated losses, or a one-time  
9 up front Agricultural Impact Payment based on anticipated losses. Due to the uniqueness  
10 of each parcel of land, the timing and type of Agricultural Impact Payment are meant to be  
11 negotiated with each landowner on a case-by-case basis in order to satisfy the unique  
12 characteristics of each parcel of land as well as the specific concerns of each such  
13 landowner. With regard to losses of marketable timber, Grain Belt Express will pay the  
14 landowner for the value of such marketable timber, as determined by a certified forester,  
15 and the timber removed shall still belong to the landowner and may be sold or used by the  
16 landowner.

17 Grain Belt Express is only seeking an easement, which will allow Grain Belt  
18 Express to use a portion of landowners' property necessary for the placement and operation  
19 of a transmission line.<sup>3</sup> The property will still belong to landowners and can be utilized for  
20 activities such as farming, recreation, and other activities that do not interfere with the

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<sup>2</sup> This is calculated by comparing the production of the area impacted to the production of the rest of the field that was not impacted by the construction or operation.

<sup>3</sup> The one exception is for the land on which the converter stations will be located, which land is currently under contract to be acquired in fee.

1 operation of the transmission line. After construction of the facilities, the landowner will  
2 retain the ability to continue agricultural production on the entirety of the easement area  
3 except for the relatively small footprint of the structures, which typically occupy less than  
4 1% of the total easement area. Part of the structure and damages compensation described  
5 above is intended to compensate landowners for this impact.

6 If a CCN is issued for the Project, Grain Belt Express will not change its  
7 methodology for determining compensation, nor reduce the compensation offered to any  
8 landowner prior to the issuance of the CCN.

9 d. Update to land values.

10 Prior to re-commencing easement negotiations, Grain Belt Express will hire a regional  
11 appraisal firm with agricultural expertise to perform county-wide market data studies to  
12 determine the average per-acre value in each county for specific land types (i.e. crop,  
13 pasture, timber, etc.), taking into consideration the size of the comparable sales parcels, as  
14 well as any agricultural data that is available on soil type or productivity in connection with  
15 such sales, such as state available ratings or scales of soil productivity. The appraisal firm  
16 will provide comparable fee sales by land use and land productivity in each county for the  
17 previous two years (or more if insufficient comparable sales are available for the previous  
18 two years). These comparable sales will be averaged to develop an average fair market  
19 value for each land use type. Such average values will then be increased by 10% to create  
20 the proposed per acre offer for each land use type in each county. In the event that any  
21 land values have decreased since Grain Belt Express' previous market analysis, Grain Belt  
22 Express will honor the higher per acre offer offered previously to landowners. Every 12  
23 months, Grain Belt Express will analyze and update market data analysis as appropriate in

1 order to determine if there are changes to the average fair market value for each land type  
2 in each county.

3 e. Tracking of Landowner Obligations.

4 Grain Belt Express utilizes geoAMPS software programs to capture and report procedures  
5 in place for tracking obligations negotiated by landowners in easement agreements and  
6 other legal agreements, as well as any obligations captured by agents or other employees  
7 in activity notes or landowner questionnaires (“Landowner Obligations”). Prior to entering  
8 a landowner’s property for surveys or construction, Grain Belt Express will gather such  
9 information and notify all surveyors, the Land Liaison Managers for the primary  
10 construction contractor (as described in the Direct Testimony of Thomas Shiflett) and any  
11 other field personnel of such Landowner Obligations. During surveys and construction, a  
12 member of the Land Team will work as a liaison between landowners and the Land Liaison  
13 Managers and contractors to address any issues or concerns raised by landowners. As  
14 discussed in the Direct Testimony of Dr. James Arndt, as part of the MO Ag Protocol being  
15 introduced by the Company, the Company has agreed to hire an agricultural inspector (the  
16 “Agricultural Inspector”). The Agricultural Inspector shall monitor construction activities  
17 to ensure that such construction activities are performed in compliance with the MO Ag  
18 Protocol and any Landowner Obligations. The Agricultural Inspector will have a  
19 professional background in agriculture, soil and water conservation, and general farm  
20 operations or practices and will receive specific training on the implementation of the MO  
21 Ag Protocol. The Agricultural Inspector will be directly available to landowners during  
22 construction to address their concerns and to ensure that Grain Belt Express is meeting any  
23 Landowner Obligations or the obligations set forth in the MO Ag Protocol. The Land Team

1 will provide the list of Landowner Obligations to the Agricultural Inspector and to the Land  
2 Liaison Manager. Landowners will be able to report any violations of these obligations  
3 directly to the Agricultural Inspector and if the Agricultural Inspector determines that such  
4 a violation exists, the Agricultural Inspector shall have the authority to stop the  
5 construction activities that are in violation of the Landowner Obligations or in violation of  
6 the MO Ag Protocol. After construction, the Land Team will work with landowners, crop  
7 adjusters, the Land Liaison Manager and the Agricultural Inspector to provide for the  
8 evaluation and final settlement of any Agricultural Impact Payment in accordance with the  
9 provisions negotiated by landowners in their easement agreements. After construction is  
10 completed, the Land Team will ensure that every landowner is contacted personally to  
11 confirm that all Landowner Obligations and obligations under the MO Ag Protocol were  
12 met during construction, to discuss any concerns, and to confirm that all payments were  
13 settled. Grain Belt Express will continue to be in contact with landowners throughout the  
14 operation of the Project with regard to ongoing damages, if any, and for those landowners  
15 who have elected annual structure payments.

16 f. Binding arbitration.

17 If Grain Belt Express and a landowner have reached agreement on the form of easement  
18 but are unable to reach agreement on the appropriate compensation, then at the landowner's  
19 request, Grain Belt Express will submit the issue of landowner compensation to binding  
20 arbitration. Arbitration will be administered by the American Arbitration Association (the  
21 "AAA") in accordance with its Commercial Arbitration Rules. Any arbitration will take  
22 place in Missouri, and will be conducted under Missouri law. Arbitrators shall be  
23 appointed as provided in the AAA Commercial Arbitration Rules, but shall be selected

1 from a pool of qualified arbitrators who are familiar with land use and land values in  
2 Missouri. The option of binding arbitration typically costs less, has more simplified  
3 procedures, and results in a final decision more quickly than circuit court litigation.  
4 Additionally, arbitration will allow both parties select an arbitrator, specifically one with  
5 expertise in the matter of property and easement valuation issues in Missouri.

6 g. Agricultural mitigation policies.

7 In response to several concerns raised by landowners and the Commissioners during the  
8 2014 Case, Grain Belt Express has established several new agricultural mitigation policies,  
9 which are described in the MO Ag Protocol. These policies are described in detail in the  
10 Direct Testimony of Dr. James Arndt. The Land Team will document and track all  
11 Landowner Obligations, as well as the obligations contained in the MO Ag Protocol and  
12 will work closely with the Land Liaison Manager and the Agricultural Inspector in order  
13 to ensure compliance with these policies and measures during construction.

14 h. Decommissioning Fund.

15 Transmission lines and their ROWs are rarely if ever retired from service. Over time, they  
16 may be upgraded or improved to continue delivering electricity to load. That said, in the  
17 circumstance in which the Project is retired from service, Grain Belt Express shall promptly  
18 wind-up the activities of the Project, which shall include the following actions, and which  
19 shall be at the sole cost and expense of Grain Belt Express:

- 20 • dismantling, demolishing and removing all equipment, facilities and structures;
- 21 • terminating all transmission line easements and filing a release of such  
22 easements in the real property records of the county in which the property is  
23 located;

- 1 • securing, maintaining and disposing of debris with respect to the Project
- 2 facilities; and
- 3 • performing any activities necessary to comply with applicable laws, contractual
- 4 obligations, and that are otherwise prudent to retire the Project facilities and
- 5 restore any landowner property within the easements to its original condition.

6 Commencing no earlier than the 20<sup>th</sup> anniversary of the completion of the Project,  
7 Grain Belt Express will establish and maintain a depository account in an amount  
8 reasonably necessary to comply with the above-listed wind-up activities (the  
9 “Decommissioning Fund”); provided that if on the 20<sup>th</sup> anniversary of the date of Project  
10 completion, the remaining useful life of the Project is reasonably estimated to be in excess  
11 of ten years, the Company may delay the establishment of the Decommissioning Fund until  
12 a date that is reasonably estimated by an independent engineer to be ten (10) years prior to  
13 the expiration of the useful life of the Project facilities. The Decommissioning Fund may  
14 be collateralized with a letter of credit or cash, or any combination thereof.

15 **Q. Are any of the components of the Landowner Protocol new or different from what**  
16 **was offered to landowners in the previous filing?**

17 A. Yes. In response to concerns raised by landowners and commissioners during the 2014  
18 Case, Grain Belt Express has: (1) reviewed its ROW acquisition policies and added more  
19 regionalized market studies for purposes of determining the appropriate easement  
20 consideration, (2) committed to offering landowners the option of binding arbitration in  
21 instances where an agreement on appropriate compensation is unable to be reached, (3)  
22 adopted the MO Ag Protocol, and (4) committed to the establishment of the  
23 decommissioning fund.

1                   **III.    THE LANDOWNER NOTIFICATION OF THE FILING**

2    **Q.    What steps have been taken to notify landowners with property within the ROW of**  
3    **the Proposed Route?**

4    A.    Grain Belt Express is providing notice of its filing in this docket by U.S. mail to every  
5    person or entity listed by the county tax collector as an owner of property located within  
6    the ROW of the Proposed Route.

7    **Q.    What additional landowner outreach steps were taken?**

8    A.    Mark Lawlor, Director of Development for Grain Belt Express, describes in his direct  
9    testimony the public outreach, the Open Houses and other public engagement during the  
10   2014 Case, as well as in connection with this case. Mr. Lawlor’s testimony further  
11   describes the notices that were provided to landowners around such public outreach, Open  
12   Houses and meetings, all in order to allow for input and participation by such landowners.

13                   **IV.    EASEMENT AGREEMENTS**

14   **Q.    How does Grain Belt Express plan to obtain the necessary easement agreements?**

15   A.    Grain Belt Express wants to acquire all of the ROW necessary for the Project through  
16   voluntary transactions. The Company will make numerous attempts to meet with any  
17   affected landowner personally to discuss its offer and, to the extent that such landowner  
18   cannot be contacted personally or does not want to meet in person, Grain Belt Express will  
19   send a copy of the offer and all other required documentation relating thereto is delivered  
20   via certified mail or registered-first class mail-return receipt requested to the applicable  
21   landowner. The Company will respond promptly and courteously to any landowner’s or  
22   tenant’s (or their designated representative or counsel) inquiry, comments or questions.  
23   Grain Belt Express will use all other commercially reasonable efforts to acquire any  
24   easement and will give any applicable landowner or related tenant a reasonable period of



1 time to review and discuss any proposed offer to acquire such easement. The Company  
2 will give full and fair consideration to any comments, questions or suggestions of any  
3 landowner in respect of the proposed easement agreement and will review and consider  
4 proposed minor changes or shifts in the location of the easement on the landowner's  
5 property. Each landowner will be given a reasonable opportunity to consider any offer.  
6 With respect to property owned by multiple parties, to the extent that the Company is  
7 unable to locate all landowners or any landowners are not willing to agree to the  
8 conveyance of an easement, Grain Belt Express will use all commercially reasonable  
9 efforts to enter into a voluntary agreement with any landowner that has been located and is  
10 otherwise willing to agree to convey an easement.

11 **Q. Please describe what a typical easement agreement contains.**

12 A. Grain Belt Express has a standard form of agreement, the Transmission Line Easement  
13 Agreement ("Easement Agreement"), that it will present to landowners. It is attached as  
14 **Schedule DKL-4**. The Easement Agreement provides for the development, financing and  
15 safe construction and operation of the Project, and is broad enough to cover most situations  
16 and concerns raised by landowners, without making such Easement Agreement overly  
17 burdensome or lengthy. The Easement Agreement is not meant to be "one size fits all" for  
18 every situation. Because each parcel of land is unique and because some landowners may  
19 have specific concerns that other landowners may not, Grain Belt Express has previously  
20 negotiated reasonable modifications to the Easement Agreement with both landowners and  
21 their attorneys.

22 **Q. Please describe what rights Grain Belt Express will acquire through its Easement**  
23 **Agreements.**

1 A. The Easement Agreement includes the rights to construct, operate, repair, maintain and  
2 remove one overhead transmission line and related facilities, along with rights of access to  
3 the ROW for such transmission line. No other uses by Grain Belt Express or others are  
4 permitted under the Easement Agreement.

5 **Q. What happens if a landowner doesn't want to negotiate with Grain Belt Express?**

6 A. The Company is allowing sufficient time for negotiations with each individual landowner  
7 along the route. Grain Belt Express is committed to conducting easement negotiations in  
8 a manner that respects the private property rights of landowners and achieves a voluntary  
9 easement acquisition. The Company is also committed to working with landowners to  
10 minimize the impacts of the Project upon their property. In order to ensure that  
11 infrastructure projects in the public interest can be completed, the entities building them  
12 need the right to condemn certain easements, particularly in cases of parcels that have title  
13 issues, parcels with missing or unlocatable landowners or heirs, or parcels where  
14 landowners refuse all reasonable attempts at contact or negotiation. Grain Belt Express  
15 views the use of eminent domain as a last resort that is appropriate only after exhausting  
16 all reasonable attempts at voluntary easement acquisition and title curative work. In all  
17 cases, landowners are entitled to due process and payment of fair market value for any  
18 easement acquired, and will retain ownership of their land.

19 **Q. Does this conclude your Direct Testimony?**

20 A. Yes.

21

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of Grain Belt Express )  
 Clean Line LLC for a Certificate of Convenience and )  
 Necessity Authorizing it to Construct, Own, Control, )  
 Manage, Operate and Maintain a High Voltage, Direct )  
 Current Transmission Line and an Associated Converter )  
 Station Providing an Interconnection on the Maywood- )  
 Montgomery 345 kV Transmission Line )

Case No. EA-2016-0358

**AFFIDAVIT OF DEANN K. LANZ**

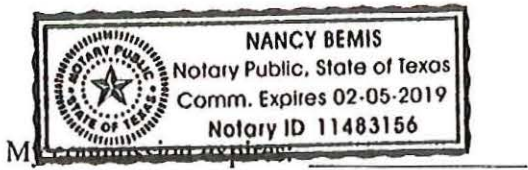
STATE OF Texas )  
 ) ss  
 COUNTY OF Harris )

Deann K. Lanz, being first duly sworn on his oath, states:

1. My name is Deann K. Lanz. I am Vice President, Land for Clean Line Energy Partners LLC.
2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on behalf of Grain Belt Express Clean Line LLC consisting of 18 pages, having been prepared in written form for introduction into evidence in the above-captioned docket.
3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

  
 Deann K. Lanz

Subscribed and sworn before me this 29<sup>th</sup> day of August, 2016.



  
 Notary Public



# Missouri Landowner Protocol

for Right-of-Way Acquisition for the

**GRAIN BELT EXPRESS**  
CLEAN LINE

**June 2016**



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## **Introduction**

The Grain Belt Express Clean Line (“Grain Belt Express Project” or “Project”) has established the Landowner Protocol (“Protocol”) as part of Grain Belt Express Clean Line LLC’s (“Grain Belt Express” or “Company”) approach to Right-of-Way (“ROW”) acquisition for the Project, in order to recognize and respect the interest of the landowners. The Landowner Protocol is a comprehensive policy of how Grain Belt Express interacts, communicates, and negotiates with affected landowners. The Landowner Protocol includes: the establishment of a Code of Conduct, the Company’s approach to landowner and easement agreement negotiations, the Company’s compensation package, updating of land values with regional market studies, the Missouri Agricultural Impact Mitigation Protocol (“MO Ag Protocol”), the tracking of obligations to landowners, the availability of arbitration to landowners, and the establishment of a decommissioning fund.

### **I. Code of Conduct**

Grain Belt Express has implemented a Code of Conduct for its employees and ROW acquisition agents, with the goal of acquiring voluntary transmission line easements by respectfully talking to and understanding the concerns and priorities of landowners. The Code of Conduct governs all communications and interactions with property owners and occupants of affected property. Grain Belt Express requires all employees, agents and representatives to follow the Code of Conduct, which among other Company principles, requires that (1) all communications with property owners and occupants be factually correct and made in good faith (2) all communications and interactions with property owners and occupants be respectful and reflect fair dealing and (3) all communications and interactions with property owners and occupants respect the privacy of property owners and other persons. Landowners are provided with contact information for both ROW agents, as well as contact information for the corporate office of Clean Line Energy Partners LLC (“Clean Line”), the parent company of Grain Belt Express, in order to ensure that a landowner can directly contact the Vice President of Land for Clean Line or any other employee working within the Land Department of Clean Line (the “Land Team”) to report any possible violations of the Code of Conduct. Reported violations of the Code of Conduct are taken seriously and are investigated by the Vice President of Land and the Clean Line management team.

### **2. Approach to Landowner and Easement Agreement Negotiations**

Grain Belt Express is committed to conducting easement negotiations in a fair manner that is respectful of property rights. The Company desires to establish and maintain long-lasting relationships with landowners. Grain Belt Express strives to implement the following key elements as part of its approach to easement negotiations:

- Communicating the overall need for the Project to landowners;
- Seeking to actively involve landowners in the routing process during the open-house and public meetings, as well as during one-on-one meetings between land agents and landowners;
- Providing clear information to landowners on the routing criteria used by Grain Belt Express;
- Providing a review and approval process for landowner-requested micro-siting changes on their property;
- Demonstrating respect for private property rights and existing land uses;



- Offering a fair and comprehensive compensation package for transmission line easements, which is described in more detail below;
- Utilizing the same methodology for determining compensation for all landowners in order to ensure that all landowners receive fair and consistent compensation, regardless of who they are or when they sign an easement agreement;
- Listening to landowner concerns and establishing a process for negotiating easement provisions where possible to address these concerns; and
- Documenting agreements with landowners to ensure that negotiated provisions and obligations are met during construction, maintenance and operation.

The goal of these policies is to obtain voluntary transmission line easements. Because of its approach to compensation, which provides options for ongoing annual payments, the Company recognizes that it is entering into a long-term business relationship with landowners and the intent is to start that relationship off based on a solid foundation of respect and fairness. Grain Belt Express's approach to landowner negotiations will not change regardless of when these negotiations take place.

**3. Compensation**

There are three primary components to the compensation being offered to landowners by Grain Belt Express:

1. **Easement Payment.** Grain Belt Express will pay landowners for the total acreage comprising the easement area. The easement payment is meant to reflect at a minimum the fair market value of such easement area. The per-acre estimated fair market value of the landowner's property is determined by multiplying the average per acre value of recent sales for similar land types in the county by 110%. (110% is used to ensure a fair estimate.) The easement area of some of the easements to be acquired may be very small in size. Therefore, for such parcels Grain Belt Express will provide landowners with a minimum payment of \$2,000 per parcel, regardless of the size of the easement area on their land.
2. **Structure Payment.** Grain Belt Express will pay landowners for each transmission line structure on the landowner's property. The landowner has the right to elect to receive a one-time payment or annual payments. Annual payments will be escalated at 2% per year and will be paid for as long as a structure is located on the easement area. Structure payments are based on the type of structure, as follows:

Type of Structure	One-Time Payment	Annual Payment
Monopole or Lattice Mast Structure	\$ 6,000	\$ 500
Lattice Structure	\$ 18,000	\$ 1,500

3. **Agricultural Impact Payment.** Grain Belt Express will pay landowners for any agricultural-related impact ("Agricultural Impact Payment") resulting from the construction, maintenance or operation of the Project, regardless of when they occur and without any cap on the amount of such damages. For example, if the landowner experiences a loss in crop yields that is attributed to the operation of the Project, then Grain Belt Express will pay the value of such loss in yield for so long as such losses occur. In other words, the intent is that the landowner be made whole for any damages or losses that occur as a result of the Project for so long as



the Project is in operation. Grain Belt Express will pay landowners an advanced Agricultural Impact Payment prior to construction, based on the estimated anticipated damages, with a true-up payment, if needed, paid after construction. Landowners may, at their option, choose to negotiate ongoing recurring Agricultural Impact Payments based on anticipated losses, or a one-time up front Agricultural Impact Payment based on anticipated losses. Due to the uniqueness of each parcel of land, the timing and type of Agricultural Impact Payment are meant to be negotiated with each landowner on a case-by-case basis in order to satisfy the unique characteristics of each parcel of land as well as the specific concerns of each such landowner. With regard to losses of marketable timber, Grain Belt Express will pay the landowner for the value of such marketable timber, as determined by a certified forester, and the timber removed shall still belong to the landowner and may be sold or used by the landowner.

Grain Belt Express is only seeking an easement, which will allow Grain Belt Express to use a portion of landowners' property necessary for the placement and operation of a transmission line. The property will still belong to landowners and can be utilized for activities such as farming, recreation, and other activities that do not interfere with the operation of the transmission line. After construction of the facilities, the landowner will retain the ability to continue agricultural production on the entirety of the easement area except for the relatively small footprint of the structures, which typically occupy less than 1% of the total easement area.

#### **4. Update to Land Values**

Prior to re-commencing easement negotiations, Grain Belt Express will hire a regional appraisal firm with agricultural expertise to perform county-wide market data studies to determine the average per-acre value in each county for specific land types (i.e. crop, pasture, timber, etc.), taking into consideration the size of the comparable sales parcels, as well as any agricultural data that is available on soil type or productivity in connection with such sales, such as state available ratings or scales of soil productivity. The appraisal firm will provide comparable fee sales by land use and land productivity in each county for the previous two years (or more if insufficient comparable sales are available for the previous two years). These comparable sales will be averaged to develop an average fair market value for each land use type. Such average values will then be increased by 10% to create the proposed per acre offer for each land use type in each county. In the event that any land values have decreased since Grain Belt Express' previous market analysis, Grain Belt Express will honor the higher per acre offer offered previously to landowners. Every 12 months, Grain Belt Express will analyze and update market data analysis as appropriate in order to determine if there are changes to the average fair market value for each land type in each county.

#### **5. Agricultural Mitigation Policies**

Grain Belt Express has established several agricultural mitigation policies to avoid, minimize and mitigate any impacts to agricultural land or activities, which are described in the Missouri Agricultural Impact Mitigation Protocol ("MO Ag Protocol"). To support this effort, the Company has agreed to hire an agricultural inspector (the "Agricultural Inspector") to monitor construction activities and verify compliance with the MO Ag Protocol. Best practices, construction standards and policies detailed in the MO Ag Protocol include:

- landowner/tenant coordination, and advance notice of access to private property;



- provision of Clean Line contact information for reporting inferior agricultural impact mitigation work;
- standards for support structure and above ground facilities type and placement;
- mechanisms to address impacts to important agricultural improvements, including drainage tiles, and irrigation systems;
- implementation of soil protection measures; including, decompaction, fertilization, stabilization, repair of damaged soil conservation practices, and erosion prevention;
- removal of construction debris upon completion of construction;
- repair or compensate landowner to repair any damage to private property;
- topsoil segregation, and soil and rock removal from support structure holes/foundations;
- landowner coordination on clearing of trees and brush, and compensation for trees of commercial value;
- development of Organic Farm Site Plans to mitigate any negative impacts to organic farms;
- indemnification of landowners and tenants from third party claims, losses and expenses;
- gate installation and maintenance procedures;
- remediation of diminished communication circuits due to transmission structures; and
- compensation for any lost revenue from agricultural or conservation program unenrollment.

## 6. Tracking of Landowner Obligations

Grain Belt Express utilizes geoAMPS software programs to capture and report procedures in place for tracking obligations negotiated by landowners in easement agreements and other legal agreements, as well as any obligations captured by agents or other employees in activity notes or landowner questionnaires ("Landowner Obligations"). Additionally, the primary construction contractor will designate one or more full time employees to act as a liaison among landowners, contractors and subcontractors and Clean Line to assist in tracking and addressing Landowner Obligations or other landowner concerns (the "Land Liaison Managers"). Prior to entering a landowner's property for surveys or construction, Grain Belt Express will gather all Landowner Obligations and notify all surveyors, the Land Liaison Managers, and any other field personnel of such Landowner Obligations. During surveys and construction, a member of the Land Team will work with landowners and the Land Liaison Managers and contractors to address any issues or concerns raised by landowners.

The Agricultural Inspector shall monitor construction activities to ensure that such construction activities are performed in compliance with the MO Ag Protocol and any Landowner Obligations. The Agricultural Inspector will have a professional background in agriculture, soil and water conservation, and general farm operations or practices and will receive specific training on the implementation of the MO Ag Protocol. The Agricultural Inspector will be directly available to landowners during construction to address their concerns and to ensure that Grain Belt Express is meeting any Landowner Obligations or the obligations set forth in the MO Ag Protocol. The Land Team will provide the list of Landowner Obligations to the Agricultural Inspector and to the Land Liaison Manager. Landowners will be able to report any violations of these obligations directly to the Agricultural Inspector and if the Agricultural Inspector determines that such a violation exists, the Agricultural Inspector shall have the authority to stop the construction activities that are in violation of the Landowner Obligations or in violation of the MO Ag Protocol. After construction, the Land Team will work with landowners, crop adjusters, the Land Liaison Manager and the Agricultural Inspector to provide for the evaluation and final settlement of any Agricultural Impact Payment in accordance with the provisions negotiated by landowners in their easement agreements. After construction is completed, the Land Team will ensure that every landowner is contacted personally



to confirm that all Landowner Obligations and obligations under the MO Ag Protocol were met during construction, to discuss any concerns, and to confirm that all payments were settled. Grain Belt Express will continue to be in contact with landowners throughout the operation of the Project with regard to ongoing damages, if any, and for those landowners who have elected annual structure payments.

**7. Binding Arbitration**

If Grain Belt Express and a landowner have reached agreement on the form of easement but are unable to reach agreement on the appropriate compensation, then at the landowner's request, Grain Belt Express will submit the issue of landowner compensation to binding arbitration. Arbitration will be administered by the American Arbitration Association (the "AAA") in accordance with its Commercial Arbitration Rules. Any arbitration will take place in Missouri, and will be conducted under Missouri law. Arbitrators shall be appointed as provided in the AAA Commercial Arbitration Rules, but shall be selected from a pool of qualified arbitrators who are familiar with land use and land values in Missouri.

**8. Decommissioning Fund**

Transmission lines and their ROWs are rarely if ever retired from service. Over time, they may be upgraded or improved to continue delivering electricity to load. In the circumstance in which the Project is retired from service, Grain Belt Express will promptly wind-up the activities of the Project, which will include the following actions, which will be at the sole cost and expense of Grain Belt Express:

- dismantling, demolishing and removing all equipment, facilities and structures;
- terminating all transmission line easements and filing a release of such easements in the real property records of the county in which the property is located;
- securing, maintaining and disposing of debris with respect to the Project facilities; and
- performing any activities necessary to comply with applicable laws, contractual obligations, and that are otherwise prudent to retire the Project facilities and restore any landowner property.

Commencing no earlier than the 20<sup>th</sup> anniversary of the completion of the Project, Grain Belt Express will establish and maintain a depository account (the "Decommissioning Fund") in an amount reasonably necessary to comply with the above-listed wind-up activities; provided that if on the 20<sup>th</sup> anniversary of the date of Project completion, the remaining useful life of the Project facilities is reasonably estimated to be in excess of ten years, Grain Belt Express may delay the establishment of the Decommissioning Fund until a date that is reasonably estimated by an independent engineer to be ten years prior to the expiration of the useful life of the Project facilities. The Decommissioning Fund may be collateralized with a letter of credit or cash, or any combination thereof.

## GRAIN BELT EXPRESS CLEAN LINE LLC CODE OF CONDUCT FOR EMPLOYEES, RIGHT-OF-WAY AGENTS AND SUBCONTRACTOR EMPLOYEES

This Code of Conduct applies to all communications and interactions with property owners and occupants of property by all employees, right-of-way agents and subcontractor employees representing Grain Belt Express Clean Line LLC ("Grain Belt Express") in the negotiation of right-of-way and the performance of surveying, environmental assessments and the other activities for the Grain Belt Express project (the "Project") on property not owned by Grain Belt Express.

- I. All communications with property owners and occupants must be factually correct and made in good faith.
  - a. Do not provide maps and documents necessary to keep the landowner properly informed.
  - b. Do not make false or misleading statements.
  - c. Do not purposely or intentionally misrepresent any fact.
  - d. If you do not know the answer to a question, do not speculate about the answer. Advise the property owner that you will investigate the question and provide an answer later.
  - e. Follow-up in a timely manner on all commitments to provide additional information.
  - f. Do not send written communications suggesting an agreement has been reached when, in fact, an agreement has not been reached.
  - g. If information provided is subsequently determined to be incorrect, follow up with the landowner as soon as practical to provide the corrected information.
  - h. Do provide the landowner with appropriate contact information should additional contacts be necessary.
- II. All communications and interactions with property owners and occupants of property must be respectful and reflect fair dealing.
  - a. When contacting a property owner in person, promptly identify yourself as representing Grain Belt Express.
  - b. When contacting a property owner by telephone, promptly identify yourself as representing Grain Belt Express.
  - c. Do not engage in behavior that may be considered harassing, coercive, manipulative, intimidating or causing undue pressure.
  - d. All communications by a property owner, whether in person, by telephone or in writing, in which the property owner indicates that he or she does not want to negotiate or does not want to give permission for surveying or other work on his or her property, must be respected and politely accepted without argument. Unless specifically authorized by Grain Belt Express, do not contact the property owner again regarding negotiations or requests for permission.
  - e. When asked to leave the property, promptly leave and do not return unless specifically authorized by Grain Belt Express.
  - f. If discussions with the property owner become acrimonious, politely discontinue the discussion and withdraw from the situation.
  - g. Obtain unequivocal permission to enter the property for purposes of surveying or conducting environmental assessments or other activities. Clearly explain to the property owner the scope of the work to be conducted based on the permission given.



Attempt to notify the occupant of the property each time you enter the property based on this permission.

- h. Do not represent that a relative, neighbor and/or friend have signed a document or reached an agreement with Grain Belt Express.
  - i. Do not ask a relative, neighbor and/or friend of a property owner to convince the property owner to take any action.
  - j. Do not represent that a relative, neighbor and/or friend supports or opposes the Project.
  - k. Do not suggest that any person should be ashamed of or embarrassed by his or her opposition to the Project or that such opposition is inappropriate.
  - l. Do not suggest that an offer is "take it or leave it."
  - m. Do not argue with property owners about the merits of the Project.
  - n. Do not threaten to call law enforcement officers or obtain court orders.
  - o. Avoid discussing a property owner's failure to note an existing easement when purchasing the property and other comments about the property owner's acquisition of the property.
  - p. Do not threaten the use of eminent domain.
- III. All communications and interactions with property owners and occupants of property must respect the privacy of property owners and other persons.
- a. Discussions with property owners and occupants are to remain confidential.
  - b. Do not discuss your negotiations or interactions with other property owners or other persons unaffiliated with Grain Belt Express.
  - c. Do not ask relatives, neighbors and/or friends to influence the property owner or any other person.

# MISSOURI LANDOWNER COMPENSATION FACT SHEET

## GRAIN BELT EXPRESS CLEAN LINE

Clean Line is committed to compensating landowners fairly. This fact sheet provides an overview of the compensation Clean Line is offering landowners.

### EASEMENT

Clean Line will use an easement that is approximately 150-200 feet wide for the specific purpose of constructing, operating, and maintaining the transmission line.

Landowners will be able to continue farming the land within the easement. Land within the easement taken out of production by the transmission structure foundations will typically comprise less than 1% of the easement.

### COMPENSATION CALCULATION

There are two primary components to compensation: An easement payment and structure payments.

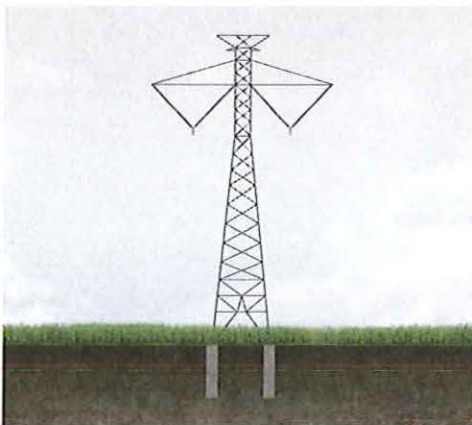
#### Easement Payment

Easement compensation is based on the area of the easement, calculated in acres, and the fair market fee value of the land within the easement. Fair market value is determined through a market study of recent fee sales in the county conducted by an independent appraiser. Clean Line will pay 110% of the average value of the land, based on recent sales in the county.

#### Structure Types and Payments

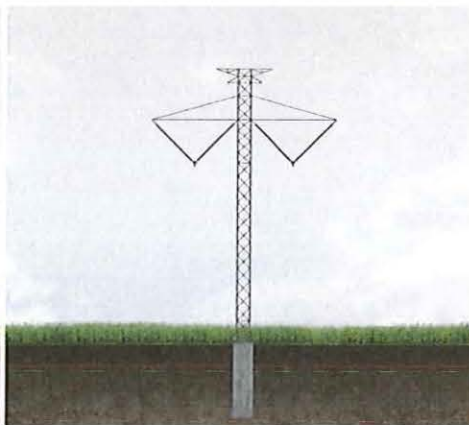
Structure compensation is calculated based on the type of structure selected by Clean Line and the number of structures located on a specific property. The landowner may elect to receive a one-time payment or annual payments, at the landowner's preference. Annual payments will be made as long as a structure is on the Easement Property and will include a 2% annual escalator that will be applied to each annual payment per structure, after the first payment has been made.

Lattice Structure



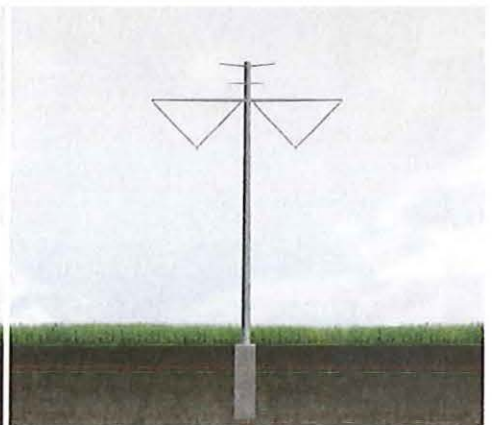
\$1,500 annually or \$18,000 one time

Lattice Mast Structure



\$500 annually or \$6,000 one time

Monopole Structure



\$500 annually or \$6,000 one time

### Additional Compensation

Clean Line will compensate landowners for related damages incurred, such as:

- crop damage
- irrigation or drainage interference
- commercially marketable timber that is cleared





# GRAIN BELT EXPRESS CLEAN LINE

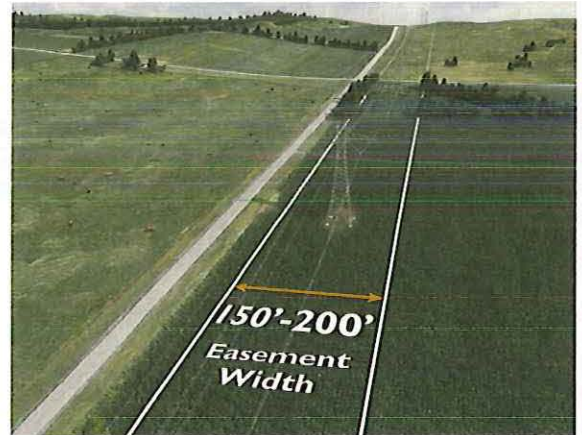
## DETERMINING LAND VALUE

A market study will be performed within each county along the proposed route by a certified independent appraiser to determine the current market value ranges of properties. These market values and specific characteristics of each parcel will be used in determining compensation for each easement. The compensation for the easement will be equal to 110% of the average value of the land, based on recent sales in the county.

## LANDOWNER COMPENSATION EXAMPLE

The following **example** is for a property with the following characteristics:

- A market value (as discussed above) of \$5,000 per acre
- A 150-foot-wide easement that spans half a mile
- Two lattice structures placed within the easement
- A landowner that has chosen to receive a one-time, upfront payment. (At their preference, landowners may choose one time or annual payments for structures.)



Example easement

**As illustrated below, under these circumstances the landowner would receive a payment of \$81,500.**

### Easement Payment Example

150 foot easement width x 2,640 feet (half a mile) = 396,000 square feet

396,000 square feet / 43,560 (square feet in an acre) = ~9.1 acres

9.1 acres x \$5,000 (price per acre offer) = \$45,500

### Structure Payment Example (landowner selects one-time payment)

2 (lattice structures) x \$18,000 (per lattice) = \$36,000

**Total Payment: \$45,500 (easement payment) + \$36,000 (structure payment) = \$81,500**

*This example is not an offer and is based on a market valuation per acre of \$5,000 and other factors. Actual compensation for each parcel will be based on a market study of land values and may be higher or lower than this estimate.*

This document prepared by: Grain Belt Express Clean Line LLC 1001 McKinney Street, Suite 700 Houston, TX 77002	After recording return to: Grain Belt Express Clean Line LLC 1001 McKinney Street, Suite 700 Houston, TX 77002
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Tract # - [ ]

**TRANSMISSION LINE EASEMENT AGREEMENT**

This Transmission Line Easement Agreement (“Agreement”) is between \_\_\_\_\_ (collectively, “Grantor” or “Landowner”), and Grain Belt Express Clean Line LLC (“Grantee” or “Grain Belt”), an Indiana limited liability company. Grantee’s mailing address: 1001 McKinney St., Suite 700, Houston, TX, 77002.

1. Landowner owns certain real property in \_\_\_\_\_ County, Missouri, with a legal description as shown on the attached Exhibit A (the “Property”).
2. Landowner does hereby grant and convey unto Grain Belt a perpetual, exclusive easement (the “Easement”) to construct, operate and maintain an overhead transmission line, as further described below. The legal description of the Easement is generally as depicted on the attached Exhibit B.
  - a. In exchange for receiving the Easement, Grain Belt has paid Landowner an initial payment of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. Grain Belt may pay Landowner additional consideration pursuant to that certain Easement Calculation Sheet executed by Landowner concurrently with this Agreement. In the event Grain Belt does not pay the additional consideration by the date(s) provided in and in accordance with the terms of the Easement Calculation Sheet, subject to the notice requirements and cure period set forth in Section 10 of this Agreement, Landowner may terminate this Agreement by providing written notice to Grain Belt. Additionally, to the extent applicable, Grain Belt will pay Landowner for certain damages as set forth in and in accordance with the terms of the Structure and Damages Calculation Sheet executed by Landowner concurrently with this Agreement.
  - b. The Easement includes rights to construct, reconstruct, repair, expand within the Easement, improve, alter, replace, operate, use, inspect, maintain and remove an overhead transmission line, which transmission line shall include poles, towers and structures, such wires and cables

as Grain Belt shall from time to time suspend therefrom, foundations, footings, attachments, anchors, ground connections, communications devices, or other equipment, accessories and appurtenances, as Grain Belt may deem necessary or desirable in connection therewith (the "Facilities"). The Easement will be used for the transmission of electrical energy, whether existing now or in the future, in order to deliver electrical energy and for all communication purposes related to delivering electrical energy.

- c. The location of the Easement is generally as depicted on the attached Exhibit B. Landowner and Grain Belt agree that after the final engineering design and construction of the Facilities have been completed, Grain Belt will commission a surveyor to create a precise legal description for the Easement, which will be a strip of land designated by Grain Belt not to exceed 100 feet on each side of the center-line of the "as built" Facilities. Landowner authorizes Grain Belt to unilaterally record a legal description and/or drawings of the "as built" Facilities to reflect the precise location of the Easement. However, upon the request of Grain Belt, Landowner agrees to cooperate with Grain Belt and to join Grain Belt in the execution of an amendment to this Agreement or any other documents in recordable form for the purpose of documenting and recording the precise location of the Easement.
  - d. The Easement includes the right of ingress and egress over the Easement itself, over the Property of Landowner in order to obtain access to the Easement, and over the Property of Landowner adjacent to the Easement and lying between public or private roads and the Easement in such manner that shall cause the least practicable damage and inconvenience to Landowner.
3. Grain Belt will repair or pay, at Grain Belt's option, Landowner or its tenants for any damage to Landowner's or Landowner's tenants' improvements, livestock and/or crops as a result of Grain Belt exercising its rights under this Agreement. Certain of these damages are addressed in and will be paid in accordance with that certain Damages Calculation Sheet executed by Landowner concurrently with this Agreement. Notwithstanding the foregoing, Grain Belt shall, without being liable for damages, have the right from time to time, including after the initial construction of the Facilities, to: (a) clear the Easement of all buildings or other structures, except fences (provided Grain Belt shall at all times have access through any such fence by means of a gate (at Grain Belt's cost)); (b) control, cut down, trim and remove trees and underbrush from the Easement; and (c) cut down and trim any tree located outside the Easement that in the opinion of Grain Belt may interfere with the safety, proper operation and/or maintenance of the Facilities.
  4. Landowner shall have the right to use the Easement for normal farming and grazing purposes and have the right to install and maintain fences (provided Grain Belt shall at all times have access through any such fence by means of a gate), provided such uses do not interfere with Grain Belt's rights and permitted uses of the Easement for the purposes described herein. Landowner shall not, however, engage in any activity or grant any rights to third parties that would interfere with Grain Belt's use of the Easement, including, without limitation, the drilling or operation of any well, construction of any building or other structure, changing of the existing grade, or installation of any utility or other line, main, conduit, fixture or other appurtenance within, under, upon or over the Easement, without in each case the prior written consent of Grain Belt, which consent shall not be unreasonably withheld. Landowner acknowledges and agrees that during the initial construction of the Facilities or any major work on the Facilities, Landowner may not have access to or use of the Easement for any purpose so as to avoid interfering with such construction or other repair work



and in order to allow Grain Belt to maintain the safety of persons and property during such construction or other repair work.

5. Landowner, for themselves, their heirs, successors and assigns, represent, warrant and covenant that they are the true and lawful owners of the Property and have full right and power to grant and convey the Easement as herein provided.
6. Grain Belt may terminate this Agreement at any time by providing written notice to Landowner and removing the Facilities (if such Facilities exist) within one hundred eighty (180) days of such notice whereupon all further obligations under this Agreement shall terminate.
7. All notices given or permitted to be given under this Agreement shall be in writing. Notice is considered given either (i) when delivered in person to the recipient named above, (ii) upon deposit in the United States mail in a sealed envelope or container, postage and postal charges prepaid, return receipt requested or certified mail, addressed by name and address to the party or person intended, or (iii) upon deposit with an overnight courier service addressed by name and address to either party to this Agreement. Either party may, by notice given at any time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both.
8. The rights of Grain Belt under this Agreement may be sold, assigned, mortgaged or leased, in whole or in part, by Grain Belt at any time. In the event of any such sale, assignment or lease by Grain Belt of its interests in this Agreement (in whole or in part), Grain Belt shall be released from its obligations under this Agreement to the extent of such sale, assignment or lease, provided that any such purchaser, assignee or lessee assumes Grain Belt's obligations.
9. The Easement and any restrictions of this Agreement are covenants running with the Property and land affected and shall be binding on and inure to the benefit of Landowner and Grain Belt, together with their mortgagees, assignees, and respective successors and assigns, heirs, personal representatives, tenants or persons claiming by, through or under them. In furtherance of the foregoing, Landowner acknowledges and agrees that any and all sums due under this Agreement, including, without limitation, under the Easement Calculation Sheet and the Structure and Damages Calculation Sheet, shall be paid only to the then owner of record of the Property at the time the applicable payment is due.
10. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri. In the event of any breach of a monetary obligation by Grain Belt under this Agreement, Landowner shall provide Grain Belt written notice and Grain Belt shall have thirty (30) days after Grain Belt's receipt of said notice to cure the breach. In the event of any non-monetary breach by Grain Belt under this Agreement, Landowner shall provide Grain Belt written notice and Grain Belt shall have sixty (60) days after Grain Belt's receipt of said notice to cure the breach; provided, however, if the nature of the breach is such that it cannot reasonably be cured within sixty (60) days, Grain Belt shall not be deemed in breach under this Agreement so long as Grain Belt commences the cure within thirty (30) days and thereafter diligently pursues the cure to completion. Notwithstanding anything to the contrary contained herein, Landowner shall have no rights to terminate this Agreement for a breach by Grain Belt before the foregoing cure periods have expired. Landowner and Grain Belt agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good faith negotiation. If Landowner and Grain Belt are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each

shall have all remedies available at law or in equity in state and federal courts in the State of Missouri.

#### 11. Indemnification; Waiver of Claims

- a. Grain Belt shall indemnify and hold harmless Landowner from any and all liability, claims, suits, demands, actions, loss, damage and expense, including court costs and reasonable attorney's fees (collectively "Claims"), for injury to persons or damage to property caused by Grain Belt, or Grain Belt's agents and representatives, in the exercise of Grain Belt's rights under this Agreement, except to the extent resulting from Landowner's breach of the terms of this Agreement or from Landowner's negligence or intentional misconduct.
  - b. Grain Belt's indemnification obligation hereunder includes all Claims brought by Grain Belt's employees, agents, contractors, subcontractors or other representatives related to any work performed on the Property in connection with the exercise of Grain Belt's rights in this Agreement.
  - c. Grain Belt agrees that it shall not pursue, and hereby waives, any Claims against Landowner, except to the extent caused by Landowner's breach of this Agreement, gross negligence or intentional misconduct; provided however, this Section 11(c) shall not limit any of Grain Belt's remedies for breach of the terms of this Agreement.
12. Landowner hereby consents to Grain Belt contacting any lender, mortgagee or other pre-existing holder of a lien or interest in the Property in order to secure a subordination and or non-disturbance agreement in recordable form for the benefit of the parties. Upon the request of Grain Belt, Landowner agrees to fully cooperate with Grain Belt in order to secure a subordination and/or non-disturbance agreement from each lender, mortgagee or other pre-existing holder of a lien or interest in the Property. Landowner shall not be required to incur any third party out of pocket expenses in connection with assisting Grain Belt in the pursuit of the foregoing subordination and/or non-disturbance agreements; all such third party out of pocket expenses relating to the same shall be paid by Grain Belt. At no additional cost to Landowner, Landowner further agrees to cooperate with Grain Belt's efforts to obtain financing, including providing any documents reasonably requested by Grain Belt, its lenders or as otherwise reasonably required to effectuate the purposes of this Agreement.
13. Landowner hereby expressly releases and waives all privileges, advantages, rights, and benefits under any and all applicable homestead exemption laws.
14. This Agreement may be executed in multiple counterparts and, when executed by all parties, shall constitute one agreement effective and binding on all parties.

IN WITNESS WHEREOF, Landowner and Grain Belt have entered into and made this Agreement effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Landowner(s):**

\_\_\_\_\_

Print Name: \_\_\_\_\_

Landowner Address:

\_\_\_\_\_

Print Name: \_\_\_\_\_

Landowner Address

\_\_\_\_\_

Print Name: \_\_\_\_\_

Landowner Address

\_\_\_\_\_

Print Name: \_\_\_\_\_

Landowner Address

**Grain Belt:**

Grain Belt Express Clean Line LLC,  
an Indiana limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGMENTS**

STATE OF \_\_\_\_\_,  
COUNTY OF \_\_\_\_\_,

The foregoing instrument was duly acknowledged before me on this \_\_\_ day of \_\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My appointment expires \_\_\_\_\_

**ACKNOWLEDGMENTS**

STATE OF \_\_\_\_\_,  
COUNTY OF \_\_\_\_\_,

The foregoing instrument was duly acknowledged before me on this \_\_ day of \_\_\_\_\_,  
201\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of  
Grain Belt Express Clean Line LLC, an Indiana limited liability company.

\_\_\_\_\_  
Notary Public

My appointment expires: \_\_\_\_\_

**EXHIBIT "A"**

Tax ID #

Legal Description