

**TESTIMONY OF MICHAEL J. HEINEN
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BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON WATER, POWER, AND OCEANS**

“Proposed Federal Water Grabs and Their Potential Impacts on States, Water and Power Users, and Landowners”

April 14, 2015

Introduction:

Chairman Fleming, Ranking Member Huffman, members of the Subcommittee, thank you for inviting me to testify today on “Proposed Federal Water Grabs and Their Potential Impacts on States, Water and Power Users and Landowners.” My name is Michael J. Heinen and I serve as General Manager of Jeff Davis Electric Cooperative headquartered in Jennings, Louisiana. Our member-owned, member-controlled electric cooperative provides power for nearly 10,000 residential, commercial and industrial consumers across five parishes in the immediate Southwestern corner of our state, representing more than 30,000 consumers. I am a proud native and life-long resident of our cooperative’s service territory, which is bordered by the state of Texas to the west and the Gulf of Mexico to the south, with numerous rivers and tributaries flowing from the north and three substantial bodies of brackish water in Calcasieu, Grand and White lakes.

To us in Southwest Louisiana, which is home to three million acres of coastal wetlands, “wetland” does not mean “wasteland.” Our coast is very much an active coast with nearly one-third of our state’s population living and working on or very near the Gulf of Mexico. The area’s proximity to the Gulf waters makes it an attractive draw for a variety of industries including oil and gas interests, fisheries, transportation, livestock, farming and much more. As a key part of the region’s economic development engine, Jeff Davis Electric serves eight natural gas processors along with other commercial and industrial enterprises. Moreover, our service area is a national leader in waterfowl and alligator harvests, is home to important state and federal wildlife refuges which cover 285,000 acres and attract 20,000 visitors a month to the coast’s 26 miles of public beaches. Cameron Parish, for example, is a source point for the U.S. strategic oil reserve, a major portal for the petrochemical industry, a vital link to major ports located in New Orleans, Lake Charles, Houston and Galveston and an anchor for oil and gas maritime repair and service. More than \$2.3 billion in Liquefied Natural Gas and related projects are either under construction or on the drawing board in the heart of our service territory, while agriculture and aquaculture enterprises total \$41.6 million each year.

Those of us who have lived our entire lives in this sportsman’s paradise know that while the region has its rewards both tangible and intangible, it also has its share of challenges. We are intimately familiar with the many factors that threaten the very existence of our homeland. Many of our citizens are fully aware of the fragility of our land and our water and are well-versed in the conditions that have the potential to undermine our way of life. Erosion, storms and storm surge,

drought, repeated flooding, saltwater intrusion and even “man-made” disasters such as the BP oil spill of 2010 all threaten the sustainability of our region.

Jeff Davis Electric’s concern with “Proposed Federal Water Grabs”

In the interest of fairness, we are mindful of the fact that it was an executive order signed by President Franklin Delano Roosevelt on May 11, 1935, and subsequent federal action that catalyzed the electric cooperative movement and led to the economic advancement and improved quality of life for millions of rural citizens across the country. And while it’s true that rural electrification was sparked by an act of the executive branch of the federal government, I would like to point out that the formation of the Rural Electrification Administration did not directly build one rural electric cooperative, nor did it force, mandate or require that one cooperative be constructed; this progressive New Deal initiative simply and appropriately provided those residing in the U.S. countryside a less cumbersome pathway for creating cooperative organizations for themselves, on their own, according to their own vision, in their own communities, to serve their own interests. It was a low-cost loan mechanism made available to privately-held, independent, locally-controlled power providers. It was, and was intended to be, a public-private partnership in every sense of the term, one that worked best when government provided the proper support and then stepped out of the way to let the local people apply the solutions that made the most sense for their particular circumstances.

We are concerned that the Environmental Protection Agency’s proposed federal water grab goes too far in disturbing a delicate public-private balance by imposing additional unnecessary permitting requirements, adding greater burdens and bureaucratic red tape while further restricting our opportunity to continue economic progress and threatening our cooperative’s ability to deliver safe, affordable, reliable electric power to our members. In my opinion, the current rules go beyond far enough.

A prime example of the manner in which overreaching federal policies have proven problematic and wasteful for our cooperative occurred in the wake of Hurricane Rita nearly 10 years ago. On Sept. 24, 2005, roughly three weeks after Hurricane Katrina more famously made landfall on the eastern side of our state, Hurricane Rita struck our coastline in Southwest Louisiana, causing \$4.7 billion in damage across the region and destroying roughly 40 percent of Jeff Davis Electric’s 10,086 accounts along 1,600 miles of electrical power distribution and transmission lines. The storm completely destroyed our branch office located in Cameron, La., which was established to serve the residents and commercial consumers along the coast. A five-acre tract of land was generously donated to the cooperative by one of the cooperative’s long-time directors, Mr. Charles S. Hackett 25 miles north of Cameron to rebuild the branch office. The current level of federal oversight through the Clean Water Act caused delays and expenses to the cooperative in the form of environmental surveys, floodplain surveys, permits and inspections that amounted to thousands of dollars being spent before the first shovel of dirt could be turned. During that process, it was discovered that two of the five acres were declared wetlands because of the presence of a certain species of indigenous vegetation. This land was farm land that had lain idle for several years because Mr. Hackett no longer wanted to have it farmed. It was not wetlands. Because this certain vegetation was found on the property, according to federal guidelines, nothing could be done with the land until mitigation took place. In order to take advantage of

Mr. Hackett's generosity, Jeff Davis Electric was forced to purchase two acres of wetlands from the federal government in an unknown location for environmental mitigation. The purchase cost Jeff Davis Electric and its members \$30,000. This was an unforeseen expense that had to be passed on to our consumer/members who ultimately bear the cost of unnecessarily burdensome federal oversight and regulation. Expanding the oversight of the federal government would only add to the cost of providing electrical distribution service to our members who already face burdensome regulations and restrictions of use to land which they presently own. Again, this is just one example.

This is the type of burdensome federal regulation that we need less of, not more. An expansion of the Clean Water Act as currently proposed in the EPA's Waters of the United States rule would complicate, not simplify, our Co-op's routine operations and maintenance. The ambiguous definitions in the proposed rule will vastly expand the reach of the Clean Water Act and cause major problems for our customers in Louisiana's coastal plains. For instance, simply performing regular maintenance of our power lines, poles and other infrastructure to ensure reliability for our customers would require additional permitting, additional costs, and unreasonable delays.

We have faced and overcome major challenges as we lie in the direct path of occasional hurricanes. However, under additional federal regulations as proposed by the EPA, restoring the electrical lifeline to our customers after a similar natural disaster would be much more arduous and perhaps unattainable.

Conclusion:

It's my personal view and the view of Jeff Davis Electric that the stringent federal rules and regulations currently in place, in addition to those imposed by state and local authorities, are useful and effective in protecting our wetlands, our precious water resources and our natural habitat. The stringent existing requirements already make it difficult to build infrastructure to new commercial enterprises and adequately maintain right-of-way to ensure cost-effective service reliability for our members.

Again, as a lifelong resident of Southwest Louisiana and an avid outdoorsman, I have seen our land besieged by numerous disasters both natural and man-made. And I have also witnessed the resilience of our land and how it has the capacity to renew, reinvigorate and heal itself despite the degree of damage sustained. Major Hurricanes, from Audrey and Andrew to Rita and Ike, have pummeled our coastline over the decades, yet the land and its people continue to stand strong in the face of hardship.

I urge the Subcommittee to seriously consider the impact of federal rules and regulations on the people of Southwest Louisiana and members of Jeff Davis Electric, many of whom have spent their entire lives in the wetlands. Our region has benefitted greatly from the efforts of the state and federal government, as well as private agencies, to protect and preserve our wetlands, and for this we are grateful. However, there is a tipping point where unnecessary mandates and restrictions intended to help our people become punitive and inhibit the ability of our economy to

grow and our people to prosper. Any policies adopted by the federal government need to be smart and effective in achieving the desired outcome without the negative unintended consequences that diminish the ability of our rural cooperative members to continue their way of life and provide for their families. We prefer to see the federal government as a partner in environmental preservation, not a deterrent to progress.

The five Louisiana Parishes served by Jeff Davis Electric

