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Jennifer J. Pruett
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 19, 2019

Mr. Thomas E. Long
Chief Financial Officer
Energy Transfer Partners, L.P.
3738 Oak Lawn Avenue
Dallas, Texas 75219

Ms. Stacy Boultinghouse, PG
Environmental Manager
Energy Transfer Company
800 Sonterra Blvd
San Antonio, Texas 78528

**RE: DISAPPROVAL
REVISED FINANCIAL ASSURANCE SUBMITTAL AND
RESPONSE TO COMMENTS FOR JANUARY 18, 2019
TRANSWESTERN COMPRESSOR STATION NO. 9 - ROSWELL
TRANSWESTERN PIPELINE COMPANY, LLC
EPA ID # NMD986676955
HWB-TWP-MISC**

Dear Mr. Long and Ms. Boultinghouse:

The New Mexico Environment Department (NMED) has completed its review of Transwestern Pipeline Company, LLC's (Transwestern) revised financial assurance submittal and Response to Comments letter dated February 11, 2019 and received February 13, 2019. NMED hereby issues this second Disapproval. Transwestern must address the following comments:

Comment 1

Transwestern's Response to Comment 2 states that the estimated cost of work from Section III.Q. of the Stipulated Final Order (SFO) "shall be prepared in accordance with the requirements of 40 CFR 265...Furthermore, the requirements of the SFO apply to the interim status hazardous waste management units identified in the Order. Therefore, compliance with 40 CFR 264...is not applicable as there are no site activities subject to these requirements." NMED understands Transwestern's concern regarding the wording and its applicability towards the requirements of the facility. Transwestern is only responsible for the portions of

the corporate guarantee that are applicable to 40 CFR 265, not 264. As stated in 40 CFR 264.151(h)(1), “A corporate guarantee, as specified in §264.143(f), or §264.145(f), or §265.143(e), or §265.145(e) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.” In order to stay compliant with the financial assurance, it requires the wording of the instruments must be verbatim with no omissions or revisions. Revise the financial assurance submittal to be verbatim for each instrument with the understanding that only 40 CFR 265 is applicable to Transwestern.

Comment 2

Comment 4 from NMED’s January 18, 2019 Disapproval required revisions to the Corporate Guarantee and Chief Financial Officer (CFO) letter. Most of the changes were made, however, the following discrepancies must be addressed:

- a. In the first paragraph of the Corporate Guarantee, the second sentence is still missing the address of the owner/operator.
- b. In Recital 2 of the Corporate Guarantee, the wording is not verbatim stating “and” instead of “or” in the first part of the statement “[Owner or operator] owns or operates”.
- c. In Recitals 4, 5, 7, 8 and 11 of the Corporate Guarantee, the wording is not verbatim stating “and” instead of “or” in the parts referencing “subpart H of 40 CFR part 264/265”.
- d. In Recital 8 of the Corporate Guarantee, the wording is not verbatim stating “of” instead of “or” in reference to “amendment of modification”.
- e. In Paragraph 3 of the CFO letter, the wording is not verbatim and omits “264” and “or” in the first sentence where it references subpart H of 40 CFR 265. In addition, at the end of the paragraph, the wording states “and” instead of “and/or” in the statement “The current closure and/or post-closure cost estimates covered by such a test are show for each facility”.

Correct the discrepancies and resubmit the CFO letter and the Corporate Guarantee with the exact wording as provided in 264.151(f) and 264.151(h)(1).

Comment 3

NMED has reviewed Transwestern’s Response to Comment 5a and the revised attachments in Appendix A. Address the following comments for the tables titled “10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance, 2018 through 2028” (Cost Estimate):

- a. In the section titled “System Operation & Maintenance”, it will facilitate NMED’s review if Transwestern provided the total number of samples collected and sample locations for the analytical samples collected as “Treated Water” and “Soil Vapor” in the Cost Estimate. Verify the sampling frequency for each sample collected at each location (e.g., effluent sample collected monthly (12 total samples), quarterly (4 total samples), or 9 events (9 samples total for effluent sample)) and provide a breakdown in the spreadsheet to demonstrate how the Annual Costs are calculated for the “Treated Water” and “Soil Vapor”.
- b. It is unclear how the annual costs for Analytical (Volatiles) and Analytical (BTEX) in the section titled “Semiannual Monitoring” are calculated. For example, the Analytical (Volatiles) estimate states 24 samples are analyzed per year for two events. 24 samples multiplied by 2 events equals 48 total samples. Forty-eight samples analyzed multiplied by the unit cost (\$120) results in a total annual cost of \$5,760 (\$4,200.00 for Analytical (BTEX)). However, the table reports a total annual cost of \$2,880.00 for Analytical (Volatiles) and \$2,100.00 for Analytical (BTEX). Clarify how the annual cost is calculated in this section of the Cost Estimate in the revised submittal. Include as a note in the Note’s section of this Cost Estimate.
- c. There appears to be a typographical error in calculating the annual cost for the section titled “Non-recurring Costs.” There are two Baker Furnace Units at \$15,000 contingency for each unit. The Cost Estimate reports an annual cost of \$200,000.00 for the “Capital Investment – Replacement of equipment over a 10 year period”. If there are 2 Baker Units at a cost of \$15,000 each, the calculation should equal \$30,000.00. The replacement cost would be multiplied by ten years for a total Annual cost of \$300,000.00. Clarify how the annual cost for the Capital Investment was calculated in this section of the Cost Estimate in the revised submittal.

Comment 4

NMED requires additional clarification for the reference to Note #4 from Transwestern’s Response to Comment 5b. Transwestern states “Note #4 indicates that ‘actual historic expenses’ were used in the estimate. Revised notes, including assumptions and contingencies to the cost estimate, are provided in Appendix A.” The only reference to “actual historic expenses” is in Note No. 3 from the “Notes to the 2018 through 2028, 10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance”. Also, clarify and define “actual historic expenses” in the response letter.

Comment 5

For Transwestern’s Response to Comment 6 NMED requested additional information and explanation for how the cost estimate was derived. The explanations for Comment 6 refer the reviewer to the revised “Notes” and the “Assumptions and Contingencies” documents provided in Appendix A. While these tables provided some explanation for how the cost estimate was

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determined, a quantitative demonstration that itemized the costs defined as “contingency costs” is needed. Provide a definition for “contingency costs”. If an itemized list cannot be generated, then explain how it was used to determine the cost estimate for Transwestern.

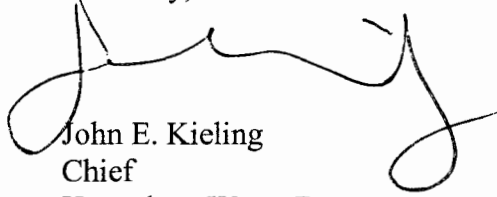
Comment 6

Provide page numbers and table numbers for the documents referenced in Appendix A to facilitate NMED’s review.

Transwestern must address and apply Comments 1 through 6 in this second Disapproval letter for the 2018 financial assurance submittal and the 2019 financial assurance submittal. The revised 2018 financial assurance documentation must be submitted to NMED no later than April 26, 2019.

If you have any questions, please contact Vanessa Colón of my staff at 505-476-6058.

Sincerely,



John E. Kieling
Chief
Hazardous Waste Bureau

JEK:lt

cc: D. Cobrain, NMED HWB
M. Suzuki, NMED HWB
L. Tsinnajinnie, NMED HWB
V. Colón, NMED HWB
L. King, EPA Region 6 (6PD-N)

File: TWP 2019 and Reading File