



Michelle Lujan Grisham
Governor

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Lt. Governor

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

Hazardous Waste Bureau

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED



ENTERED



James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

January 25, 2021

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, LLC
800 Sonterra Blvd
San Antonio, Texas 78528

**RE: DISAPPROVAL
2020 FINANCIAL ASSURANCE PACKAGE
TRANSWESTERN COMPRESSOR STATION NO. 9-ROSWELL
TRANSWESTERN PIPELINE COMPANY, LLC
ROSWELL, CHAVEZ COUNTY, NEW MEXICO
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) financial assurance submittal dated May 26, 2020 and received on May 28, 2020. NMED hereby issues this Disapproval with the following comments.

Transwestern must address all the comments from this Disapproval for the 2020 Financial Assurance submittal. All comments must be addressed and a response letter for the 2020 Financial Assurance submittal must be submitted to NMED no later than **February 26, 2021**. In addition, all comments from this Disapproval must be incorporated in the 2021 Financial Assurance submittal.

Mr. Long and Ms. Boultinghouse
January 25, 2021
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If you have any questions, please contact Vanessa Colón of my staff at 505-476-6058.

Sincerely,

Kevin Digitally signed
by Kevin Pierard
Pierard Date: 2021.01.25
16:54:10 -07'00'

Kevin M. Pierard, Chief
Hazardous Waste Bureau

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

File: TWP 2020 and Reading File
HWB-TWP-MISC

Attachment

COST ESTIMATE

Comment 1

NMED compared Table 1 (10 Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance, 2020 through 2030) to the 2020 Cost Estimate and Table 1 (10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance, 2019 through 2029) from the 2019 Cost Estimate. There appears to be a change in the Table 1 wording used next to *10-Year O&M Estimate* row of the 2020 submittal. For example, the 2020 Table 1 states *Including Implicit Price Deflator Rate* while the 2019 Table 1 states *Including Cumulative Inflation Rate*. It is not clear why the terminology was changed between the 2019 and 2020 cost estimate submittals. Explain the change in terminology used in the 2020 Table 1. Furthermore, the change in terminology must also be made in Table 2 (Cumulative Inflation Rate Calculation) for consistency in order to reference the information.

Comment 2

NMED has reviewed Table 2 (Cumulative Inflation Rate Calculation Transwestern Pipeline Company, LLC. Roswell Compressor Station No. 9) from the Cost Estimate and was unable to replicate the inflation rate calculations from the table. It is not clear how Transwestern calculated the *Yearly Inflation Estimates* and the *Cumulative Amount* columns. Please address the following:

- a. In previous financial assurance submittals, Transwestern reported an increase in the *Cumulative Amt* column from year-to-year. In the 2019 FA Submittal, the *Cumulative Amt* reported between 2019 and 2020 increased from \$209,550.00 to \$214,220.56, respectively, which provided a *Yearly Inflation Estimate* of \$4,670.56. The *Cumulative Amt* listed in the 2020 FA Submittal between 2020 and 2021 decreases from \$216,570.00 to \$212,740.85 but reports a *Yearly Inflation Estimate* of \$3,802.54. Explain why the cumulative amount decreased between 2020 and 2021 and also why a positive yearly inflation estimate is then cited.
- b. Provide the calculations and explain how the *Yearly Inflation Estimate* and the *Cumulative Amount* were calculated as a footnote in Table 2. Provide a revised Table 2 with the response letter and include the footnote in future submittals.
- c. Table 2 utilizes the 2019 Price Deflator (112.257) and the 2018 Price Deflator (110.320) to calculate the 2020 Inflation Factor (1.018) for the 2020 Cost Estimate. However, Transwestern did not identify which quarters were used to determine the implicit price deflators. Furthermore, it is not clear when these values were reported because NMED is unable to locate these values on the Bureau of Economic Analysis (BEA) website in Table 1.1.9 (Implicit Price Deflator). Identify the quarter(s) from which the values were

derived or provide the annual value used for the Gross National Product in the revised and future submittals. Transwestern is reminded that the implicit price deflators used to calculate the inflation factor must be from the same quarter over an annual cycle.

Comment 3

NMED was not able to replicate the inflation rate calculations in Table 2 (Cumulative Inflation Rate Calculation Transwestern Pipeline Company, LLC. Roswell Compressor Station No. 9). Provide the calculations and explain how the inflation costs were calculated and added to Table 2 or Table 4. In addition, explain why the cumulative amount listed in Table 2 for the Year 2021 is less than the cumulative amount reported for Year 2020. The "Cumulative Amt" column also appears to be a calculation of the prior year's annual O&M costs, starting with the 2020 estimate and adjusted for that year's inflation estimate, making it an annual cost amount to be summed at the end rather than a cumulative total of costs. Rename the "Cumulative Amt" column for clarity.

Comment 4

NMED has compared Table 1 (10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance, 2020 through 2030) and Table 3-(Notes to the 2020 through 2030 10-year Estimated cost of work for Site Monitoring and System Operation & Maintenance Prepared by EarthCon Consultants, Inc.) from the 2020 Cost Estimate. Terminology use between *Non-recurring Costs* listed in Table 1 and *Non-recurring Capital Costs* in Note 8 in Table 3 is not consistent. It appears that these terms are being used interchangeably. In future submittals, consistent terminology must be used to avoid potential confusion. Clarify if these terms have the same meaning and use consistent terminology in the tables. Otherwise, define these terms in the Notes section of the tables to clarify their definitions

FINANCIAL ASSURANCE MECHANISM

Comment 5

The May 19, 2020 Corporate Guarantee for Closure or Post-Closure Care wording does not match verbatim the wording specified in 40 CFR 264.151(h)(1) in accordance with Section III.Q.4 Financial Assistance for Closure of Transwestern's March 13, 2013 Order as required by EPA. For example, the first sentence of the first paragraph of the Corporate Guarantee states, "Guarantee made this April 15, 2020 by Energy Transfer Operating, L.P., a limited partnership organized under the laws of the State of Delaware, herein referred to as guarantor". Transwestern added the language "limited partnership" to 40 CFR part 264 when the wording of the instrument specifically states, "business corporation". Transwestern must only include that language or such statements in the cover letter of the financial assurance package. The 2021 Corporate Guarantee and all future submittals must use the exact wording from 40 CFR 264.151(h)(1).

Mr. Long and Ms. Boultinghouse
Financial Assurance 2020
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Comment 6

To facilitate NMED's reviews, the breakdown of the calculation of tangible net worth. Include the calculation with all future financial assurance submittals.