

**MICHELLE LUJAN GRISHAM**  
Governor  
**HOWIE C. MORALES**  
Lt. Governor

**NEW MEXICO ENVIRONMENT DEPARTMENT**

**Hazardous Waste Bureau**

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**JAMES C. KENNEY**  
Cabinet Secretary Designate

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

January 18, 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  
FINANCIAL ASSURANCE SUBMITTAL  
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 the Transwestern Pipeline Company, LLC (Transwestern) financial assurance submittal dated April 2, 2018 and Form 10-K dated April 3, 2018. Transwestern has not met the requirements to demonstrate financial assurance for 2018. The NMED hereby issues this Disapproval. The Respondent must address the following comments.

**Comment 1**

Although Transwestern meets the requirements of the Alternative II Financial Test, the bond rating of "Baa3" from Moody's and "BBB-" from Standard & Poor's are the lowest acceptable bond ratings for Alternative II. Should Transwestern fail to pass Alternative II at any time during the year, NMED must be notified of the failed test within 15 days of discovery and the Respondent must put in place an alternate financial assurance mechanism.

### **Comment 2**

The April 2, 2018 Corporate Guarantee for Closure or Post-Closure Care wording does not match verbatim the wording specified in 40 CFR 264.151(h)(1) as required by the U.S. Environmental Protection Agency (EPA). For example, Recital 3 states that " 'Closure Plans' and 'post-closure plans' as used below refer to the plans maintained as required by subpart G of 40 CFR part 265 for the closure and post-closure care of facilities as identified above." Transwestern omitted the reference to 40 CFR part 264 closure and post-closure care of facilities. In addition, the Permittee omitted the regulatory citations in Recital 1, specifically 40 CFR 264.143(f), 264.145(f), and 264.145(e). Future submittals must use the exact wording from 264.151(h)(1) without commissions. Provide a revised 2018 financial assurance Corporate Guarantee and ensure that the 2019 financial assurance submittal is in complete compliance with the wording of 264.151(h)(1).

### **Comment 3**

In the Alternative II table, item 3 "Date of issuance of bond", there appears to be a typographical error. The complete dates are missing and only the "month/year" are provided. Previous Alternative II table submittals from 2015 and 2016 reported "month/date/year" format. Provide NMED with the specific "month/day/year" format for all of the bond issuance dates for the 2018 Alternative II table. Future submittals must continue to provide the "month/day/year" in the "Date of issuance of bond" for the Alternative II tables. Revise the Alternative II table and provide the revised table and ensure that the 2019 financial assurance submittal and future submittals also follows this format.

### **Comment 4**

The April 2, 2018 Corporate Guarantee for Closure or Post-Closure Care submittal did not identify the estimated cost or whether the guarantee was for closure and/or post-closure. In addition, the CFO letter did not identify closure and/or post-closure in its estimated cost. For example, the April 2, 2018 CFO letter and Corporate Guarantee Recital 2 provides the EPA number, the Facility name, address, and "estimated cost" but fails to identify whether the "estimated cost" is for closure or post-closure. The CFO letter and Corporate Guarantee from the March 31, 2017 submittal states, "Post-Closure". Revise the CFO letter and Corporate Guarantee submitted on April 2, 2018 to clarify that the estimated cost is for post-closure care. Ensure that the 2019 financial assurance submittal and all future submittals clearly identifies the estimated cost for closure or post-closure care.

### **Comment 5**

In the document titled, "Notes to the 2018 through 2028, 10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance", Note # 3 states, "[t]his Estimated Cost of Work was based upon a number of assumptions, Earthcon's industry and professional knowledge, as well as Earthcon's knowledge of current site conditions." Transwestern must provide an explanation for the following comments:

- a. Clarify what “assumptions” are being used to determine the estimated cost of work. Provide a list of the “assumptions” used to determine the cost estimate on an item-by-item basis for transparency and to demonstrate how the cost estimate was generated.
- b. Clarify the statement “Earthcon’s industry and professional knowledge” with regard to preparing the cost estimate. Transwestern has been submitting cost estimates for at least 4 years and should have established cost estimate data based on previous annual actual costs and from preparing previous financial assurance submittals. Updates to the cost estimate should be based on actual cost information rather than “professional knowledge.”

**Comment 6**

In the document titled, “Notes to the 2018 through 2028, 10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance”, Note # 4 states, “[t]his Estimated Cost of Work is based upon a reasonable estimate of likely costs and potential contingency based upon historical expenses accrued for the Roswell Compressor Station No. 9 project by EarthCon and previous consultants.” Additional information is required to understand how the cost estimate was generated. Provide the list of contingency costs used to determine the most recent cost estimate since the contingency costs are not itemized in the current cost estimate spreadsheet.

**Comment 7**

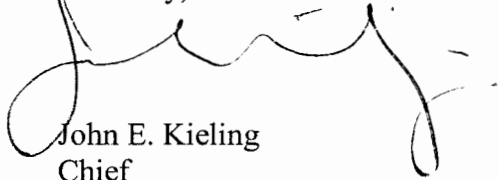
The document titled, “Notes to the 2018 through 2028, 10-Year Estimated Cost of Work for Site Monitoring and System Operation & Maintenance” is not addressed or signed. In the response letter, state which party prepared the note. In the 2019 and future cover letters, the party that prepared the note must be stated.

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Transwestern must address Comments 2 through 7 in this disapproval letter in the revised 2018 documentation and in the 2019 future financial assurance submittal. The revised 2018 financial assurance documentation must be submitted to NMED no later than February 15, 2019.

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

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Kieling". The signature is fluid and cursive, with a large loop at the beginning and end.

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