

**BEFORE THE UNITED STATES
FEDERAL ENERGY REGULATORY COMMISSION**

Trans-Pecos Pipeline, LLC Docket No. CP15-500

**MOTION TO INTERVENE OF J. Q. PUBLIC, PROTEST AND COMMENTS IN
OPPOSITION TO THE APPLICATION OF TRANS-PECOS PIPELINE LLC FOR NATURAL
GAS ACT SECTION 3 AUTHORIZATION AND PRESIDENTIAL PERMIT TO CONSTRUCT
CROSS-BORDER FACILITIES**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and 18 C.F.R. § 157.10, J. Q. Public ("Public") respectfully requests leave to intervene in the above-captioned proceeding. In support of this motion, Public states as follows:

I. COMMUNICATIONS AND SERVICE

All communications, pleadings, and orders with respect to this proceeding should be sent to:

J. Q. Public
123 Apple Street
Anytown, TX 79734
Tel: (555) 987-6543
jq.public@gmail.com

II. INTERESTS OF PETITIONER

Public is a resident of the Big Bend region, with interests in preservation of the region's environment, culture, history, and future. The movant is a resident of the Big Bend (Trans-Pecos) region, and as such has interests in the region, including, but not limited to nature photography, landscape photography, cultural photography, wildlife observation, bird-watching, dark-sky related activity including astronomy, night sky photography, public outreach astronomy, and is an active user of the area park and preserve systems at the Federal and State level, including Big Bend National Park, the Fort Davis National Historical Site, the Big Bend Ranch State Park, the Davis Mountains State Park, and the scenic River Road, FM 170 that runs parallel to the Rio Grande River. The aforementioned regional preserves and parks are areas of public interest, and public concern, shared by Texas residents, residents of the entire United State of America, and international visitors.

The movant is a member in good standing of the Big Bend Conservation Alliance ("BBCA"), as well as a lead, and active volunteer in the organization. The BBCA's two primary activities are:


First Priority:

The Big Bend Conservation Alliance (BBCA) seeks to preserve and protect the natural and cultural resources of the Big Bend region of Texas (specifically Brewster, Jeff Davis, and Presidio Counties including the adjacent portion of the Rio Grande) as well as the rights of its inhabitants. The BBCA serves its members through education, public advocacy, and participation in legislative, executive, and

judicial processes of local, state, and federal government.

Second Priority:

The BBCA seeks to preserve and protect the democratic and due-process rights guaranteed under the laws of the State of Texas and the United States of America, which are necessary and useful in preserving and protecting the environment, cultural resources, citizens' rights, and public health and welfare.

Public's motion to  intervene is on the basis of the public interest, and individual interests as a resident of the region, group interests, as a member of the BBCA, and through rights expressly conferred by statute, Commission rule, order, and court precedent, stated in Section II, within II a.), and II b.) of this motion.

With respect to FERC Docket CP15-500, related to the Trans-Pecos Pipeline, Public has numerous concerns.

Public's concerns include:

1. the regulatory status, and classification of the proposed Trans-Pecos Pipeline ("TPP"), specifically impermissible segmentation of the project, exempting major portions of the TPP from appropriate environmental and cultural review of the project's impact as a whole
2. related to the regulatory status, the projects's compliance with the National Environmental Policy Act ("NEPA")

The proposed pipeline, a 42" high-pressure natural gas transmission system, has been granted an operating permit, T09352 by the Texas Railroad Commission, with the requested classification as an intrastate system, operating as a natural gas utility. The permit application, CP15-500 requests authorization by the FERC to site, and construct an international border crossing facility, along with associated Presidential permits, to join with a pipeline under construction in Mexico at the border of the United States, Texas and the Federal Republic of Mexico.

The TPP project as a whole, including the proposed border crossing facility routes through some of the most pristine, and environmentally sensitive parts of Texas. It passes through the Davis Mountains, home to the Fort Davis National Historical Site, through Brewster County, home to the Big Bend National Park, and close to the Davis Mountains State Park, and the Big Bend Ranch State Park.

The region is home to more than 52 protected or endangered plant, animal, insect, and fish species. It was historically used by as many as eight Native American tribes, as well as indigenous peoples from what is now the Republic of Mexico. Numerous cultural and archeological sites of significance exist in the region, including the location of the proposed border crossing.

Public, petitions the Commission for leave to intervene in this proceeding on the following:

II a): Impermissible Segmentation of the TPP project into jurisdictional, and non-jurisdictional components, combined with consideration of the related Comanche Trail Pipeline, (FERC Docket CP15-503), in which impermissible segmentation fails to consider the impact of the larger project

II b): Insufficient NEPA compliance, which limit the scope and depth of both environmental and cultural scrutiny of the project

II a.) INTERESTS OF PETITIONER – IMPERMISSIBLE SEGMENTATION

II a). TPP requests segmentation of the proposed project into a jurisdictional (the nominal 1093-feet proposed for permitting and regulation under FERC jurisdiction), and a non-jurisdictional segment (the nominal 143-miles of pipeline proposed as intrastate, regulated under authority of the Railroad Commission of Texas (“RCT”). The proposed segmentation is in violation of both the spirit, and intent of the administrative and regulatory laws. In *Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304, 1309 (D.C. Cir. 2014), the court concluded that FERC impermissibly “segmented” the projects and failed to adequately consider the cumulative impacts of one approval by failing to account for the impacts from the inter-related projects.

Similarly, with respect to segmenting the last nominal 1093-feet of the TPP, from the larger 143-mile claimed non-jurisdictional segment, the requested permit application attempts to avoid the cumulative impact of both components of the project.

On page 4, ¶ 2, again on page 4, § III, ¶ 1, again on page 8, § VI, ¶ 1, of “APPLICATION FOR NATURAL GAS ACT SECTION 3 AUTHORIZATION AND PRESIDENTIAL PERMIT TO CONSTRUCT NATURAL GAS PIPELINE FACILITIES AT THE UNITED STATES – MEXICO BORDER,” TPP states that the pipeline, including the jurisdictional border crossing, and non-jurisdictional 143-mile segment will be used in **interstate** commerce.

Further, TPP claims intrastate purposes for the proposed project. In conflict with this claim, on page 5, ¶ 2, of “APPLICATION FOR NATURAL GAS ACT SECTION 3 AUTHORIZATION AND PRESIDENTIAL PERMIT TO CONSTRUCT NATURAL GAS PIPELINE FACILITIES AT THE UNITED STATES – MEXICO BORDER,” TPP states:

“The principal use for the natural gas transported through the Presidio Crossing Project facilities will be to fuel natural gas-fired electric generation plants and supply potential industrial customers in northern Mexico.”

The jurisdictional segment, in isolation, serves no purpose without the companion claimed “non-jurisdictional” segment, and additionally cannot function without connection to the larger 143-mile claimed “non-jurisdictional” segment.

As such, the entire TPP, including the 1093-foot segment indicated as jurisdictional, and the remaining 143-miles, claimed as non-jurisdictional, should be considered together with respect to environmental, and cultural impacts, and the entire project should be subject to NEPA compliance.

Further to the issue of impermissible segmentation, the TPP is part of a larger project, associated with FERC Docket CP15-503, known as the Comanche Trail Pipeline (“CTP”). The CTP runs west, originating at the Waha Market Center hub, terminating at the United States – Republic of Mexico border at the Rio Grande, near San Elizario, Texas. CTP is similarly a project of Energy Transfer Partners, LP, Mas-Tec, Inc, and Carso Energy, and

serves the same customer, the CFE, in the Republic of Mexico¹. The CTP attempts the same impermissible segmentation strategy as TPP, claiming a large, non-jurisdictional segment from the Waha Market Center hub to the San Elizario, Texas terminus, and a short, jurisdictional border crossing facility. The two separately filed permit applications are in effect part of the same larger system, and should be considered as a single project requiring more extensive scrutiny for NEPA compliance.

II b.) INSUFFICIENT COMPLIANCE WITH NEPA

II b). The proposed Environmental Assessment (“EA”), and Cultural Assessment (“CA”) are insufficient to comply with NEPA requirements – either for the project as proposed (limited jurisdictional facilities), or if the project as a whole, including the border crossing facility and the intrastate segment are considered together.

Specific to the proposed jurisdictional segment, the 1093-foot border crossing facility passes through through the Rio Grande River, an environmentally sensitive area.

The path of the proposed pipeline river crossing disrupts two wetlands, via a Horizontal Directional Drill (“HDD”) bore underneath the river itself.

The territory in the vicinity of the proposed river crossing was historically used by at least eight Native American tribes, and indigenous peoples of what is now the Republic of Mexico. As such, the area contains both archaeological and cultural artifacts.

The Environmental and Cultural Assessment, submitted with the CP15-500 application package suggests twelve Federally listed threatened or endangered species in the proposed crossing path.

“Conservation Assessment for the Big Bend – Rio Bravo Region”, (“CABB”) produced by the Commission for Environmental Cooperation (cec.org, 2014) covers the immediate region in-depth.

The area includes the Rio Grande itself, and the Chinati Mountains watershed. The current low disturbance of the area associated with light agricultural activity is in harmony with the natural environment. Immediate risks associated with the proposed TPP construction activity include disturbance of the land area, compaction of fragile wetland soils, disruption of wildlife activity, the possibility of contamination associated with a “frack-out” event during HDD activity, fuel spills, and the risk of wild-land fire associated with welding activity.

Even absent the proposed TPP border crossing facility, the region is already under stress, threatened by upstream water consumption for irrigation purposes, and climate change:

“These large trans-boundary ecosystems are steadily degrading, due to human activities and climate-induced changes.” (CABB, p. xi, paragraph 2)

¹ “See Figure 1 (pg. 7 this document), Exhibit from: “SECOND AMENDED AND RESTATED REQUEST FOR PROPOSALS FOR THE DEVELOPMENT OF A NATURAL GAS PIPELINE FROM THE WAHA HUB TO PRESIDIO, TEXAS”

The proposed TPP as a whole traverses four priority CEC conservation areas in the Big Bend-Rio Bravo region. Including the proposed jurisdictional, and claimed non-jurisdictional portions of the project, only the small 1093-foot segment of the system has had any study performed.

Although ETP has not publicized its final route, it appears that the TPP will pass through the Alpine Grasslands, Alamito Creek, Chianti Mountains, and Glass Mountains, all Priority Conservation Areas according to the CEC Conservation Assessment.

Disturbance of the soil of the Alpine Grasslands is particularly risky as pipeline, roadway, and easement construction will surely introduce non-native invasive plant species to an already fragile ecosystem. One of the current contributions to conservation of the Glass Mountains are the large tracts of undivided expanses which the TPP threatens to break up. Among the threats listed to the Glass Mountains are oil and gas developments. Alamito Creek supports extensive riparian segments which are particularly important in providing local refuge for important main-stem species like the Rio Grand silvery minnow and migratory birds, in addition to providing habitat for several endangered species. The fact that the Alamito Creek area is largely undisturbed contributes positively to its conservation. As with other Priority Conservation Areas, disturbing this area by digging for a pipeline could have a devastating effect on this fragile ecosystem. The Chinati Mountains form an important potential corridor for migratory or highly mobile animals. Conservation targets include desert bighorns, black bears, near-endemic gray-checked whiptail, golden eagle, peregrine falcon, and Montezuma quail. (ref. CABB, multiple sections)

Because the nominal 143-mile claimed non-jurisdictional segment passes largely through private ranch and other private property, no formal studies, either environmental, archaeological, or cultural have been performed. To date, TPP has produced no documentation demonstrating that any assessment or impact studies have been performed.

Regarding the aforementioned concern in II a.), the attempt at isolating insufficient ES/CS reports to the 1093-foot border crossing, and ignoring environmental impacts to the larger 143-mile segment ignores, or attempts to circumvent NEPA compliance, both in the intent, and spirit of the law.

Similar to U.S. EPA in “Algonquin Incremental Market Project (AIM Project), FERC Docket CP14-96-000, CEQ #20140223”, the limited scoping found by U.S. EPA, as “EC-2”, Environmental Category, insufficient information, holds in this matter.

Refusal to consider the associated 143-mile claimed non-jurisdictional upstream segment, combined with limited-scope EA/CA reports, as opposed to fully completed Environmental Impact, and Cultural Impact studies over both the border crossing, and larger project as a whole ignore detailed impacts associated with this project.

As filed, the Environmental and Cultural Statements part of CP15-500, and associated mitigation plans are insufficiently detailed, incomplete, and were prepared by consultants unfamiliar with the geography, cultural issues, and environment of the Big Bend region. Additionally, certain components

were filed as “Privileged,” not immediately available to the public for scrutiny or comment.

III. CONCLUSION

The movant requests leave to intervene in the matter of the permit application in docket CP15-500 on the basis that:

1. The requested classification, including intrastate status, and regulatory authority are in question,
2. The TPP as proposed requires impermissible segmentation, and fails to take into account larger impact associated with the project as a whole,
3. The impact of planned, and future infrastructure associated with the TPP are unknown, and unquantified, and no environmental and cultural impact studies have been conducted for the proposed unregulated, nominal 143-mile pipeline

WHEREFORE, **J. Q. Public**, filing this motion to intervene, as an individual, interested in the history, conservation, preservation, and future of the region, and as a resident of the region, respectfully requests leave to intervene in this proceeding with full rights to participate in all further proceedings.

Dated: June 29, 2015 Respectfully submitted,

/s/ J.Q. Public

J. Q. Public

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CERTIFICATE OF SERVICE

Pursuant to FERC’s Rules of Practice and Procedure, Wherefore on this **XXth day of Month**, I caused to be served the foregoing Motion to Intervene electronically on all parties on the Commission’s electronic service list in this proceeding, in accordance with Commission regulations.

Dated: Month dd, yay Respectfully submitted,

/s/ J.Q. Public

J.Q. Public

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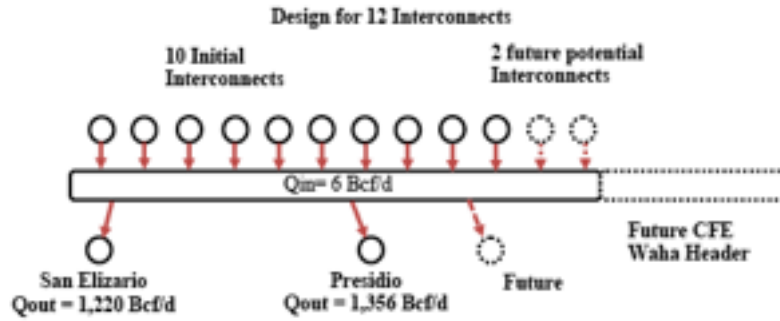
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Figure 1. Exhibit from:
**“SECOND AMENDED AND RESTATED REQUEST FOR PROPOSALS
FOR THE DEVELOPMENT OF A NATURAL GAS PIPELINE FROM THE WAHA HUB TO
PRESIDIO, TEXAS”**

APPENDIX A
ATTACHMENT A-1
Project Schematics

CFE Waha Header

$Q_{in} = 2,576$ MMPCD



Waha - Presidio Pipeline

$Q_{in} = 1350$ MMPCD

