COUNTY ADMINISTRATOR'S OFFICE
PIMA COUNTY GOVERNMENTAL CENTER
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C.H. HUCKELBERRY
County Administrator

April 24, 2014

Mark A. Kissel, President
Sierrita Gas Pipeline, LLC
c/o Kinder Morgan
P. O. Box 1087
Colorado Springs, Colorado 80944

Re: **Sierrita Gas Pipeline, LLC**

Dear Mr. Kissel:

The Pima County Board of Supervisors is in receipt of your April 7, 2014 letter regarding the proposed 60-mile extension of a 36-inch diameter natural gas pipeline through eastern Pima County and extending to the Mexico border near Sasabe, Arizona.

As you know, the County has expressed numerous concerns regarding this project and has discussed our concerns in multiple correspondences with federal agencies involved in the pipeline approval process.

Our concerns are simple and straightforward and deal with the adequacy of mitigating the adverse impacts to the environment and to public safety resulting from pipeline construction, maintenance and operation. In our view, your proposed mitigation, as well as the requirements of the Federal Energy Regulatory Commission (FERC), for mitigation monitoring and compliance are wholly inadequate. The requirements imposed on Kinder Morgan are strictly limited to the pipeline right of way itself, and the five-year requirements to monitor vegetation recovery are minimal given the scope of direct and indirect impacts expected to occur and our experience with pipeline mitigation in Pima County.

We continue to be open to any options Kinder Morgan would suggest regarding the long-term mitigation of these impacts. Unfortunately, after the very short and limited mitigation period of only five years imposed by FERC, the County will be left "holding the bag" for resolving ongoing and unmitigated impacts during the life of your project.

We have requested for two years that Kinder Morgan and FERC select the alternative that parallels State Route 286 (SR 286). This alternative results in the least environmental damage that is technically and economically feasible.

I have summarized our concerns below as documented by the finding of the FEIS for this project:

1. It is clear the selected alternative is not the least environmentally damaging alternative

Quoting below from Page ES-9 of the Executive Summary of the final Environmental Impact Statement (EIS), FERC clearly confirmed that:

> *"One of these route alternatives [the East Route Alternative] would meet the Project objectives, would be technically and economically feasible, and would offer an environmental advantage over the proposed route. However, this route alternative would be within the BANWR, which is managed by the FWS and thus would be subject to FWS approval.... The FWS has indicated it cannot permit this alternative. Therefore, based on this land use conflict, we are not recommending this alternative."*

And on page 3-9-11 of the FEIS, FERC further notes regarding the East route, that:

> *"We determined that all of these impacts (cited by the FWS) could be avoided, minimized, and mitigated through proper planning and Project execution. We do not concur with the FWS' conclusions that these impacts necessarily would be unavoidable or significant... the impacts raised during scoping on the proposed route, such as fragmentation, security, and unauthorized uses of the right-of-way, could be greatly reduced with the East Route Alternative."*

We agree completely. The FWS decision will prove to be a very unfortunate decision that many will regret in the not-too-distant future.

2. Mitigation of Habitat Losses or Damages is Substantially Inadequate

It is highly likely habitat losses will be permanent. Page ES-4 states,

> *"Project impacts on vegetation would range from short to long term to permanent [emphasis added] due to the varied amount of time required to*

> *reestablish certain community types (an average of 2 to 13 years for Scrub-Grassland communities, and an average of 76 years [emphasis added] for Sonoran Desertscrub communities)."*

Habitat losses and damages occur from direct pipeline construction; as well as from induced new roadways, trails or pathways (both on and off the right of way). We believe these losses will be permanent, since the pipeline construction corridor will become an unauthorized travel route.

It is clear that aerial photography could, at the date of construction, document all cleared open areas or pathways that exist along the present undisturbed natural corridor to determine if the pipeline induces new pathways. We suggest such to either prove or disprove our concerns over induced road or pathways. This task could be easily accomplished by aerial photography Kinder Morgan is already doing. Citing the Post-Construction Vegetation Monitoring Document, the FEIS notes that "as part of its safety and operations activities, Kinder Morgan currently conducts over flights of its entire pipeline system, scheduled monthly, which would include the Project...[and] staff will note any extraordinary areas showing erosion or vegetation failure...and take appropriate action." The FERC FEIS goes on to state that this aerial monitoring "is not part of the overall post-construction monitoring of the Project restoration success..." We feel this should be made part of Kinder Morgan's requirements to assess and remediate erosion damage, creation of paths, off-road vehicle use, and to ensure and that environmental restoration is successful. An aerial photographic record can easily be shared with all parties involved with or concerned about mitigation.

Inadequate vegetative restoration and limited surface reconstruction lacking topographic features or elements that obstruct travel or access will be inadequate to prevent continuing unauthorized use. We believe the pipeline construction corridor and areas immediately adjacent to the right of way will become the path of least resistance, resulting in a web of multiple, previously undeveloped corridors or pathways leading to uncontrolled and damaging access by others.

The lack of a rapid, successful and convincing restoration as well as active management of the pipeline construction corridor leads us to conclude that it is highly likely this pipeline corridor will become and facilitate unauthorized travel and access within the Altar Valley.

3. Concern over the lack of or very limited monitoring

Page ES-5 clearly indicates very limited post-construction access to the right of way corridor.

> *"Sierrita does not intend to construct or maintain permanent access roads for use during operation of the pipeline, has no plans to conduct routine vegetation mowing or clearing of the right-of-way during pipeline operation, and stated that it would not access the right-of-way with vehicles to complete normal operations."*

We are concerned there is no regular and frequent schedule for either aerial or physical monitoring or inventory of the conditions of the right of way corridor post-construction other than for safety purposes. Your construction corridor will be a wide and inviting swath, with widths of up to 150 feet, sufficiently wide for a six-lane divided urban arterial highway in Pima County This construction corridor will facilitate vehicular access that is unregulated and unmonitored; hence, destroying what little mitigation and restoration is provided. This will no doubt lead to long-term degradation of the right of way corridor into what we have termed a second unpaved, highly disturbed parallel roadway to SR 286.

Frequent aerial monitoring of the corridor should be a long term requirement of approval and include assessment of vegetation restoration to determine where there is damage from illegal use so that remedial action can be taken immediately to halt the unauthorized use and prevent networks of illegal paths and vehicle use from forming adjacent to the pipeline corridor.

4. <u>We are also very concerned over the noxious weed control program of Kinder Morgan</u>

Page ES-5 of the Executive Summary states:

> *"Since issuance of the draft EIS, Sierrita clarified that it would use existing roads to access the right-of-way and would conduct noxious weed control, vegetation monitoring, and general maintenance activities by pedestrian means. The potential spread of weeds would be controlled by implementation of Sierrita's Noxious Weed Control Plan."*

New right of way corridors, particularly those related to linear elements such as the proposed 60-mile pipeline corridor, become primary conduits that facilitate invasive species propagation. This has been well and thoroughly documented. In this case, we have specific and particular concerns regarding invasive buffelgrass, which is commonly used in Sonora as a livestock or range feed. The mechanisms for noxious weed control, particularly invasive buffelgrass, are clearly inadequate and simply appear to be standard boilerplate language uniformly applied to any pipeline project.

Buffelgrass is identified as a "prohibited" noxious weed, and it is becoming a very serious threat to the Sonoran Desert environment. As such, it requires a specific plan for removal. At present, the Noxious Weed Monitoring Plan only states, "a weed population will be treated if the percent cover is greater within the ROW than the percent cover of the same species outside the ROW." This is clearly unacceptable. All individual Buffelgrass plants should be removed by Kinder Morgan along the entire length of the right of way to prevent this noxious plant from taking hold in the Altar Valley. Again, the five-year Monitoring Plan is simply not adequate and does not even have a specific plan for the greatest invasive species threat to the Sonoran Desert ecosystem.

5. The project will adversely affect the federally-listed Pima pineapple cactus

Page ES-6 of the FERC Executive Summary states,

> *"We determined that construction and operation of the Project is likely to adversely affect the federally listed Pima pineapple cactus."*

In mitigating this adverse effect, you may utilize any available Pima pineapple cactus (PPC) mitigation bank and purchase necessary credits from any source deemed appropriate. We would prefer that Pima County's PPC mitigation bank not be utilized for this purpose, since the mitigation bank needs to be reserved for other public project uses. Other possible mitigation bank options discussed with your staff have not proven fruitful.

6. Land use and visual impacts to the pipeline will be unnecessarily prolonged due to an inadequate reclamation implementation plan

The final EIS clearly concludes there will be a long-term visual impact on the Altar Valley landscape as a result of pipeline construction. Page ES-7 states:

> *"Based on the visual simulations from road viewpoints presented in a visual impact assessment, areas disturbed by pipeline construction would begin to resemble the surrounding area in about 20 years; however, some vegetation types would take as long as 76 to 215 years to become fully re-established." [emphasis added]*

Revegetation that requires 1 to 10 generations is neither timely nor adequate mitigation.

Our primary visual concern is the identification of the pipeline construction route as a travel pathway or corridor for those who may pass by or observe the pipeline corridor. A different but significant concern is the impact of the pipeline corridor on the cultural

sensitivities of the Tohono O'odham Nation. The pipeline construction is at the base of Baboquivari Peak, the most sacred place in the Tohono O'odham world; and the Altar Valley is considered its sacred setting.

When viewed from the Peak, the pipeline corridor becomes a visual scar that damages the spiritual and sacred qualities of this traditional cultural place. It is also, therefore, incumbent on Kinder Morgan to ensure that vegetative restoration of the pipeline corridor is successful so traditional practices and ceremonies are preserved. Under Section 106 of the National Historic Preservation Act, FERC is required to ensure that adequate mitigation is carried out to offset impacts to cultural resources, including traditional cultural places. Again, we ask that Kinder Morgan continue to monitor and restore the natural landscape beyond the 5 year for a minimum of 25 years and repair erosion and vehicle damage in perpetuity as a requirement to ensure these visual and environmental impacts are fully addressed.

7. Increased illegal immigration and unauthorized right of way use will occur

The FERC EIS Executive Summary acknowledges this fact by stating:

> *"We acknowledge that the Project could provide a new pathway for existing illegal activity within the Altar Valley." [emphasis added]*

Also, the FEIS on Page 4-197 notes that:

> *"if there is an increase in illegal immigration and human and drug trafficking in the Project area..., there would be an increase in costs to public services."*

Further, the EIS Executive Summary states on Page ES-8 that:

> *"...Pima County provided substantial information regarding the Project's anticipated cost to the county's public services, including but not limited to the Pima County Sheriff's Department and Pima County medical examiner and public fiduciary. It cannot be determined whether the Project itself would cause an increase of or shift in illegal activities, deaths, etc. from what is already experienced throughout the Altar Valley as a result of undocumented immigrants or other unauthorized users. Therefore, these cost estimates are speculative." [emphasis added]*

Based on our experience, an additional parallel, easily-observable, easily-travelable corridor from the Mexican border will lead to increased illegal immigration and unauthorized right of

way use, criminal activity, as well as migrant deaths. Our experience is first hand. The Pima County Sheriff has a Border Crimes Unit that participates with federal agencies in enforcing the law along the border. Pima County has the longest border with Mexico of any county in the United States. We have sufficient and adequate experience and knowledge to judge the impacts. If we do not, then no one does.

While the United States Border Patrol has indicated they have sufficient resources to address potential increased illegal immigration and migrant deaths, the County does not. The Border Patrol does not provide law enforcement services or services provided by the County Medical Examiner. We routinely receive calls from the Border Patrol that the Sheriff must respond to regarding illegal activity, which requires border crossers to be taken into the custody of the Pima County Sheriff for prosecution of crimes. These are real and factual occurrences that cause Pima County budgetary impacts that are not reimbursed by federal or state government and, hence, must be paid by our taxpayers. As an example of real impacts, our law enforcement agency, the Sheriff, in 2013 assisted the Border Patrol in 712 separate actions, made 735 felony and misdemeanor arrests and worked 21,000 hours of overtime. These have real fiscal impacts on the County

8. Mitigation Fund Dismissed Out of Hand

Your letter also dismisses the County's recommendation that Kinder Morgan establish a mitigation fund as has been done elsewhere because FERC requirements obviate the need for any additional environmental remedies, public safety is not a concern, and that tax revenues will compensate for any associated costs from the Project. We completely disagree. This is not just any other pipeline in the heartland of the United States. This is an international pipeline with Mexico and it is being sited in a volatile drug trafficking area that is environmentally and culturally rich. The consequences of this pipeline should not be our burden while Kinder Morgan and its partners enjoy significant benefits, and local governments and residents bear the long-term costs. We need no mitigation fund if Kinder Morgan will agree to long-term mitigation and monitoring of the pipeline corridor that is measured, makes a difference, and provides specific remedies if not followed, not simply a paper commitment that is never enforced by a party far removed from the impact.

Given the tone of your April 7, 2014 letter, it appears you believe our concerns are imaginary, made up or substantially exaggerated. I assure you they are not. They are founded in our real world and contemporary experiences with Kinder Morgan on similar pipeline reconstruction and construction projects within Pima County. All of the regulatory assurances of FERC or others are little comfort given our factual, real-world and real-time experiences.

I have enclosed a series of photographs showing Kinder Morgan pipeline routes, rights of way and easements within Pima County. You can certainly see from these photographs that mitigation of impacts has been unsuccessful. I would like to focus attention on the Kinder Morgan facilities located in our Las Cienegas Natural Preserve, Cienega Creek/ Davidson Canyon, and Tumamoc Hill.

Las Cienegas Natural Preserve, a natural resource park, was established in 1980, and the County has spent $64 million preserving and protecting land in the Cienega Basin watershed. The creek is the last low-elevation perennial stream in Arizona and the home for five threatened and endangered species, Gila topminnow, Gila Chub, Chiricahua leopard frog, Mexican gartersnake, and Huachuca water umbel. Your fuel pipeline passes through this ecologically unique and nationally recognized area (Las Cienegas National Conservation Area). Kinder Morgan, in 2007, replaced and enlarged fuel pipelines passing through this area. Now, seven years later, the pipeline corridor condition is as shown in Photos 1 through 8. Kinder Morgan is no longer obligated to address erosion, invasive species, or unauthorized vehicular access corridors. The lack of vegetation in the cleared construction corridor is unmistakably visible seven years after construction.

Next is the Tumamoc Hill Desert Laboratory. Tumamoc Hill became a biological research station of the Carnegie Institute in 1903; and today is a National Historic Landmark and listed in the National Register of Historic Places. When a gas pipeline ruptured within the Tucson city limits in 2003, Kinder Morgan set about repairing and rebuilding its network of older lines, one of which crossed the west side of Tumamoc Hill. Kinder Morgan needed additional right of way from the Arizona State Land Department to rebuild the line, which required clearing of the right of way and construction in 2004. Some 10 years later, the right of way is still starkly visible with only limited revegetation occurring as shown in Photos 10 through 15. Kinder Morgan should be concerned about long term impacts on this national treasure.

These photos show the effects of erosion and only limited revegetation along Kinder Morgan pipelines in eastern Pima County, which is situated in a higher elevation compared to low desert environments with less rainfall and more extreme high temperatures. The last photo illustrates a natural gas pipeline right of way in the Kofa National Wildlife Refuge in Yuma County that was reconstructed in 1990. It is interesting that the USFWS approved new right of way for this pipeline expansion and did not require any mitigation or restoration due to the poor potential for reseeding in this arid low desert environment.

We expect more from Kinder Morgan – 25 years of monitoring and restoration of the Sierrita Pipeline right of way, perpetual erosion control, and a conservation fund to generate funds for ongoing environmental restoration efforts, public safety, and land

management in the Altar Valley, which Kinder Morgan may control. The monitoring and restoration needs to be independently verified.

The facts in this letter should be convincing that the proposed mitigation by Kinder Morgan and approved by FERC is not adequate.

I would also like to invite you to the Board of Supervisors meeting of May 6 to discuss this issue. The Board would be very interested in your comments and specific commitments to ensure this Kinder Morgan pipeline does not turn out to be similar to our experiences with Kinder Morgan in the Las Cienegas and Tumamoc Hill as well as throughout Pima County.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/mjk

Enclosures

c: The Honorable Raúl Grijalva, Arizona District 3, US House of Representatives
The Honorable Chairman and Members, Pima County Board of Supervisors
The Honorable Dr. Ned Norris, Jr., Chairman, Tohono O'odham Nation
Dr. Benjamin Tuggle, Southwest Region Director, US Fish and Wildlife Service
Sally Flatland, Refuge Manager, Buenos Aires National Wildlife Refuge
Allen Fore, Director Public Affairs, Kinder Morgan Energy Partners

Kinder Morgan Pipeline Projects: Failed Restoration

Cienega Creek & Davidson Canyon Area, Pima County

(Photo 1) 2007 Cienega Creek/ Davidson Canyon. Pipeline corridor after construction.

(Photo 2) 2007 Cienega Creek/ Davidson Canyon. Pipeline corridor after construction.

(Photo 3) Summer 2013. Cienega Creek/ Davidson Canyon. Pipeline built in 2007. Note deep erosion and evidence of off-road vehicle use that precludes any effective re-vegetation and habitat restoration.

(Photo 4) Summer 2013. Cienega Creek/ Davidson Canyon. Pipeline built in 2007. Note minimal vegetation.

(Photo 5) Summer 2013 Davidson Canyon/Cienega Creek. Pipeline built in 2007. Note erosion channels.

(Photo 6) Winter 2014. Cienega Creek/ Davidson Canyon. Pipeline 2007. Note erosion and ORV tracks.

(Photo 7) Winter 2014 Cienega Creek. Pipeline constructed 2007. Close-up of erosion channels.

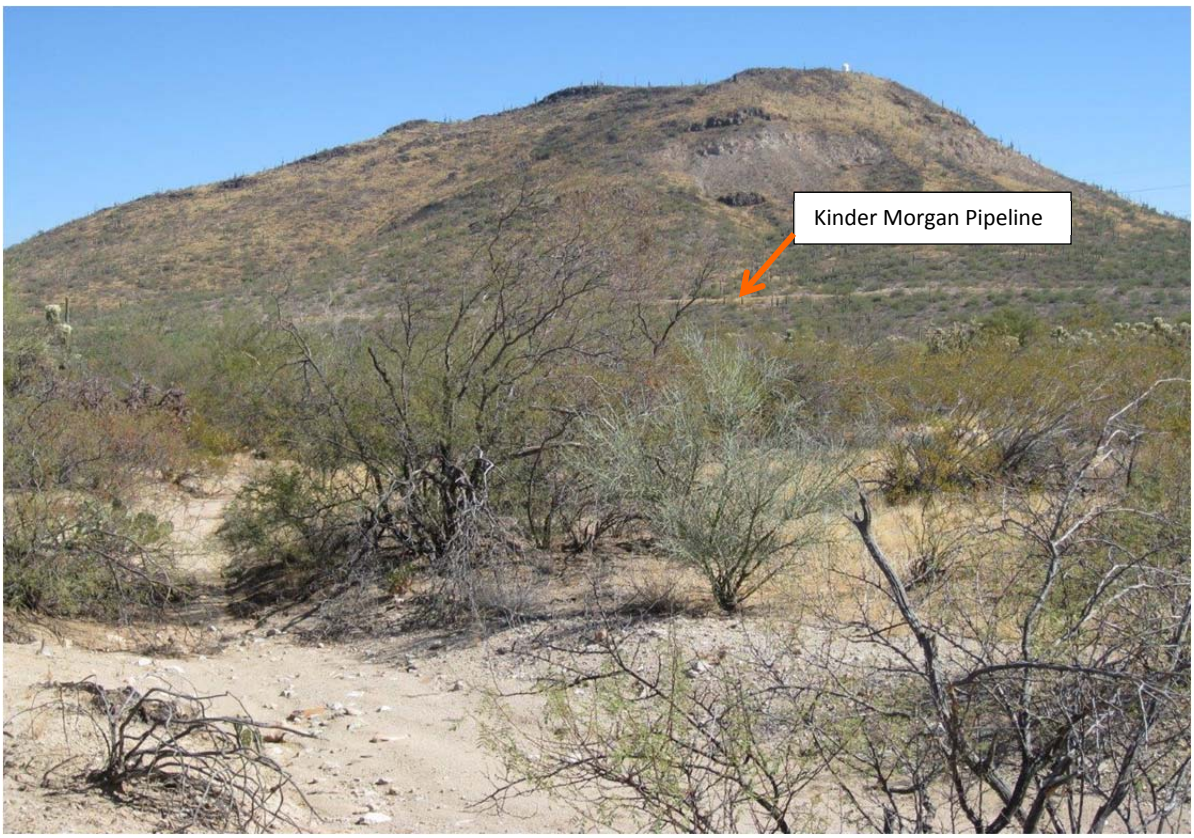
(Photo 8) Winter 2014. Cienega Creek/ Davidson Canyon. Pipeline constructed 2007. Note lack of top soil and erosion channels near crest of hill.

Tumamoc Hill, Pima County

(Photo 9) 2006 Photo Tumamoc Hill. Kinder Morgan Pipeline corridor 2 years after construction in 2004.

(Photo 10) 2012 Photo Tumamoc Hill. Kinder Morgan Pipeline corridor 8 years after construction in 2004.

(Photo 11) 2014 Google Earth View. Kinder Morgan 2004 pipeline on Tumamoc Hill Conservation land.



(Photo 12) 2014 Tumamoc Hill Kinder Morgan 2004 pipeline visible as scar on Tumamoc Hill.

(Photo 13) Spring 2014. Tumamoc Hill Kinder Morgan Pipeline Corridor constructed 2004.

(Photo 14) Spring 2014. Tumamoc Hill Kinder Morgan Pipeline Corridor constructed 2004.

Kofa National Wildlife Refuge, Yuma County

(Photo 15) Pipeline Corridor on Kofa National Wildlife Refuge. This El Paso pipeline originally built in 1946 and reconstructed in 1990 demonstrates the exceptional difficulty of restoring habitat and vegetation in arid areas and continued environmental management issues from unwanted vehicle use of rights of way.

KINDER MORGAN

April 7, 2014

Pima County Board of Supervisors
Sharon Bronson, Chair
Ray Carroll, Supervisor
Ally Miller, Supervisor
Ramon Valadez, Supervisor
Richard Elias, Supervisor
130 W. Congress 11th Floor
Tucson, AZ 85701

Re: Sierrita Gas Pipeline LLC

Dear Madam Chairwoman and Members of the Pima County Board of Supervisors:

Sierrita Gas Pipeline LLC ("Sierrita") takes this opportunity to communicate directly with the Board regarding various matters relating to the development of its proposed natural gas pipeline project from an interconnection with the existing pipeline facilities of El Paso Natural Gas Company, L.L.C. near Tucson, and extending to a point on the United States – Mexico border near Sasabe (the "Sierrita Pipeline").

Sierrita understands that the Board and its members recently received a memorandum from Mr. Huckelberry, the County Administrator, dated March 21, 2014 (hereinafter referred to as the "Administrator Memo"). Sierrita now provides additional information to the Board on various points addressed in the Administrator Memo, and addresses certain statements in the Administrator Memo which Sierrita believes to be misleading or inaccurate.

The Administrator Memo devotes considerable attention to certain costs that it characterizes as being imposed on Pima County as a result of the Sierrita Pipeline. Sierrita believes the presence of the pipeline in Pima County will be a positive influence on the County, primarily as the result of the approximately $1.6 million of annual property tax revenues that will be received directly by the County from Sierrita, and by approximately $3.3 million of additional annual property tax payments that will benefit local fire and school districts in Pima County.

Sierrita believes that these tax payments, coupled with the various other tax payments and fees to be paid by Sierrita will more than cover any incremental expense that may be realized by Pima County as a result of the construction, operation and maintenance of the Sierrita Pipeline. A detailed analysis of the costs identified in the Administrator Memo and the revenue streams that will be generated by the pipeline is presented below.

2 North Nevada Avenue Colorado Springs, Colorado 80903
PO Box 1087 Colorado Springs, Colorado 80944
tel 719.473.2300

For your convenience, the remainder of this letter is organized to track the Administrator Memo.

Sierrita requests that the Board work with it to complete the negotiations on the points discussed in the Administrator Memo within the month of April. We are prepared to immediately meet with the Board or its representatives to complete the negotiations in a mutually beneficial way. Sierrita wants to thank the County for the work performed to date on the various applications and requests that have been submitted by Sierrita and urges the County to work toward a May 15, 2014 issuance date for the remaining requested County permits.

Background and Regulatory Jurisdiction:

The Sierrita Pipeline project is an international project that is under review by the Federal Energy Regulatory Commission ("FERC") and by the offices of the United States Secretaries of State and Defense, and the International Boundary and Water Commission of the United States and Mexico.

In August of 2012, the staff of the FERC issued a notice of intent to prepare an environmental impact statement for the proposed "Sasabe Lateral Project" (due to a conflict with an unrelated entity that had reserved the name "Sasabe Pipeline", the project was subsequently renamed the Sierrita Gas Pipeline). On February 7 and 8, 2013, Sierrita filed applications with the FERC for authority to construct and operate the pipeline and for the related facilities at the United States – Mexico border. Under Federal law, FERC is responsible for evaluating applications to construct and operate interstate natural gas pipelines, applications for facilities that will be used to export natural gas from the United States and for Presidential Permits for facilities at the border of the United States and Mexico. The FERC is also the lead federal agency for the preparation of the Environmental Impact Statement for this project.

The Sierrita Pipeline will be subject to the regulatory authority of the FERC and the Pipeline and Hazardous Materials Safety Administration ("PHMSA") of United States Department of Transportation ("USDOT"). The regulatory authority of FERC derives from the provisions of the Natural Gas Act ("NGA"), 15 U.S.C. §717, *et seq.*, and the regulatory authority of PHMSA derives from the Pipeline Safety Act ("PSA"), 49 U.S.C.

§60101, *et seq.* Under the provisions of the NGA, FERC has exclusive regulatory authority over the siting of interstate natural gas pipeline facilities. Under the provisions of the PSA, USDOT and PHMSA have exclusive jurisdiction with regard to safety standards that apply to the design, installation, inspection, operation and maintenance of the pipeline facilities.

The Administrator Memo describes the environmental review process and states that the anticipated date for the issuance of the Final Environmental Impact Statement ("FEIS") for the project was March 28, 2014. Sierrita is pleased to inform the Board that the FERC did issue the FEIS on that date. You may find it interesting and informative that the FEIS concludes that:

> We determined that construction and operation of the Project would result in limited adverse environmental impacts. This determination is based on a review of the information provided by Sierrita and further development from data requests; field investigations; scoping; literature research; alternatives analyses; and contacts with federal, state, and local agencies, Native American tribes, and other stakeholders. **We conclude that the approval of the Project would have some adverse environmental impacts, but, with the exception of the Pima pineapple cactus, these impacts would be reduced to less-than-significant levels.**"

Final Environmental Impact Statement, Issued March 28, 2014, Executive Summary, ES-9 (emphasis added).

Status of Permits Needed from Pima County:

The Administrator Memo states there are a number of permits, rights-of-way and other assistance that Sierrita requires[1] from Pima County. The permits and authorizations that Sierrita is requesting from the County include:

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[1] As a point of clarification, it should be noted that under the doctrine of federal preemption, state and local agencies may not prohibit or unreasonably delay the construction or operation of facilities that have been approved by FERC. Pipeline companies are encouraged to cooperate with state and local permitting agencies and Sierrita has and fully intends to continue to do so, but the regulatory authority of the FERC and the DOT are exclusive. While Sierrita does seek the issuance of these permits, in some cases the permits may not be technically "required" for the further development of the project.

- Floodplain Use Permit from Pima County Regional Flood Control District.
    - As is noted in the Administrator Memo, the application for this permit was submitted in July of 2013. Sierrita's engineering consultants have worked diligently with the District on this matter and have submitted engineering data on each of the proposed wash crossings. A sediment transport analysis on the Altar Wash will be completed by the end of April. Sierrita has agreed to fund habitat restoration in the amount of $2.3 million through the Flood Control District as a condition for the issuance of the Floodplain Use Permit.

- Pima County Public Utility License Agreement.
    - It is the understanding of Sierrita that Pima County Real Property Services will not process this License for Board of Supervisor approval until directed to do so by County Administrator.

- Department of Transportation Permits
    - Right of Way Use Permit.
        - Submitted March 3, 2014. To date the Pima County Department of Transportation has not responded with comments or approval.
    - Blasting Permit(s).
        - Not yet requested by Sierrita – this permit will be requested by the construction contractor when and if it is determined that any blasting will be required.
    - Oversize/Overweight Permit.
        - To be acquired by the construction contractor when vehicle loads and routes are determined.

- Regional Wastewater Reclamation Department Small Activity Permit.
    - As is noted in the Administrator Memo, Sierrita is working with the Regional Wastewater Reclamation Department engineering group and will be submitting a formal application shortly.

- Rights-of-Way Easements and Temporary Use Permits on Pima County Land and a Franchise Agreement.

  - The Administrator Memo notes that Sierrita made an offer of $19,600 for these easements and permits. The memo does not include information on the counter-offer by Pima County dated February 25, 2014 for $32,270 which was accepted by Sierrita on March 4 2014. Based on that acceptance, Sierrita has understood that this item was resolved, subject only to any necessary documentation and formal presentation to the Board.

- Department of Environmental Quality Fugitive Dust Permit.
  - The application for this permit will be submitted prior to anticipated date of construction.

Note: the Administrator Memo describes another authorization that it suggests Sierrita will be seeking from the County – an Information Technology License Agreement for use of space on a communications tower on Keystone Peak that is owned by Pima County. Sierrita can now inform the County that it has identified an alternate location and process for satisfying its communications requirements and is no longer seeking this authorization from Pima County.

Sierrita looks forward to working with the County to secure these permits and approvals on or before May 15, 2014.

General Stakeholder Recommendations:

Proposals by various parties related to the construction and operation of the Sierrita Pipeline have been considered in the FEIS and will be further considered by the FERC in its consideration of Sierrita's application for a Certificate of Public Convenience and Necessity for the construction, ownership and operation of the pipeline.

Notwithstanding this fact, the Administrator Memo included observations and proposals regarding some of these third-party concerns. Sierrita provides these clarifying comments in reply to these comments in the Administrator Memo:

- Detailed Assessment/Restoration Plans: Comments in the Administrator Memo suggest that resource information is incomplete and restoration plans are not consistent with the area's ecology. This opinion is inconsistent with the efforts and

conclusions of the FERC staff as expressed in the FEIS. The purpose and scope of the environmental review undertaken by the FERC staff, as described in the FEIS, was to:

- Identify and assess potential impacts on the natural and human environment that would result from the implementation of the proposed Project;
- Describe and evaluate reasonable alternatives to the Project that would avoid or minimize adverse effects to the environment;
- Identify and recommend specific mitigation measures, as necessary, to minimize environmental impacts; and
- Encourage and facilitate involvement by the public and interested agencies in the environmental review process.

Cooperating agencies in the preparation of the FEIS included the U.S. Fish and Wildlife Service ("USFWS") – Arizona Ecological Services Office, the Buenos Aires National Wildlife Refuge, Arizona Game and Fish Department and the U.S. Customs and Border Protection.

The FEIS was issued only after extensive analysis from FERC and the incorporation and consideration of numerous stakeholders, including Pima County. Indeed, since Sierrita filed its initial certificate application more than a year ago, FERC issued more than 250 data request questions, at times in direct response to stakeholder comments. Sierrita has exhaustively and satisfactorily responded to each data request question.

In addition, FERC has received and reviewed more than 130 separate comments filed by landowners, agencies, and other stakeholders as part of the FEIS development. Sierrita has responded to each material comment filed by stakeholders.

- Oversight Committee. The Administrator Memo suggests that an independent project monitoring committee should be created. Sierrita believes that in light of the fact that FERC will already be assuming the responsibility of tracking the effectiveness of Sierrita's remediation and reclamation efforts and has sole regulatory authority to do so, the creation of another entity would be cumbersome, expensive and inefficient.

As described in detail in the multiple Sierrita project-specific plans, Sierrita will be required to successfully revegetate and restore the right-of-way. FERC will

determine when the right-of-way has been successfully restored. Sierrita will be required to file quarterly reports with FERC, which will be publicly available, and it is also anticipated that FERC personnel will visit the right-of-way to determine restoration success. The filing requirements and monitoring efforts will continue for several years after the pipeline is placed into service.

- Mitigation Endowment Fund. The Administrator Memo suggests that a mitigation fund should be created to provide annual revenue for ongoing monitoring and mitigation of the impacts of the Sierrita Pipeline. As is discussed in more detail below, a condition for the Certificate of Public Convenience and Necessity authorizing the construction of the Sierrita Pipeline will be just such ongoing monitoring and mitigation efforts. These will be obligations of Sierrita, and compliance with those obligations will be enforced by FERC.

Altar Valley Conservation Alliance:

The Administrator Memo describes the goals and accomplishments of the Altar Valley Conservation Alliance ("AVCA"). Sierrita agrees with that description and is fully supportive of the activities of the AVCA. However, as was described above and as will be discussed in more detail below, the responsibility for monitoring remediation and revegetation efforts will be imposed on Sierrita by the FERC (in any authorization for the construction and operation of the pipeline), and FERC will enforce that obligation.

Costs to Pima County and Mitigation Issues:

The Administrator Memo estimates that the construction and operation of the Sierrita Pipeline will result in additional annual expense to Pima County of $1,020,686. This consists of additional sheriff department costs of $461,436 per year, and a cumulative total of $559,250 per year for: (i) additional expense ($174,000 - $261,000) associated with a possible increase demand on Medical Examiner and Public Fiduciary services resulting from increased migrant deaths that are somehow related to the construction of the Sierrita Pipeline; (ii) access road maintenance expense ($98,250) for existing roads that are already used by the public and that will be restored to equal to or better than pre-

construction condition[2]; (iii) incremental open space management costs ($200,000) for additional fencing, water repair, trash pickup and incident response on public lands along the route (notwithstanding the fact that more than 92% of this public land is owned by the Arizona State Land Department ("ASLD") and only 2.2% is owned by the County); and (iv) repair of damage to ranchlands (which does not appear to actually be an expense of the County). While Sierrita believes these amounts are highly speculative and greatly overstated, even if all of these costs are actually incurred by Pima County, the revenue derived by the County from annual property taxes on the Sierrita Pipeline will more than cover these expenses. The initial property tax revenue is approximately $1.6 million per year, leaving an excess contribution to the County of over $500,000 per year (which could be used in lieu of the proceeds from an endowment fund), based on this revenue stream alone.[3]

In addition to the annual Pima County expenses described above, there are several other expenses which the Administrator Memo says should be the responsibility of Sierrita, totaling over $16 million. The suggested $16 million cost responsibility is made up of a number of items, including:

- $2,300,000 for mitigation of the impacts of the project on riparian habitat;
- $3,792,000 to purchase land to offset impacts to land and vegetation;
- $1,600,000 for the purchase of mitigation credits for impacts to Pima Pineapple Cactus;
- $7,000,000 to cover the cost of long-term monitoring and repair of environmental impacts of the pipeline;

[2] For some unexplained reason the Administrator Memo presumes this expense will continue indefinitely even after the construction efforts are completed.

[3] It is important also to note that the $1.6 million of property taxes the County will receive is only part of the property taxes that Sierrita will pay. The Administrator Memo calculates the total property tax payments of Sierrita will be approximately $4.9 million per year. The $3.3 million difference between the amount paid by Sierrita and the amount received by the County will be enjoyed by the local fire and school districts.

- $1,500,000 for "Altar Valley watershed improvements"; and

- $274,040 for additional vehicles for the Pima County Sheriff (four 4WD vehicles and two ATVs).

Sierrita's position on each of these items is set forth below:

The $2.3 million for riparian habitat restoration will be fully covered by the anticipated $2.3 million fee for the Floodplain Use Permit from the Regional Flood Control District, and thus is a cost to Sierrita and not to the county. These funds cover the approximately 250 wash crossings and Pima County designated flood plains along the entire 60+ mile route, of which only 1.26 miles is located on Pima County owned lands. It should be noted that Sierrita is also paying $4.7 million to the ASLD for native plant fees and rights-of-way on land owned by the State. The effect of this fee, coupled with the Pima County Floodplain Use Permit Fee, is that Sierrita will pay fees to both the State and Pima County for riparian habitat located on lands owned by ASLD.

The Administrator Memo catalogues $3.7 million for land purchases based on an estimate of 860 acres of impacted land and a determination that approximately 2,530 acres should be purchased to mitigate the impacts on those 860 acres. This recommendation disregards the significant mitigation requirements that have already been proposed by Sierrita, and which will be required as a condition of any authorization to proceed with the project that will reduce the impacts of the project to "less-than-significant levels."[4]

The $1.6 million for the purchase of mitigation credits for impacts to the Pima Pineapple Cactus (PPC) is not correctly characterized as a cost to the county – it is a required mitigation measure expected to be imposed by the USFWS which Sierrita acknowledges and which Sierrita will incur. Sierrita would consider purchasing the credits from Pima County if the County has the necessary authority to make such sales and if the credits are offered at a market price. It should also be noted that in addition to the

[4] FEIS, Executive Summary at page ES-9.

purchase of PPC mitigation credits, Sierrita has agreed to transplant and monitor PPC that would be directly impacted by construction.[5]

The $7 million endowment fund to generate ongoing funds to monitor and repair impacts resulting from the construction and operation of the Sierrita Pipeline also fails to recognize the restrictions and requirements that will already be imposed on Sierrita and the role that will be played by FERC in monitoring the compliance of Sierrita with these requirements. The Administrator Memo states that this "mitigation fund" will "generate sufficient annual funds to maintain and cover the costs of long-term monitoring and repair of environmental damage."[6] In fact, however, Sierrita will be required to monitor revegetation and restoration efforts and will be obligated to make reports to the FERC on the success of those efforts. FERC will make periodic inspections of the right-of-way to independently assess Sierrita's compliance with these requirements and the success of the remediation efforts. Sierrita will be required to continue revegetation efforts until "revegetation is successful."[7]

The $1.5 million of matching funds for Altar Valley watershed improvements is not justified anywhere as an additional expense that would be incurred by the County, and there is certainly no explanation of how this cost item differs from those discussed above. As was previously explained, Sierrita will have the obligation to reclaim the right-of-way following completion of the construction activities. As Sierrita explained in its Reclamation Plan, attached as Appendix G to the FEIS, erosion control measures were developed with the assistance of the Pima County Regional Flood Control District (PCRFCD). While there may be some expense that has been and/or will be incurred by PCRFDC in this effort, the $2.3 million fee for the Floodplain Use Permit should compensate the County for this expense.

Finally, the $274,040 for additional vehicles for the Pima County Sheriff (four 4WD vehicles and two ATVs) appears grossly excessive given the fact this project will

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[5] FEIS, Executive Summary at page ES-6.

[6] In the earlier version of the Administrator Memo, dated November 4, 2013, the basis of the $7 million amount is explained as "a minimum of $200,000 per year is estimated as necessary to maintain and expand these conservation efforts as possible. Assuming an annual 3 percent return on any investment, establishing a mitigation fund of $7,000,000 is recommended to meet this goal."

[7] Sierrita's Upland Erosion Control, Revegetation, and Maintenance Plan at p.E-16, Appendix E to the FEIS.

result in only 60 miles of pipeline right-of-way, which will include measures to restrict unauthorized use of the right-of-way.

Sierrita will be making direct payments covering several of these expenses. Sierrita anticipates a payment of approximately $2.3 million for the Floodplain Use Permit. It will be acquiring Pima Pineapple Cactus Credits, either from the County or another source, in an amount of approximately $1.6 million. This leaves the CLMS land purchase offsets and the Pima County Sheriff expenses. Disregarding for the moment the concerns Sierrita has with the accuracy or appropriateness of these costs, it is important to recognize that these amounts will be fully covered by the property tax revenues that will be received by Pima County. Attached hereto as Attachment A is an Excel Spreadsheet showing the cumulative cashflow to Pima County from project ad valorem taxes. It shows that even if all of the annual expenses suggested in the Administrator Memo are experienced, and the $3.7 million expense for CLS land offsets and the additional vehicles for the Sheriff department are purchased, Pima County will recover a positive $11 million revenue gain over the next 25 years (which is the length of the Transportation Service Agreement underwriting the construction of the Project, although it is expected that the pipeline will continue to provide natural gas transportation service well past the initial contract term). The total cash payments from Sierrita to the County associated with the ad valorem tax revenues will total almost $53 million over the 25 year period (as depicted in Attachment B).

Assurance of Pipeline Safety Design for Maximum Wall Thickness:

The Administrator Memo includes a recommendation regarding wall thickness in particular areas. This is an issue of pipeline safety that is reserved exclusively to the DOT and FERC (through PHMSA regulations and through conditions to Certificates of Public Convenience and Necessity incorporating DOT/PHMSA standards). Sierrita would welcome an opportunity to discuss the extensive pipeline safety regulations and requirements that are imposed on interstate natural gas pipelines by PHMSA, to provide comfort to the County regarding the safety of the proposed pipeline.

Kinder Morgan Meeting with US Fish and Wildlife Service Administrators:

The Administrator Memo describes the consideration of a pipeline route through the Buenos Aires National Wildlife Refuge, and generally disagrees with the conclusions of

the USFW that the location of the pipeline in the refuge is inconsistent with the mission of the refuge. Sierrita takes no position on this issue other than to say that the USFWS decision has been made and the route through the refuge is no longer a potential route.

Discussion of Tax Revenues:

The Administrator Memo devotes substantial attention to the share of TPT revenues that will be received by Pima County, but very little attention to the nearly $5 million in property taxes that Sierrita will be paying. Pima County's share of the TPT taxes is not an issue over which Sierrita has any control, and if Pima County believes it is receiving an unfair allocation of those revenues it is an issue that Pima County must raise with the State of Arizona. What is significantly more important, however, is the amount of property taxes that Sierrita will be paying to the County and to the school and fire districts that are located in the County. Table 4 of the Administrator Memo shows $1.6 million in property taxes will be paid by Sierrita to Pima County annually. Another $3.3 million will be paid each year to the school and fire districts within Pima County.

Sierrita believes that underground natural gas pipelines consume far fewer county resources that do most other types of businesses that contribute this level of tax revenue to the county. Accordingly, we hope the County will agree that our presence, and tax base, will provide a benefit to Pima County.

Funds Established for Other Pipelines:

The Administrator Memo closes with a description of mitigation payments that have been made in other pipeline projects, particularly the Ruby Pipeline. Sierrita notes there are significant differences between the Ruby and Sierrita projects. The Ruby Pipeline was developed by and under the leadership of the El Paso Corporation, which was acquired by KinderMorgan in 2012. Decisions and approaches that were taken by that team cannot be attributed to the management team for Sierrita. Also, the Ruby project involved nearly 700 miles of 42-inch diameter pipeline crossing four states with a transportation capacity of 1,500,000 Dth/day, while the Sierrita Pipeline will be only be 60 miles of 36-inch pipe, with a capacity of approximately 200,000 Dth/day. The total cost of the Ruby Project exceeded $3.7 billion dollars, while the Sierrita Pipeline is currently projected to cost approximately $200 million.

Perhaps the most significant factor related to this discussion is the fact that the various mitigation funds and payments that are discussed in the Administrator Memo were made to entities that were not receiving any ongoing substantial tax payments from the pipeline (none of the payments were made to local governmental agencies). Most of the amounts listed as having been paid out in connection with the Ruby Project are overstated, and represent the total of a series of much smaller annual payments to the funds. Despite the much greater size and scope of the Ruby Project, those annual payments are much smaller (by an order of magnitude) than the nearly $5 million annual property tax payments that Sierrita will be making to Pima County and its school and fire districts.

Conclusion:

Sierrita appreciates this opportunity to directly communicate with the Board regarding this important energy infrastructure project. Sierrita believes this project will provide significant benefits to Pima County, the State of Arizona, the United States and to Mexico. We look forward to continued communications with the County and are willing to meet at any time, and at any level, to discuss the project, the impacts of federal regulation and jurisdiction over the pipeline and its permitting, construction and operating practices, construction, mitigation and remediation efforts that will be adopted by Sierrita and the tax benefits the County will recognize from the Sierrita project. Sierrita respectfully requests that the Board confirm the intention of the County to proceed with the diligent and timely processing of the various approvals and permits that are being sought by Sierrita so that the pipeline can proceed on its current schedule.

Sincerely,

Mark A. Kissel
President, Sierrita Gas Pipeline LLC.