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Via Verde Memorandum

EPA appreciates the effort put forth by AEE to translate some sections of the state EIS for the Via Verde pipeline. A partial document, however, only paints a partial picture and we did not feel that a comprehensive evaluation of the project and its impacts was possible with the few chapters that were provided. That said, those chapters were reviewed and commented on.

TVE
S. [unclear]

A field study for threatened and endangered species was mentioned in the summary chapter, Chapter 6, and a number of other places. EPA would like to have seen the study methods, which are included in Chapter 3 (which was not provided). Page 11 of Chapter 6 states that, "The construction area for the project is 100 ft wide. An area of 200 feet wide was covered for the flora and fauna studies." Was a similar method used for assessing the presence of threatened and endangered species along the project route?

In a number of places throughout the EIS, such as page 16 of the summary chapter under "Pipeline right of way restoration," a 100 foot right of way is mentioned, however in other places in the document (such as page 31 of Chapter 6) and as stated in EPA's meeting with EQB, it is listed as 150 feet. Does the size of the right of way vary throughout the project? If so, why? The difference is significant the distance should be clarified.

On page 23 of the summary chapter, it is mentioned that a biologist will be available at all times during karst drilling to evaluate the area carefully. Though we see the value in having a biologist present, it would also be important to have a geologist with a karst background present who can evaluate the impacts of the drilling from a geological perspective.

Wetland
mitigation

Of the 33% of the alignment that will cross through wetlands (page 24 of the summary chapter), will the full 33% be mitigated at a 3:1 ratio?

Page 29 of the summary chapter states that there will be no cumulative impacts on mangroves and wetlands expected. That is inconsistent with other sections of the EIS and should be clarified.

Chapter 4 includes "Variations to minimize environmental impact" however, there are no listed instances where variations were made to avoid impacts to wetlands, threatened or endangered species, or critical habitat. This was surprising given the large amount of wetlands being impacted and the amount of possible habitat that will be affected.

Chapter 6
deforestation

Page 4 of chapter 6 discusses the impacts by deforestation. It states "It is estimated that 1,191.3 acres of land will be impacted, most of them (approximately 66%) temporarily." EPA is assuming that the 34% of permanently impacted acres are from the right of way. We disagree that the impacts of 66% of the deforestation are temporary since the permanent removal of trees will alter the habitat and thus impact areas of deforestation regardless of whether or not deep rooted trees and natural vegetation are permitted to

regrow in those areas. Further, using the term "temporary" impacts is misleading and should be explained in terms of months or years of recovery. A discussion of the age of the trees inhabiting the forest should be included to give a clearer picture of the recovery time of the area as well as a discussion of the ecosystem in general and the habitat provided by the trees and undergrowth in those areas.

Page 5 of Chapter 6 references a 30 meter construction right-of-way. Why is this right-of-way so much smaller than the previously stated 150 meter right-of-way?

Page 6-7 of Chapter 6 states "Bosque Vega is the only forest that will receive a direct impact with this project. This reserve is fragmented in six portions. Via Verde will impact one of them. However, the impact will be minimal. The total area of this forest is 1.85 square miles. The portion that will be impacted is .46 square miles." The impacted area represents about 25% of this portion of the forest, which is not minimal. This section then goes on to say "of these, only .0086 square miles will be impacted." These sentences are inconsistent, but EPA interprets them to mean that .0086 square miles are being directly impacted by the project. EPA would like to reiterate that the impacts of deforestation are not limited to the trees that are cut down. The statement on page 7 that "the total area to be impacted by the project is .0086 square miles, or 0.07%. This percentage is graphically imperceptible" is very misleading. EPA would like to remind AEE that evaluation only direct impacts, and not indirect impacts, does not paint a clear picture of environmental effects and that an imperceptible amount on a graph could be very significant from an ecosystem perspective. Fragmentation resulting from deforestation can devastate an ecosystem. The effectiveness of the mitigation proposed by AEE through the acquisition of "land contiguous to some of the portions to connect two isolated portions" can not be assessed without a map of the fragmented forest and proposed area of acquisition.

Page 59 of chapter 6 states that there will be no impact to most areas of the project during the operational phase, however once the forested areas are deforested, the indirect impacts of the projects should expect to continue as long as a clearing is maintained. This section also states that the impacts from the clearance of existing vegetation in the forest mostly affect the ecosystem in that exotic species may invade. There are also essential natural behaviors (mating, feeding, nesting, etc) of species that can be impacted, especially for species that spend time in the canopy or underbrush which will be permanently eliminated in the 50 foot right-of-way. Page 61 states that there "could be indirect impacts on biodiversity by the secondary effects of fragmentation in the short and middle terms." EPA believes these impacts will be felt in the short and long term as the impacts of deforestation and fragmentation are likely to exist well beyond the life of the pipeline.

The Council on Environmental Quality (CEQ) has provided guidance for departments and agencies of the Federal government on the mitigation and monitoring of activities. As highlighted in this guidance, "Mitigation measure included in the project design are integral components of the proposed action, are implemented with the proposed action, and should be clearly described as part of the proposed action." EPA does not feel that

30 ft of impact to Bosque Vega

no impacts during clearing phase

Impacts of maintenance

Mitigation Focus

TO CEQ?

adequate descriptions of the mitigation and monitoring plans were included in the provided sections of the state EIS and therefore did not fulfill the mitigation and monitoring requirements as outlined by CEQ.

the CUP would be responsible for this
add FONSI stuff

add 'if fail to demonstrate a proper
mitigation strategy' the should record
EIS vs EA.

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