



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 7/19/2020

ORM Number: SPA-2018-00216-LCO (Double E Pipeline Project)

Associated JDs: N/A

Review Area Location¹: State/Territory: Texas and New Mexico City: N/A County/Parish/Borough: Multiple Counties in Texas and New Mexico

Center Coordinates of Review Area: Latitude 31.870012 Longitude -103.705874

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

| § 10 Name | § 10 Size | | § 10 Criteria | Rationale for § 10 Determination |
|-----------|-----------|-----|---------------|----------------------------------|
| N/A. | N/A. | N/A | N/A. | N/A. |

C. Clean Water Act Section 404

| Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³ | | | | |
|---|-------------|------|-----------------|------------------------------------|
| (a)(1) Name | (a)(1) Size | | (a)(1) Criteria | Rationale for (a)(1) Determination |
| N/A. | N/A. | N/A. | N/A. | . |

| Tributaries ((a)(2) waters): | | | | |
|------------------------------|-------------|------|-----------------|------------------------------------|
| (a)(2) Name | (a)(2) Size | | (a)(2) Criteria | Rationale for (a)(2) Determination |
| N/A. | N/A. | N/A. | N/A. | N/A |

| Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters): | | | | |
|---|-------------|------|-----------------|------------------------------------|
| (a)(3) Name | (a)(3) Size | | (a)(3) Criteria | Rationale for (a)(3) Determination |
| N/A. | N/A. | N/A. | N/A. | N/A. |

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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| | | | |
|------------------------------------|--------------|-----------------|------------------------------------|
| Adjacent wetlands ((a)(4) waters): | | | |
| (a)(4) Name | (a)(4) Size | (a)(4) Criteria | Rationale for (a)(4) Determination |
| N/A. | N/A. acre(s) | N/A. | N/A. |

D. Excluded Waters or Features

| Excluded waters ((b)(1) – (b)(12)): ⁴ | | | |
|--|----------------|------------------------|---|
| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
| See attached Jurisdictional Determination Crossing Table, July 2020. | N/A. | N/A. | (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. The waterways in question fall within the Chihuahua desert, which has a dry climate with only one rainy season in late summer. Additionally, ground water is greater than 10ft at each location and all associated soils are considered well drained with low water holding capacity (Web Soil Survey 2020). Furthermore, there are no connecting springs that contribute flow to the waterways; and the watersheds receive no snowpack during the year. Given this data, the only flows that the waterway experiences are from precipitation events. Also, there is no riparian corridor within the waterways. All vegetation are upland species (a comprehensive list can be found in section C). As such, the waterway crossings evaluated as part of this review are determined to be ephemeral stream channels. |

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Brandon G. Kish on behalf of Double E Pipeline, LLC](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Data sheets prepared by GAI Consultants, Inc. June, 2020.](#)

Photographs: [Aerial and Other: Wetland Delineation and Stream Identification \(WDSIR\) Report, June 2020.](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [1971. Soil Survey of Eddy Area, New Mexico; 1974. Soil Survey of Lea County, New Mexico; 1975. Soil Survey of Ward County, Texas; 1980. Soil Survey of Pecos County,](#)

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Texas; 1980. Soil Survey of Reeves County, Texas; 1999. Soil Survey of Loving and Winkler Counties, Texas, and Web Soil Survey 2020.

- USFWS NWI maps: Please refer to WDSIR Report, June 2020.
- USGS topographic maps: Please refer to WDSIR Report, June 2020

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|----------------------------|--|
| USGS Sources | United States Geological Survey. 2018. National Hydrography Dataset. Available online at: https://www.usgs.gov/core-science-systems/ngp/national-hydrography/national-hydrography-dataset . Accessed September 2018. |
| USDA Sources | United States Department of Agriculture, Natural Resources Conservation Service. 2006. Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin. U.S. Department of Agriculture Handbook 296. |
| NOAA Sources | N/A. |
| USACE Sources | United States Army Corps of Engineers. 2008. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, Version 2.0. ERDC/EL TR-08-28. Environmental Laboratory. United States Army Engineer Research and Development Center, Vicksburg, Mississippi. Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual. Technical Report Y-87-1. United States Department of the Army, United States Army Engineer Waterways Experiment Station, Vicksburg, Mississippi. |
| State/Local/Tribal Sources | N/A. |
| Other Sources | A. Park Williams, Edward R. Cook, Jason E. Smerdon, Benjamin I. Cook, John T. Abatzoglou, Kasey Bolles, Seung H. Baek, Andrew M. Badger, Ben Livneh. 2018. Large Contribution from Anthropogenic Warming to an Wmerging North American Megadrought. Science. Vol. 368 Issue 6488. Pp. 314-318. |

B. Typical year assessment(s): A study by Columbia University notes that the Amercian Southwest is experiencing a historic “megadrought” not seen in centuries. In fact, for several western states, including New Mexico and Texas, the last twenty years ranks as the second-driest period in the past 1,200 years (A. Park. Williams, 2018). Addiitonally, the Antecedent Precipitaton Tool indicates that this general area is drier than normal. As such, the evaluation of the proposed project site for this AJD has not been conducted during a typical year. Therefore, additional data has been obtained and reviewed to support our jurisdictional determination.

C. Additional comments to support AJD: The review areas fall within the Chihuahua Desert, which has a dry climate with only one rainy season in the summer and smaller amounts of precipitation in early winter. Most of the summer rains fall between late June and early October, during the North American Monsoon when moist air from the Gulf of Mexico penetrates into the region. Furthermore, it is considered a rain shadow desert because the two main mountain ranges covering the desert, the Sierra Madre Occidental to the west and the Sierra Madre Oriental to the east, block most moisture from the Pacific Ocean and the Gulf of Mexico respectively.

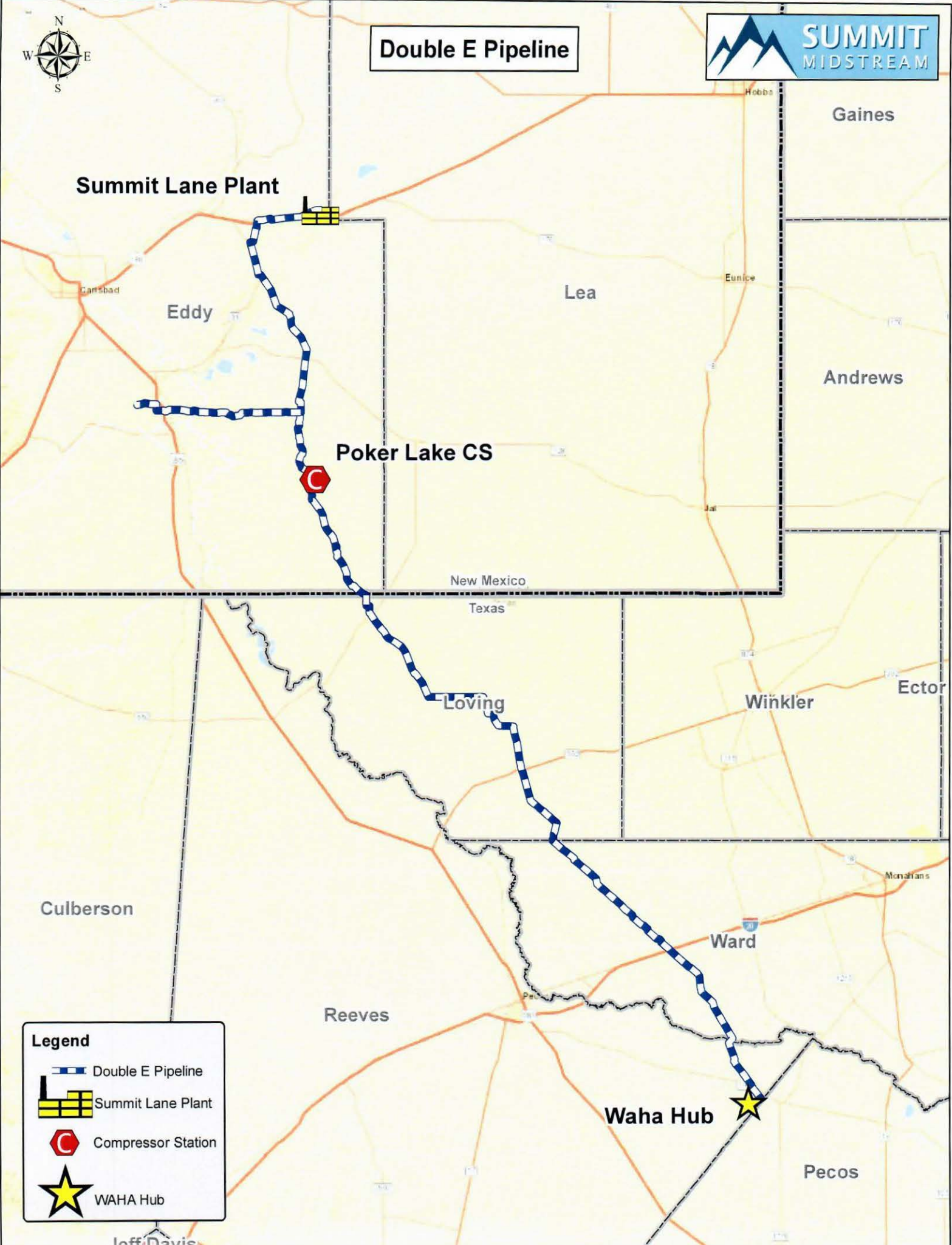


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Temperatures in this area range from 35 to 40° Celcius (C) (95 to 104°Fahrenheit [F]); and the average annual temperature is 24° C (75° F). The mean annual precipitation is 235 millimeters (mm) (9.3 inches [in]) with a range of approximately 150 to 400 mm (6 to 16 in), and snowfall is minimal to non-existent. Soils are well drained and the water table exceeds 80 inches in depth.

Based on a review of aerial imagery and photographs of the proposed project site, the stream channel crossings under review do not currently exhibit any flow or ponding. Furthermore, there are no connecting springs that contribute flow to the waterways; and the watersheds receive no snowpack during the year. Additionally, the stream channels lack a riparian corridor and vegetation is dominated by upland species. More specifically, representative vegetation dominant at each crossing often includes Lehmann lovegrass (*Eragrostis lehmanniana*), purple threeawn (*Aristida purpurea*), and Grama spp. Given this data, the only flows that the waterways under review experience are from precipitation events and, therefore, are classified as ephemeral stream channels.

Double E Pipeline



Summit Lane Plant

Poker Lake CS

Waha Hub

Legend

- Double E Pipeline
- Summit Lane Plant
- Compressor Station
- WAHA Hub