

Docket OR15-13

RE: Kinder Morgan & Palmetto Products Pipeline LLC

Context Matters:

Kinder Morgan of Houston, Texas is seeking, through Palmetto Products Pipeline LLC, a **Certificate of Public Convenience and Necessity** from the State of Georgia to construct a pipeline that will negatively affect all five wetlands in the state, impact Georgia's landowners; and, as presently routed, be built near a fault line.

According to the **Savannah Riverkeeper**:

- The project crosses the watersheds of 5 major rivers and freshwater coastal wetlands, which could contaminate drinking water, wells and water resources in the event of an accident.
- The pipeline is expected to cross the Revolutionary War battle site at Brier Creek in Screven County, Georgia, where an estimated 150 Americans died and are buried to this day.
- The pipeline's path through the Savannah River basin endangers not only today's natural resources, but also historical and archaeological artifacts still uncovered.
- Digging, planting and other uses of the land by the landowner are prohibited once a pipeline is in place; however **the landowner must continue to pay taxes on the property**. Not only that, but the landowner becomes financially responsible for securing proper methods of crossing the easement (i.e. bridges, etc.) on their own property, with any vehicle, tractors etc.

This project negatively affects 396 landowners and 12 counties in the state of Georgia. According to **Push Back the Pipeline, the following waters are at risk**:

- Lower Savannah River Basin
- Ogeechee River Basin

- Altamaha River Basin
- Satilla River Basin
- St. Mary's River
- Okefenokee Watershed

### **Okefenokee Watershed:**

The Okefenokee is the headwaters of the St. Mary's River that drains into Atlantic Ocean and the Suwanee River that drains into the Gulf of Mexico. **The Okefenokee is the largest freshwater swamp (watershed) in the world.**

While this information may be outside the purview of FERC, it is important to note that at the public meeting on April 21, 2015 in Richmond Hill, Georgia, it was reported that 528 people were in attendance. According to the April 22, 2015 Effingham Herald Online Edition, essentially, the Kinder Morgan representative was the only "positive spin" on the 360-mile pipeline.

"speaker after speaker stood up before a packed room to voice opposition to the pipeline and Kinder Morgan's application to the Georgia Department of Transportation for a certificate of necessity and convenience."

Given the potential for this kind of context, one wonders why the State of Georgia allowed Kinder Morgan to conduct six open houses with public comment going to Kinder Morgan attorneys. The Kinder Morgan-lead public hearings ceased following the clarification by Georgia's Attorney General, as reported in the Online Edition of the Savannah Morning News on April, 19, 2015.

"Because the applicant (Kinder Morgan) ran the meetings, many questioned whether those open houses sufficed as the required hearing. The Georgia DOT sought advice from the state attorney general's office and though it won't reveal what it was told,

citing attorney-client privilege, Tuesday's hearing was announced after the legal advice was received."

**Unsupported and undocumented "Benefits" and uncertain, negative implications for competition:**

1. Palmetto claims the pipeline will promote competition. (page 6 of the petition)

This is virtually a cliché. The case could be made for a monopoly being created by way of the four-tier pricing structure that Palmetto is planning.

2. The Palmetto presence "could serve to decrease prices to consumers". This is an undocumented claim and one that is unsupported on the record.

For the pipeline to have even the mere potential to increase competition that "could" lead to lower prices, two things must be true:

- 1) The pipeline **must** lower the cost of transporting petroleum products from the U.S. Gulf Coast to consumer markets relative to existing supply chain options (currently pipeline-to-truck and waterborne-to-truck supply options exist); and
- 2) The pipeline must be open to fair competition with equal access for shippers of all sizes.

Existing refined petroleum pipelines serving Georgia have one rate for all shippers regardless of size. The Palmetto Pipeline would institute a multi-tiered system that advantages large shippers over smaller ones. This fundamentally shifts what has always been a level playing field on refined products pipelines serving Georgia.

Given that the pipeline is capable of shipping more product into destination markets like Savannah (25,000bbls) and Jacksonville (100,000bbls+) than these markets currently consume, it is clear that this pipeline is intended to introduce replacement competition as opposed to additional competition. Therefore, an oligopoly would be created if large shippers were given pricing advantages against smaller shippers, particularly considering these

large shippers may control access to the pipeline in one of two ways:  
1) at origin through their refineries or 2) through line space allocation on a feeder pipeline (the Plantation).

Lack of competition would prevent consumers from realizing any savings.

**Clarification Request:**

Given the uncertain climate and the obvious possibility for confusion in Georgia associated with process, it would be beneficial if FERC could clarify its authority over oil product pipelines.

I have anecdotal evidence that there is some confusion that FERC's approval of Palmetto Products Pipeline LLC—Petition for Declaratory Order, Docket No. OR15-13, **could be understood as approval of the actual construction of the pipeline.**

Timing of this clarification is critical. The Georgia DOT Commissioner is on record stating that following the next public meeting on May 7, 2015 in Waynesboro, Georgia, the written public response to the proposed pipeline will be received through May 15, 2015 and his decision would follow on May 19, 2015.

The Palmetto Products Pipeline has asked that FERC make its decision by April 30, 2015. (See page 55 of the petition)

If it is assumed on the part of any Georgia decision maker that the FERC action on the Palmetto Petition is in any way approval for the actual construction of the pipeline, it could be construed as support of Palmetto's request for **Eminent Domain** in Georgia. A FERC jurisdiction clarification would help circumvent this issue.

I respectfully request that the FERC clarify their jurisdiction relative to oil products pipelines.

Sincerely,

Dr. Curtis L. Beaird, Jr.