

COMMUNITY SERVICES DEPARTMENT

PARK OPERATIONS ~ ENVIRONMENTAL SERVICES ~ RECREATION/CULTURAL SERVICES

May 13, 2022

Kari Parsons
Project Manager
El Paso County Development Services Department
2880 International Circle
Colorado Springs, CO 80910

Subject: FAWA/Bar-X Water Transmission Line 1041 Permit Application Review (AASI-22-004)

Hello Kari,

The Park Operations Division of the Community Services Department has reviewed the 1041 Permit Application for the Falcon Area Water Authority (FAWA) Bar-X Water Transmission Line and has the following administrative comments of behalf of El Paso County Parks.

Timeline

In September 2021, the applicant's representative contacted El Paso County (EPC) Parks staff regarding the proposed construction of a water transmission pipeline in north-central El Paso County, to include sections that would impact El Paso County Park's Pinerias Open Space. The proposed pipeline would travel generally north-to-south from an area near the intersection of Vollmer Road and Hodgen Road area to a location just east of the intersection of Vollmer Road and Shoup Road. The representative wanted to discuss specifically the section of pipeline that is proposed to cross into Pinerias Open Space, and whether or not EPC Parks would approve such an alignment or an alternate alignment in the immediate area. At that time, Parks staff made no decisions on the matter.

In early October 2021, Parks staff met virtually with representatives of Palmer Land Conservancy (PLC), the agency that holds a Conservation Easement (CE) for the Pinerias Open Space property, which was amended and transferred to El Paso County in August 2007 when the Pinerias property was deeded to the County. PLC and EPC Parks staff discussed the alignment of the proposed pipeline and whether the construction of the pipeline would violate the conditions of the CE. EPC staff concurred with PLC's interpretation of the conditions of the CE, which stated that the installation of additional utilities was not a permitted activity, especially in an area of the property with the highest noted conservation values (Zones 1, 2, and 3).

In January 2022, the applicant's representative and El Paso County Attorney, Lori Seago, met with PLC staff to further discuss the pipeline alignment in Pinerias Open Space. PLC reiterated their original stance on the matter and no further action was taken.



In April 2022, the applicant's representative officially submitted a 1041 Permit application for the planning and construction of the FAWA/Bar-X Water Transmission Line, which included maps showing the proposed primary and optional alignments for the pipeline, both of which show the pipeline traversing Pineries Open Space, with Option 1 being the applicant's preferred alignment. Staff utilized these conceptual plans to generate maps of the pipeline(s) and how they may impact not only proposed and existing EPC Parks recreational facilities, but also the natural environment in and around Pineries Open Space. These maps are included as part of these comments and recommendations, and the following are descriptions of impacts to EPC Parks facilities.

EPC Park and Trail Impacts

The 2013/2022 El Paso County Parks Master Plans show impacts to the following proposed and existing EPC Parks facilities, generally in a north-to-south direction:

- Fox Run Primary Regional Trail (Proposed)
- Cherry Creek Secondary Regional Trail (Proposed)
- Hodgen Road Bicycle Route (Proposed)
- Pineries Open Space (Existing)
- Pineries Open Space Internal Trails (Existing)
- Palmer Divide Primary Regional Trail (Proposed)
- Latigo Secondary Regional Trail (Proposed)
- Burgess Road Bicycle Route (Proposed)
- Arroyo Lane Primary Regional Trail (Proposed)
- Woodmen Hills Secondary Regional Trail (Proposed)

The Pineries Open Space would be the most impacted property, as existing trails can be restored to original condition, and bicycle routes are located within public rights-of-way, where other public utilities and roadways may already exist. Construction impacts to Pineries Open Space, however, could be far greater than expected due to the extremely fragile nature of the soils and native vegetation along and surrounding the Palmer Divide, which runs generally east-west through the open space.

Furthermore, it should be noted that the Arroyo Lane Primary Regional Trail and the proposed pipeline could be collocated along Arroyo Lane and may share a similar alignment. Trail easements have already been secured for a portion of the Arroyo Lane Regional Trail near its intersection with Vollmer Road.

Environmental Impacts

Palmer Land Conservancy. The original 1985 and 1995 conservation easements, as well as the amended 2007 Conservation Easement, were established to protect in perpetuity conservation values in the area now known as Pineries Open Space. The purpose of encumbering the property with a conservation easement, as stated in the easement, is to "assure that the property will be retained forever predominantly in its natural, scenic, forested, and open space condition, to preserve and protect in perpetuity the scenic, wildlife, aesthetic, recreational, ecological, and environmental values of the property, to conserve wetlands..., to prevent any use of the Property that will impair or interfere with the Conservation Values of the property, and to extinguish any and all development rights and allocations and density rights and allocations of the property, whether presently existing or arising in the future..." These conservation values include natural, scenic, open space, wildlife, aesthetic, recreational, ecological, and environmental values, which were backed by a baseline study conducted on the subject property in 2006.

Conservation easements are created through Colorado Revised Statute § 38-30.5-101 et seq. and Internal Revenue Code § 170(h). The conservation easement provides PLC with a real property interest in Pineries Open Space and obligates PLC to enforce the terms of the conservation easement according to federal and state law. PLC must be notified in writing of any proposed activity on the property and has a maximum of 90 days in which to provide written approval or denial of such proposed activity. El Paso County understands that PLC has reviewed and rejected the proposed water pipeline primary alignment in January 2022 when the applicant requested approval. **Since this request has already been denied by the conservation easement holder, EPC Parks staff recommends that the applicant work closely with both the County and PLC to create a more amenable proposal for review far in advance of site development planning and construction. Recommended provisions and pipeline adjustments are outlined in the *Conclusion and Recommendations* section below.**

Based upon the results of the baseline study and the proposed uses as a public passive recreational facility, the Pineries Open Space was divided into Conservation Zones (see included map) which reflect the magnitude of the conservation values found within. The zones which would be most impacted by the proposed pipeline include Zones 1, 2, and 3, which are described as follows:

- **Zone 1:** Highest non-recreational conservation values where public access will be limited to scientific study by approved groups and interpretive programs led by trained staff. This restriction on access shall not apply to trail corridors that may cross through such areas in appropriate circumstances.
- **Zone 2:** Significant conservation values where parties will consult on any proposed public access with a view to minimizing impairment of the non-recreational conservation values, i.e., secondary trail corridors allowed.
- **Zone 3.** Absence of unique habitat where public access will be permitted with a view to prevent only significant impairment of the non-recreational conservation values, i.e., primary trail corridors allowed.

Among the Prohibited Uses as listed in Section 3 of the CE are the following:

- New Structures and Improvements
- Commercial or Industrial Activity
- Alteration of Watercourses and Topography

The proposed pipeline is interpreted as a new structure or improvement and could have a significant impact on the surrounding topography and waterways, especially in the vicinity of Snipe Creek in Zones 1 and 2 along the southeastern border of the property. The construction of the pipeline when combined with construction mobilization, staging, and the use of heavy equipment may have a long-term impact on the natural environment, including fragile soils and vegetation that are still recovering from the massive impacts of the 2013 Black Forest Fire.

El Paso County Candidate Open Space Areas. In 2022, El Paso County began an update of the El Paso County Parks Master Plan, which also involved a major overhaul of the Candidate Open Space Lands. New methodology was used to produce areas in the County which held high conservation and intrinsic values in regard to areas that are prime for conservation. The process resulted in new candidate open space lands, although area descriptors originally used in the 2013 Parks Master Plan were retained due to their relevancy to existing conditions.

The southeastern portion of Pineries Open Space, which is impacted by the proposed pipeline, is located within the North Black Forest Candidate Open Space area. Attribute values which led to the development of this

candidate open space include forested areas and areas of wildfire concern, surface water, wildlife impacts, Colorado Natural Heritage Program (CNHP) conservation areas, and a combination of park land and trail buffers.

Colorado Natural Heritage Program. The Colorado Natural Heritage Program (CNHP) “tracks and ranks Colorado's rare and imperiled species and habitats and provides information and expertise on these topics to promote the conservation of Colorado's valuable biological resources.” Potential Conservation Areas (PCAs) are identified as those areas which may support rare and imperiled plant and animal communities.

As part of the applicant's 1041 Permit application submission, a CNHP report was included that outlines the PCAs located along the proposed pipeline alignment. Pineries Open Space is encompassed by the *Pineries at Black Forest PCA*, which is partially described by CNHP by the following:

“Pineries at Black Forest occupies an area of the Black Forest from just east of Vollmer Hill and extending east and northeast over the headwater reaches of West Kiowa Creek, Black Squirrel Creek, and Snipe Creek. The Black Forest consists of a mosaic of woodlands and forest dominated almost exclusively by ponderosa pine, and occasionally including individual trees of Rocky Mountain juniper and less frequently small patches of aspen. The forested areas are frequently broken by meadows of shortgrass, midgrass, and tallgrass species including little bluestem, big bluestem, prairie sandreed, poverty oatgrass, blue grama, and buffalograss. The Black Forest area is unique in that it is the only place in Colorado where montane ponderosa pine forest grows east of the Front Range foothills.”

Rare Plant Species Study. In 2015 and 2016, Dr. Judy von Ahlefeldt, Dr. Tass Kelso, and Mr. Kent Timmerman, along with colleagues from the Colorado Natural Heritage Program, Colorado Native Plant Society, Denver Botanic Gardens, and Colorado College conducted a multi-week survey of rare plants in Pineries Open Space. Mapping efforts outlined those areas which could be classified as wetlands, as well as protected “upland” areas that serve not only as rare plant habitats, but also as buffers to the critical wetland environments. Maps provided in this study show that the proposed pipeline may impact creek, wetland, and protected upland areas surrounding the southern section of Snipe Creek where it flows out of Pineries Open Space near its southeastern corner.

Conclusion and Recommendations

While El Paso County Parks supports the 1041 Permit application process and appreciates the ability to submit recommendations and comments, staff was disappointed with the fact that El Paso County Parks and the Palmer Land Conservancy were only mentioned once in the 1041 application, and additional appendix and exhibits showed no reference to Pineries Open Space as a major property along the proposed pipeline alignments. Although early communication afforded staff basic knowledge and information regarding the pipeline, no further attempts were made to establish an ongoing working relationship between the applicant and County staff. Such interaction may have allowed the applicant to better establish primary and optional alignments for use during the 1041 Permit application review process, and therefore prevented ongoing review and negotiation.

To better understand the primary and optional alignments, EPC Parks and PLC staff met on site at Pineries Open Space on May 10, 2022, to review the existing site conditions. Staff traveled to the northern water tank and eastern power line corridor, and it was determined that these two areas, in particular the eastern power line corridor, held lower conservation values due to either the presence of forest fire damage and on-going mitigation, or utilities in the form of either overhead or underground electrical service. Overhead electrical lines exist in both locations, with two 345Kv lines in the eastern corridor. **This conclusion, however, does not represent an approval of the 1041 Permit application and only provides for further discussion and review before final approval by PLC.**

While keeping the principals and guidelines of the Conservation Easement first and foremost in regard to the continued preservation of Pinerias Open Space, EPC Parks staff concluded that the two proposed pipeline alignments in question (Option 1 and utilization of the San Miguel Valley Corporation water tank) would be adequate locations for the construction and on-going maintenance of a water transmission line, albeit with the following alterations and conditions, which will be further addressed in a forthcoming temporary access/construction license agreement, **and subject to further discussion, review, and final approval by PLC:**

- The construction and permanent installation of the water transmission pipeline through Pinerias Open Space will be executed through the provisions, terms, and conditions of a temporary construction access license agreement and a revocable non-exclusive license agreement, respectfully. Both will be drafted by the El Paso County Attorney's Office and approved by the Board of County Commissioners prior to commencement of construction. El Paso County will perform a property valuation assessment and will determine the proper fees to be associated with the license agreements. Fees must be paid in full before final approval of the license agreements.
- The pipeline may be installed along the eastern and southern boundaries of the Excel powerline easement, within 50 feet of the eastern and southern property boundaries of Pinerias Open Space. The western and northern boundaries of this easement are located immediately adjacent to sensitive areas within Pinerias Open Space and include old-growth forest, sensitive wetland environments, and those areas that are recovering from the Black Forest Fire of 2013 (see attached map).



Eastern Powerline Corridor at Pinerias Open Space

- If the water tank located on property owned by San Miguel Valley Corporation is to be utilized, the incoming/outgoing pipeline(s) shall be located on properties located immediately to the north of Pinerias Open Space, only crossing the 150'-wide County-owned open space property adjacent and north of the water tank. An east-west pipeline along the northern Pinerias property line would create too great of an impact on the vehicle access road and adjacent forest and singletrack trail system. The pipeline(s) would travel east-west to the Option 1 pipeline using SMVC property and the local powerline easement located immediately north of the Pinerias Open Space boundary. The incoming/outgoing pipeline(s) would cross EPC property on the crest of the Palmer Divide to reduce impacts on the surrounding terrain and existing trail (see attached map). This portion of the project will be restored following the guidelines below.

- No construction staging of a temporary field office, waste material, or construction materials will take place within Pinerias Open Space. Adjacent properties would need to be utilized for this purpose and construction vehicles would need to travel to and from the site daily from a nearby off-site staging area. Trenching/boring machines and support vehicles that cannot be moved once trenching/boring has commenced may stay on the property during active construction. Overnight/on-site vehicles and machinery will park within the bounds of the temporary construction access license agreement. The existing powerline easement access road would be utilized to access the site.
- The construction site will be restored to pre-construction conditions, which will be recorded prior to commencement of on-site activity. Fine grading and seeding using pre-approved seed mix, combined with the use of erosion control blankets, straw, and straw wattles will be installed to not only prevent erosion, but to return the site to pre-construction conditions. If necessary, a water truck provided by the applicant may be utilized post-construction to promote vegetation growth, which will be monitored as part of the ESQCP permit process. All existing trails and access roads will be restored to pre-construction conditions.
- As previously offered by the applicant, staff recommends the installation of 6-8 fire hydrants along the eastern and southern boundaries of Pinerias Open Space. The precise locations will be determined during the site development process, but their approximate locations are shown on the accompanying map. The locations (latitude/longitude) of these fire hydrants will be relayed to the local fire protection districts.
- As was noted in previous comments above, several proposed El Paso County master planned primary and secondary regional trails may be impacted by this project. As such, a 25-foot regional trail easement may be requested by the County for public access, construction, and maintenance by El Paso County of the respective regional trails where the proposed pipeline impacts the planned trail corridor.

In conclusion, El Paso County Parks staff understands the importance of providing clean drinking water as a necessary component of population and infrastructure growth in El Paso County. While the exclusion EPC Parks as a landowner and local government agency in the early assistance process for the 1041 Permit application is not appreciated, staff has researched and recognizes reduced conservation values within the proposed pipeline alignments within Pinerias Open Space. **Therefore, staff strongly recommends that the applicant work closely with both EPC Parks and Palmer Land Conservancy to finalize the pipeline alignment in accordance with the aforementioned recommendations and provisions, and prepare all necessary draft-level documentation in preparation for further discussion, review, and final approval by EPC Parks and Palmer Land Conservancy.**

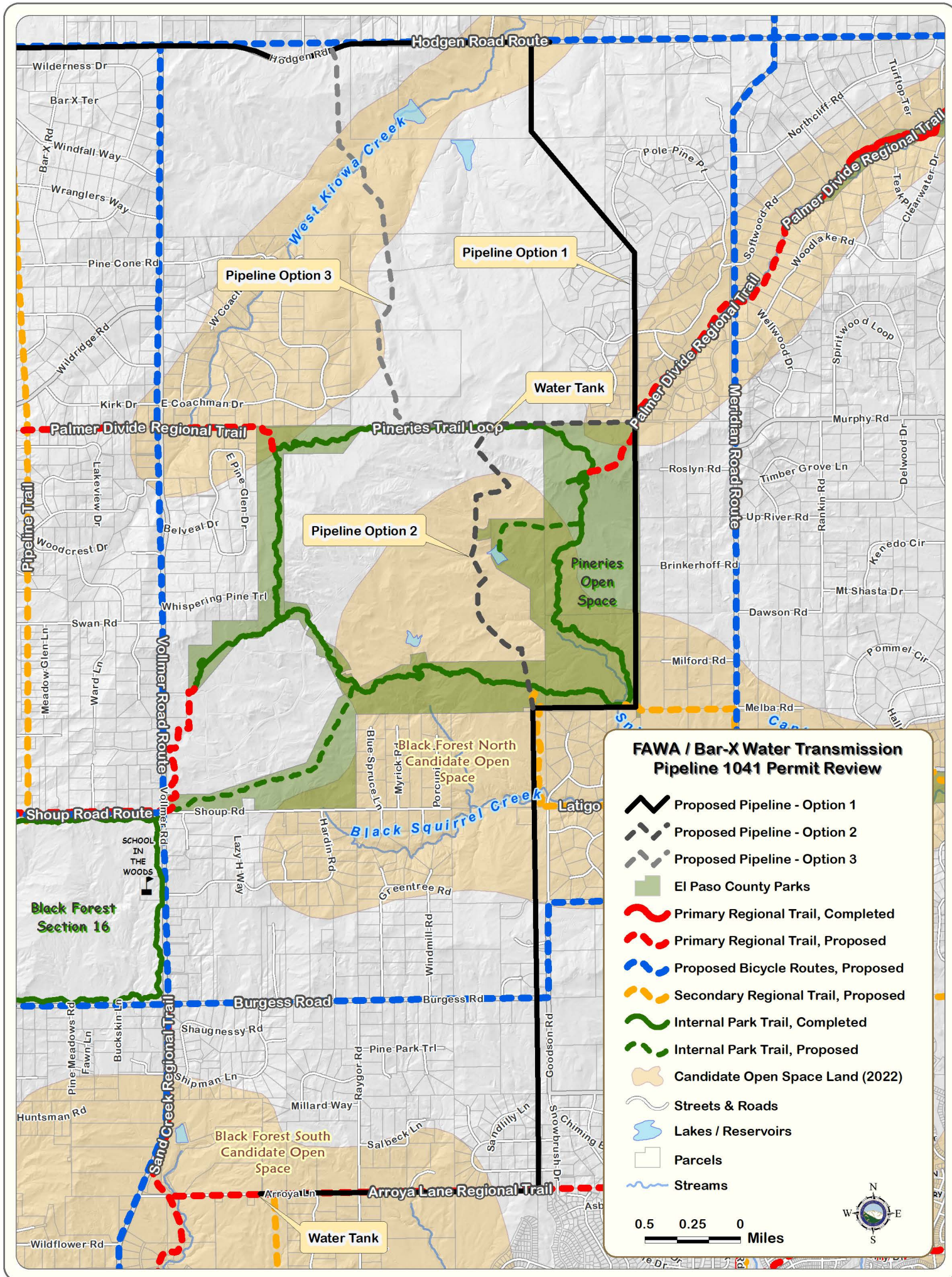
These comments are being provided administratively, as this application does not require Park Advisory Board consideration.

Please let me know if you have any questions or concerns.

Sincerely,

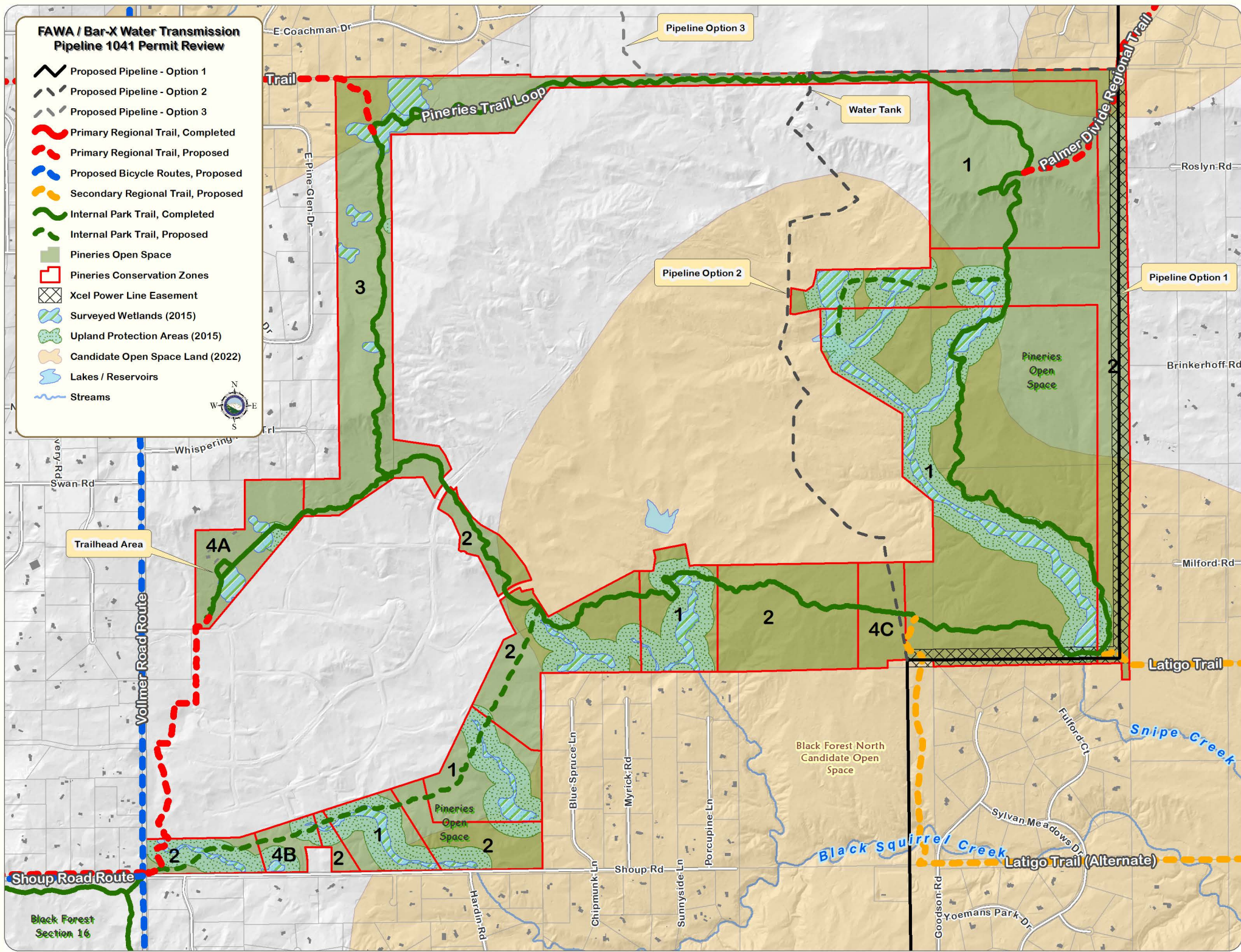


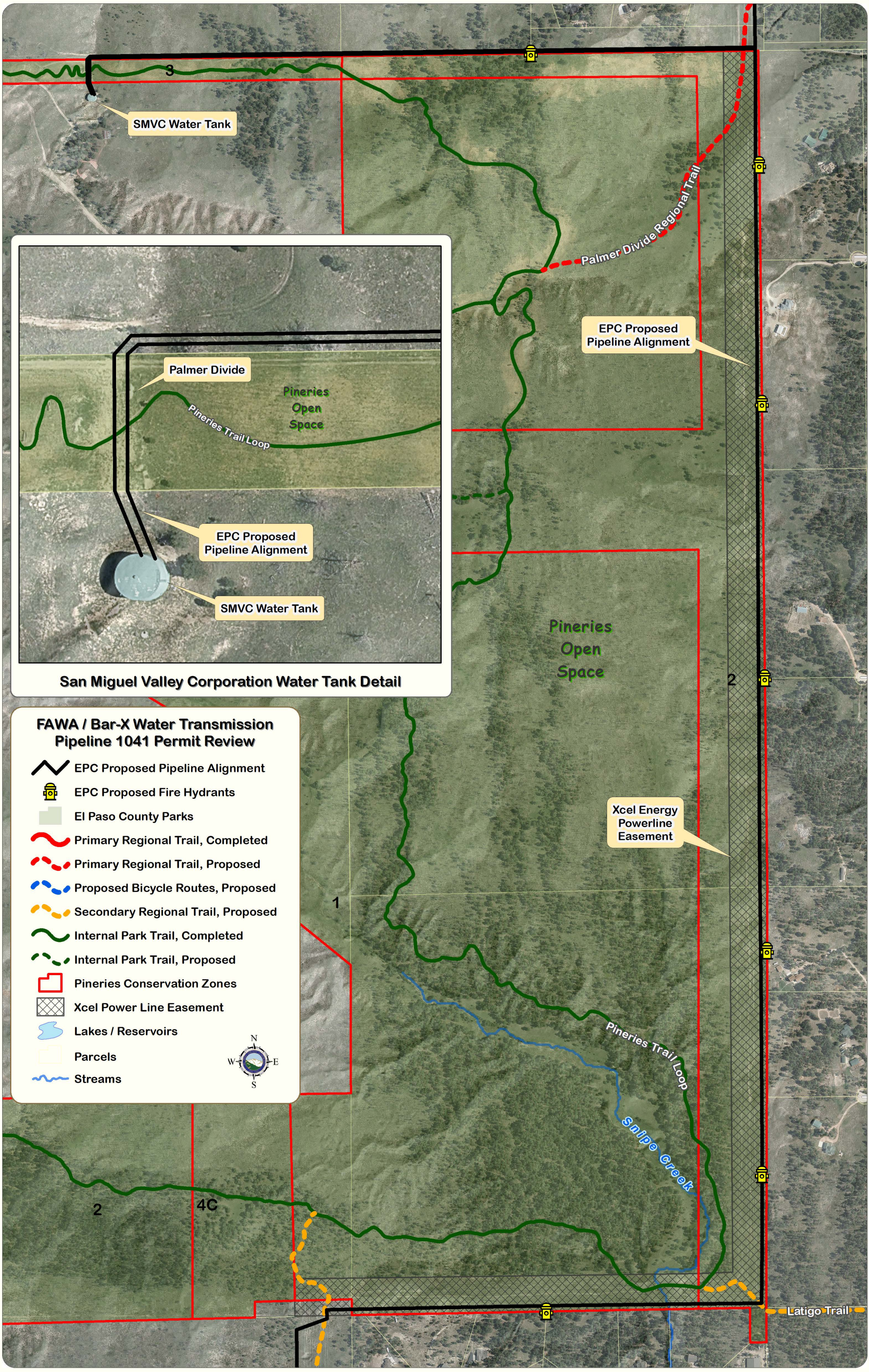
Ross A. Williams
Park Planner
Park Operations Division
Community Services Department
rosswilliams@elpasoco.com



FAWA / Bar-X Water Transmission Pipeline 1041 Permit Review

- Proposed Pipeline - Option 1
- Proposed Pipeline - Option 2
- Proposed Pipeline - Option 3
- Primary Regional Trail, Completed
- Primary Regional Trail, Proposed
- Proposed Bicycle Routes, Proposed
- Secondary Regional Trail, Proposed
- Internal Park Trail, Completed
- Internal Park Trail, Proposed
- Pineries Open Space
- Pineries Conservation Zones
- Xcel Power Line Easement
- Surveyed Wetlands (2015)
- Upland Protection Areas (2015)
- Candidate Open Space Land (2022)
- Lakes / Reservoirs
- Streams





SMVC Water Tank

Palmer Divide Regional Trail

EPC Proposed Pipeline Alignment

Palmer Divide

Pineries Trail Loop

Pineries Open Space

EPC Proposed Pipeline Alignment

SMVC Water Tank

Pineries Open Space

2

Xcel Energy Powerline Easement

Pineries Trail Loop

Snipe Creek

Latigo Trail

FAWA / Bar-X Water Transmission Pipeline 1041 Permit Review

- EPC Proposed Pipeline Alignment
- EPC Proposed Fire Hydrants
- El Paso County Parks
- Primary Regional Trail, Completed
- Primary Regional Trail, Proposed
- Proposed Bicycle Routes, Proposed
- Secondary Regional Trail, Proposed
- Internal Park Trail, Completed
- Internal Park Trail, Proposed
- Pineries Conservation Zones
- Xcel Power Line Easement
- Lakes / Reservoirs
- Parcels
- Streams

