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SOAH DOCKET NO. 473-19-1957

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APPLICATION OF CENTERPOINT §  
ENERGY HOUSTON ELECTRIC, LLC §  
TO AMEND A CERTIFICATE OF §  
CONVENIENCE AND NECESSITY FOR §  
A PROPOSED 345 KV TRANSMISSION §  
LINE WITHIN BRAZORIA, §  
MATAGORDA, AND WHARTON §  
COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

DIRECT TESTIMONY OF DON C. NELSON

ON BEHALF OF KATY PRAIRIE CONSERVANCY AND SPREAD OAKS RANCH  
(WYLIE VENTURES LLC)

MARCH 20, 2019

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**I. INTRODUCTION AND BACKGROUND**

**Q. Please state your name and business address.**

**A.** My name is Don C. Nelson. My business address is 24 Greenway Plaza, Suite 606, Houston, Texas 77046.

**Q. Please briefly describe your occupation and educational background.**

**A.** I am an attorney and General Counsel for Wylie Ventures LLC. I graduated from the Baylor University School of Law in 1972 and have been practicing for over 45 years in the fields of real estate, oil and gas, and business law. In the course of my representation of Wylie Ventures LLC I have become closely familiar with Spread Oaks Ranch, the property potentially impacted by the proposed transmission line in this case. My knowledge of the Spread Oaks Ranch covers both its character and physical features as well as its operations, management, and extensive conservation and wildlife protection measures.

**Q. Are you testifying as an attorney in this case?**

**A.** No, I am testifying as a representative of the Spread Oaks Ranch, Wylie Ventures LLC, and the Katy Prairie Conservancy in its role as a partner in the conservation efforts of the Ranch and its status as a protected property covered by an agricultural conservation easement pursuant to the Texas Parks and Wildlife Code.

**Q. Are you familiar with the application filed by CenterPoint Energy?**

**A.** Yes, generally, I am.

**Q. Did you attend one of the open house meetings conducted by CenterPoint Energy regarding this transmission line project?**

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A. Yes, I attended the meeting in Bay City, Texas.

**Q. Have you ever testified before the Public Utility Commission (PUC or Commission) before?**

A. No, I have not.

## **II. PURPOSE AND SCOPE**

**Q. What is the purpose and scope of your testimony?**

A. My testimony provides a description of the physical features, operation, and management of the Spread Oaks Ranch with a particular focus on the Ranch's simultaneous function as both a working agricultural operation and a property dedicated to the preservation and expansion of wildlife habitat and the unique ecological environment of the Texas coastal prairie. My testimony will describe how the routing of the transmission line on this property would negatively impact it and interfere with its operations and ecological significance. Specifically, the Spread Oaks Ranch is protected by an agricultural conservation easement that places limits on the manner in which it may be developed and requires that it continue to be managed in a manner beneficial to the conservation of Texas wildlife species and habitat.

**Q. How is Spread Oaks Ranch identified in this case?**

A. As Property Nos. 11450 and 13270, potentially impacted by Segment Nos. GG, GM, and GX of the Bailey to Jones Creek transmission line project.

**Q. Is the depiction of the property on the Joint Applicants' maps accurate?**

A. It is generally accurate.

**Q. Who is the owner of the Spread Oaks Ranch?**

A. Wylie Ventures LLC owns the property. Forrest Wylie owns Wylie Ventures LLC and has directed the management of the Ranch to serve the dual purposes of organic and traditional

agricultural cultivation, recreational use and enjoyment, and wildlife species habitat conservation.

**Q. Do you have a position regarding the routing of the proposed transmission line in this case?**

**A.** Yes. Generally, I support routing of the line on property that has already been developed in a manner consistent with transmission infrastructure to the extent possible, specifically in parallel to other existing transmission infrastructure. I support routing the line where its aesthetic impacts are more compatible with existing land use and development and I oppose routing the line in areas where the existing land uses will be severely negatively impacted by the presence of the line or where the line will take away the use of land for agriculture and the conservation of and habitat development for wildlife and the natural coastal prairie ecosystem.

**Q. Does Wylie Ventures LLC own other property in the study area?**

**A.** Yes, but none that has been identified in the application as a property potentially crossed or otherwise directly impacted by the proposed transmission line.

### **III. DESCRIPTION OF THE PROPERTY**

**Q. What are the general geographical features of your property?**

**A.** The Spread Oaks Ranch is a 5,332-acre ranch located along the Colorado River in Matagorda County. The Ranch is used for an active Brangus cattle-ranching operation as well as conventional and organic crop production, all operated using best-practices approach to preserve and enhance the wildlife ecosystem that is one of the most valuable resources of the Texas coastal prairie. The Ranch is located in the Central Flyway region and has developed and enhanced hundreds of acres of wetlands to provide extraordinary habitat for waterfowl and other migratory birds. Importantly, the Ranch has extensive areas of Columbia Bottomland Forest that, along with the Coastal Prairie, is a unique and imperiled ecosystem in Texas.

As demonstrated by the pictures below taken on the property on March 15, 2019, the Ranch is carefully managed so that the agricultural working portions of the property enhance

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rather than disturb the areas of the Ranch that are preserved for wildlife habitat. Additionally, many areas of the Ranch are used for dual purposes depending on the season, with crops cultivated upon fields during the spring and summer and the land then used to grow vegetation that will attract and provide habitat for wildlife during the autumn and winter.



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**Q. Describe how the Spread Oaks Ranch is managed to serve as both working agricultural land and wildlife habitat.**

**A.** The Ranch employs a system of balancing agricultural cultivation with development of sustainable waterfowl habitat. Organic corn, soybean, and rice fields are cultivated during the spring and summer and these fields are then flooded after harvest to create managed wetlands for migratory shorebirds and waterfowl throughout the autumn and winter. Once the birds migrate to the north the fields are drained and planted again with organic crops in the spring. This serves to augment the native waterfowl foods that the birds depend on over the winter as they prepare for their northward migration. Food crops are planted specifically to serve as feed for ducks, geese, dove, and deer.

**Q. Describe the cattle operation on the Spread Oaks Ranch.**

**A.** Spread Oaks Ranch operates a cow/calf operation with 500 female Brangus cattle and 40 bulls. The cattle graze on areas of the Ranch that are fenced so as to separate them from the sensitive habitat areas.

**Q. Does the Spread Oaks Ranch grow organic crops exclusively?**

**A.** No, while many areas of the Ranch are used for organic crops there are also areas where standard crops are grown. These require seasonal aerial spraying which raises some concerns about the proximity of power lines which can make it difficult to operate aircraft safely in close proximity.

**Q. Have water features been developed on Spread Oaks Ranch?**

**A.** Yes. There are multiple wells on the Ranch, some dug for agricultural purposes, others to provide water for wildlife. The wells are used to fill leveled fields in late summer to provide habitat for the fall migration of waterfowl. Additionally, there are a number of stock ponds on the Ranch that are filled with water at all times. Overall, the ranch has created or enhanced hundreds of acres of wetland habitat for migratory birds and waterfowl.

**Q. Would the proposed transmission line impact the developed water features?**

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- A. Yes. Proposed Segment No. GG would be immediately adjacent to a number of the winter ponds created on the Ranch and, depending on how it was specifically constructed, might cross portions of the ponds. Based on our best estimate using the maps provided by CenterPoint in its application, up to 176 acres of water roost could be crossed by Segment No. GG, creating a negative impact on the habitat used by ducks, cranes, and other waterfowl.







**Q. Does the Spread Oaks Ranch have any natural water features?**

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- A. Yes. The Ranch is bordered on its eastern boundary by the Colorado River. Blue Creek crosses the Ranch to provide a natural waterway and enriched habitat for the migratory species that make the Ranch home during the winter. Immediately to the south of the Ranch is Lake Jennings, a 180 acre lake that serves as contiguous habitat for waterfowl and other migratory birds.







**Q. Would the proposed transmission line potentially cross the Colorado River and Blue Creek on the Ranch?**

**A.** Yes. The line would cross the Colorado River on Segment No. GG as it enters the Ranch from the northeast and would then cross Blue Creek near the Ranch's northern boundary.

**Q. Describe the agricultural conservation easement on the Spread Oaks Ranch.**

**A.** The Spread Oaks Ranch is subject to an agricultural conservation easement pursuant to Chapter 84 of the Texas Parks and Wildlife Code. We believe that the Ranch is the largest contiguous conservation easement in Texas. The Spread Oaks Ranch is managed and operated pursuant to the limitations and requirements of Chapter 84.

**Q. Are habitable structures present on the property?**

**A.** Yes, there are three houses on the Ranch, two barn areas which both have multiple buildings and a large lodge that was completed relatively recently. The lodge is used by the owners of the Ranch as well as by paying guests who visit the ranch to hunt and enjoy the scenery and separation from city life.

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A professionally taken photograph of the lodge is shown below as it appears on the Spread Oaks Ranch website. The photographs that follow show the scenic perspective from the porch of the lodge looking out over the pond beyond it.







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**Q. Is there an electric transmission line on the property?**

**A.** No.

**Q. Do any other types of easements affect the property?**

**A.** Yes, there are a number of pipeline easements that cross the Ranch, mostly confined to a single large corridor of pipelines in one area of the Ranch. Though the pipelines are disruptive when installed they are relatively unimposing once in operation as they are all below-ground and have minimal impact on the wildlife habitat of the Ranch once the ground cover over them is able to recover and regrow to some extent. None of the proposed transmission line segments parallel the pipeline corridor.

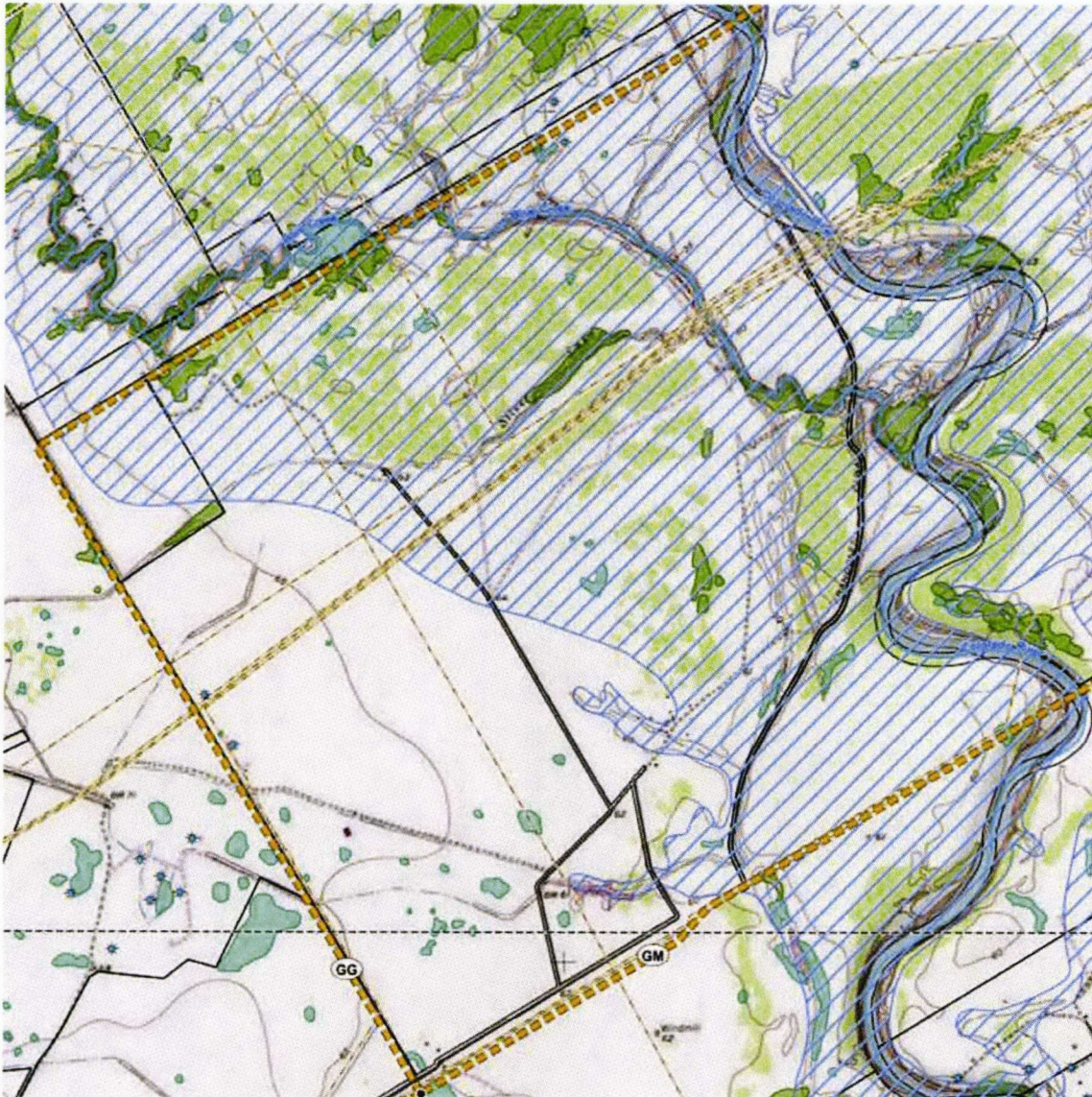
#### **IV. IMPACTS OF THE PROPOSED TRANSMISSION LINE ON PROPERTY**

**Q. In what manner would the Spread Oaks Ranch be impacted by the proposed transmission line?**

**A.** The Spread Oaks Ranch would be impacted by any route that included Segment Nos. GG, GM, and GX. The map below is an excerpt from CenterPoint's application which depicts these segments as they cross the topographical features of the Ranch. As noted above, the Ranch is bounded on the east by the Colorado River. With the exception of the northwestern corner, Segment No. GG follows the Ranch's northern and western boundaries after it crosses the River. Segment No. GM follows the southern boundary of the Ranch from its point of origin node to the River. A portion of Segment No. GX also crosses the Ranch along the southwestern border.

Following the topographical map excerpt are a series of excerpts from aerial maps depicting the Route Segments that would impact the Spread Oaks Ranch. These excerpts are from the maps provided on CenterPoint's web page for this project which, in turn, are similar to the aerial maps included in CenterPoint's application. Additional photographs taken on the Ranch on March 15, 2019 depict ground-perspective views of the areas of the Ranch that would be directly negatively impacted by the line.





**Q. Describe the aerial map excerpts that have been included in your testimony.**

**A.** The following map excerpts show the proposed Segment No. GG as it enters the Spread Oaks Ranch from the east, left to right. As you can see, the proposed segment crosses the Colorado River directly onto the Ranch and through a wooded area immediately abutting the River. These woods provide valuable wildlife habitat for all manner of Texas birds and mammals. It is my understanding that all trees within the right-of-way (ROW) of the line – designated on the map by dotted red lines – would have to be removed. The effects of this on the river

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habitat would be nothing short of devastating. Proposed Segment No. GG continues west over fields that are seasonally cultivated on the Ranch. The line generally follows the Ranch's northern boundary but does not do so exactly and thus would leave a strip of unusable land between the ROW and the boundary as well as the land within the ROW itself.



As the proposed Segment No. GG continues to traverse the Spread Oaks Ranch it crosses more fields (below right) and then would cross a long stretch of thickly wooded area (below left) again, likely requiring the trees to be removed as described in the Application and Environmental Assessment provided by CenterPoint and again incurring devastating loss to the natural habitat areas of the Ranch.





Proposed Segment No. GG would continue to traverse wooded areas of the ranch as it proceeds northeast to southwest as shown on the map excerpts below before finally emerging onto more of the Ranch's cropland.

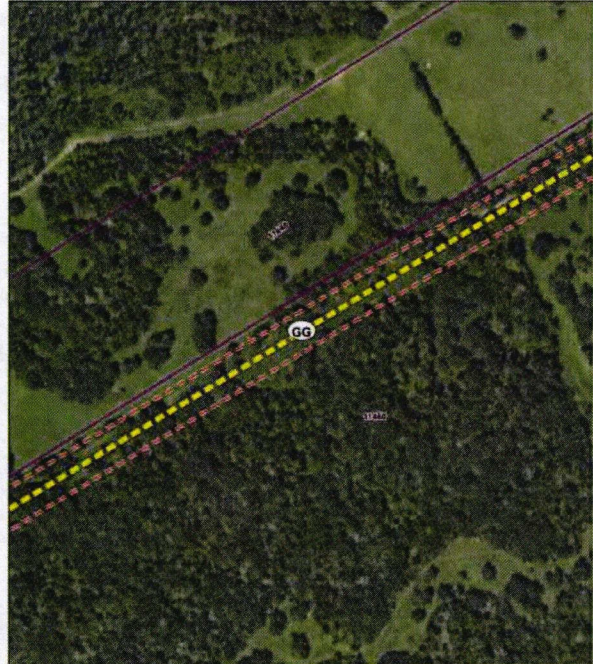
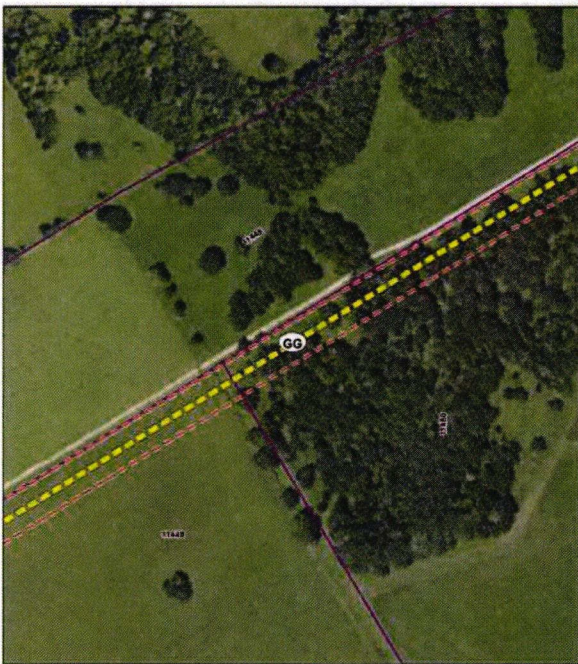
This portion of proposed Segment No. GG would pass within 400 yards of a bald eagle nest. There are two nesting pairs of bald eagles on the Ranch as well as a number of golden eagle nesting pairs. The picture of the nest below was taken on March 15, 2019 on the Ranch. The pictures of the eagles that follow were taken by another visitor to the Ranch on March 1, 2019.





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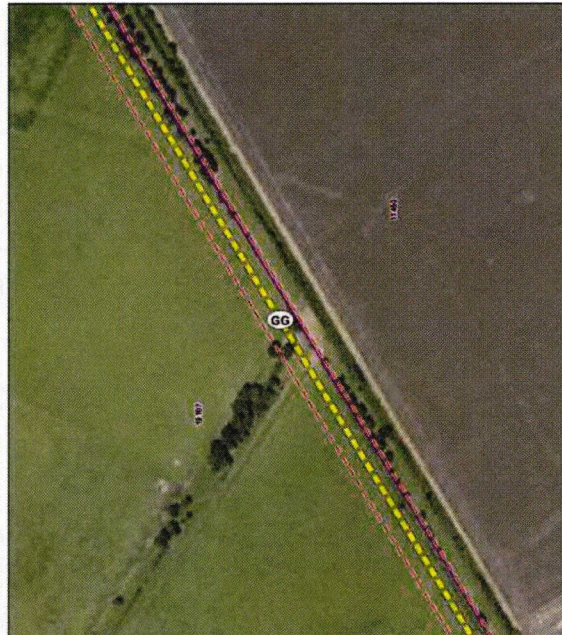
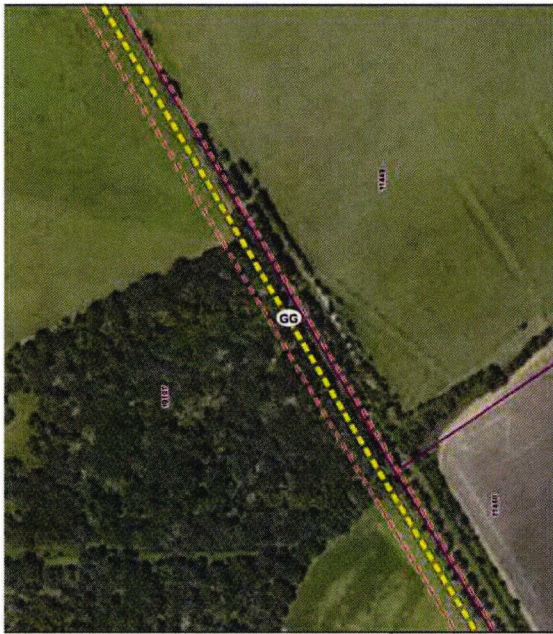




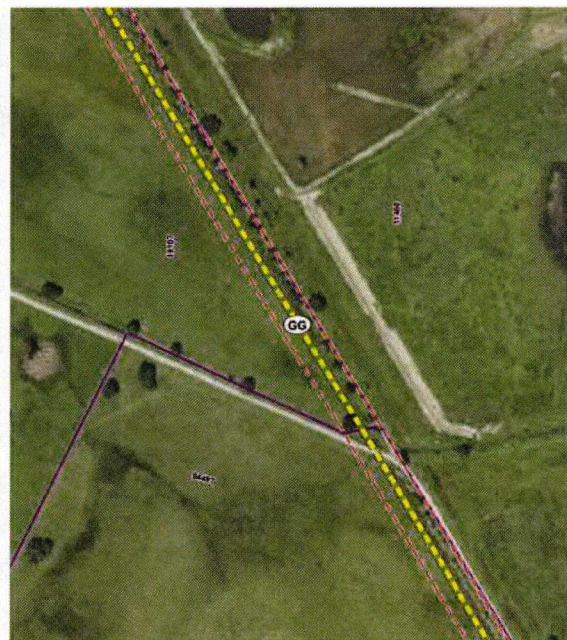
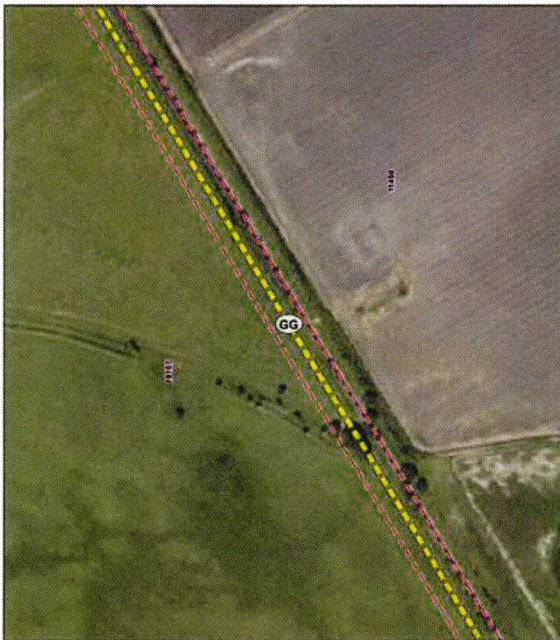


After the above-left portion of proposed Segment No. GG it would briefly leave the Spread Oaks Ranch and make a 90 degree turn to the southeast. The segment would then generally follow the Ranch's western boundary. From the depiction in CenterPoint's maps it appears that most of the segment ROW is on neighboring land, though the upper red dotted line is depicted on the Spread Oaks Ranch and would thus likely require ROW to be cleared there as well. Even if it was constructed completely on the property southwest of Spread Oaks Ranch, the removal of long areas of woodland on the Ranch's boundary would have a dramatic and deleterious impact on the wildlife habitat characteristics of the Ranch.





Proposed Segment No. GG would continue to follow the western boundary of Spread Oaks Ranch all the way south until it reached the node with proposed Segment Nos. GM and GX as shown below.



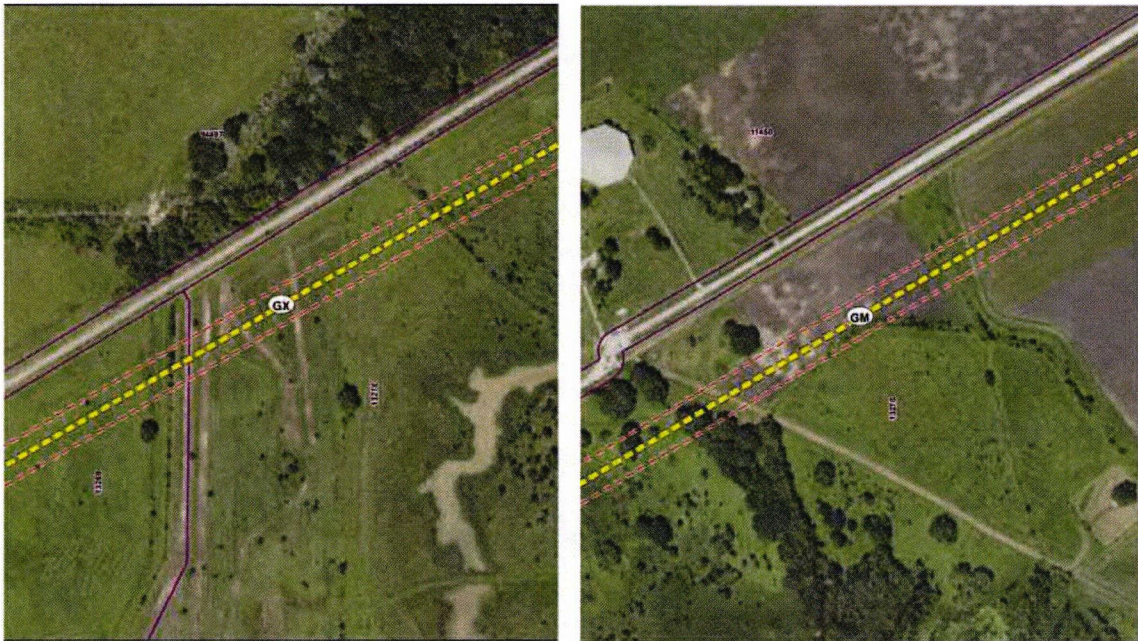
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Segment GX would cross land owned by Spread Oaks Ranch and require additional trees to be removed. Segment GM crosses the Ranch as it progresses northeast. The area shown on the map excerpt above where GM meets GG is near the gated entrance to the Ranch. Segment GM follows closely with a pipeline easement. This proposed segment would be particularly devastating for the Ranch because it would likely require clear cutting of a number of old oak trees that were specifically preserved when the pipeline was installed. As shown below, this would destroy the natural beauty of the entrance to the Ranch.





The following picture is from the Spread Oaks Ranch website.



The pictures below were taken near the entrance to the Ranch on March 15, 2019.

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Proposed Segment No. GM would continue to traverse the Ranch, with its ROW crossing directly over cropland and then more woodland that is part of the Columbia Bottomland Forest as it crossed Blue Creek and finally exited the Ranch by crossing over the Colorado River.



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**Q. What would be the impact of proposed Segment Nos. GG, GM, and GX to the Spread Oaks Ranch?**

- A.** As described above, the proposed segments would have a direct and extremely negative impact on the Ranch both as a working agricultural operation and as a dedicated property for the conservation of natural wildlife habitat. Proposed Segment Nos. GG and GM are long and traverse the Ranch for the majority of their lengths. Both would almost certainly require removal of an immense number of trees, many of which are old oaks, and this would have a devastating impact both on the aesthetic beauty of the Ranch and to its dedicated purpose as a cultivated sanctuary for Texas Prairie wildlife habitat. The proposed segments would also further diminish the range of imperiled Columbia Bottomland Forest and Texas Coastal Prairie, both unique ecosystems in Texas that are fast disappearing.

**V. CONCLUSION**

- Q. Are all of the pictures included in this testimony true and correct reproductions of photographs of the Spread Oaks Ranch taken in March, 2019?**

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**A.** Yes, with the exception of the pictures taken from the Ranch's website as noted and the photographs of the eagles which were taken separately on March 1, 2019. Also, as noted, the map excerpts are all from CenterPoint's project website and application. Full sized copies of some of these photographs may be offered as exhibits at the hearing on the merits.

**Q. Does this conclude your testimony?**

**A.** Yes it does.

