

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:

| | |
|---|--|
| Sunoco Pipeline L.P. 535 Fritztown Road Sinking Springs, PA 19608 | : Violations of The Clean Streams Law : and DEP Chapter 93 and 102 of Title 25 of : the Pennsylvania Code, and the Dam Safety : and Encroachments Act and DEP : Chapter 105 of Title 25 of the : Pennsylvania Code : PA Pipeline Project—Mariner East II : E&S Permit Nos. ESG0300015002; : ESG0100015001 : : WO&E Permit Nos.; E06-701; : E15-862; E38-194 |
|---|--|

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this ^{2nd} day of ~~July~~^{August}, 2018, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), and Sunoco Pipeline L.P. (“Sunoco”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, the Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1 – 691.1001 (“Clean Streams Law”); the Dam Safety and Encroachment Act, the Act of November 26, 1978 P.L. 1375, as amended, 32 P.S. §§ 693.1 – 6393.27 (“Dam Safety and Encroachment Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“rules and regulations”).

B. Sunoco is a foreign limited partnership doing business in Pennsylvania and maintains a mailing address of 535 Fritztown Road, Sinking Springs, PA 19608. Sunoco Logistics Partners Operations GP LLC is the general partner of Sunoco. Joseph Colella is Executive Vice President for Sunoco Logistics Partners Operations GP LLC. Mr. Colella has been granted authority by Sunoco Logistics Partners Operations GP LLC to sign documents for Sunoco on behalf of the General Partner.

C. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco has undertaken an effort to expand existing transportation systems for natural gas liquids in Pennsylvania, which is collectively referred to as the Pennsylvania Pipeline Project – Mariner East II (“PPP-ME2”). As part of PPP-ME2, Sunoco is conducting pipeline installation activities in seventeen counties in Pennsylvania, including Berks, Chester, and Lebanon Counties.

D. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E06-701, to construct PPP-ME2 through Berks County

E. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0100015001, and Water Obstruction and Encroachment Permit, Permit Number E15-862, to construct PPP-ME2 through Chester County.

F. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E38-194, to construct PPP-ME2 through Lebanon County.

G. Erosion and Sediment Control Permit, Permit Number ESG0300015002 and Erosion and Sediment Control Permit, Permit Number ESG0100015001 are collectively referred to herein as the “Chapter 102 Permits.” Water Obstruction and Encroachment Permit, Permit Number E06-701, Water Obstruction and Encroachment Permit, Permit Number E15-862, and Water Obstruction and

Encroachment Permit, Permit Number E38-194 are collectively referred to herein as the “Chapter 105 Permits.”

H. Horizontal Directional Drilling (“HDD”) shall be defined within, as any steerable trenchless technology that controls the direction and deviation to a predetermined underground target or location using drilling fluids under pressure.

I. The work area for PPP-ME2 in Berks County, Pennsylvania includes, but is not limited to, approximately 20.4 miles of pipeline construction. Sunoco conducted earth disturbance activities to install a portion of the pipeline in South Heidelberg Township utilizing open-trench construction methodology, including in an area to the north and west of Preston Road (“Preston Road Site”).

J. The work area for PPP-ME2 in Chester County, Pennsylvania includes, but is not limited to, approximately 24 miles of pipeline construction. Sunoco conducted earth disturbance activities to install a portion of the pipeline in West Whiteland and Uwchlan Townships utilizing HDD construction methodology, including in an area on the west side of SR 100 between Township Line Road and Biddle Road (“Shoen Road Site”). The HDD activity at the Shoen Road Site is identified by Sunoco as HDD S3-0360 and is also known as the Shoen Road HDD.

K. The work area for PPP-ME2 in Lebanon County, Pennsylvania includes, but is not limited to, approximately 19.7 miles of pipeline construction. Sunoco conducted earth disturbance activities to install a portion of the pipeline in South Londonderry Township utilizing HDD construction methodology, including in an area on the east side of Lawn Road (“Lawn Road Site”). The HDD activities at the Lawn Road Site is identified by Sunoco as HDD S3-0100 and is also known as the Lawn Road HDD.

L. On June 14, 2017, Sunoco commenced HDD activities at the Shoen Road Site. The Shoen Road HDD extends for approximately 2841 feet. Sunoco suspended HDD activities on July 4, 2017. From July 5, 2017 to July 7, 2017, Sunoco installed grouting in the pilot hole of the Shoen Road

HDD. On July 8, 2017, Sunoco resumed HDD drilling activities. On July 13, 2017, Sunoco again halted HDD activities and has not resumed them since that time. To date, Sunoco has completed approximately 1574 feet of the Shoen Road HDD.

M. On June 14, 2017, Sunoco provided notification to the Department that it would commence HDD activities at the Lawn Road Site. The Lawn Road HDD extends for approximately 620 feet. Sunoco completed the installation of both the 16-inch and 20-inch pipelines comprising the Lawn Road HDD in September 2017.

N. The Chapter 105 Permits and Chapter 102 Permits require permittee(s) to follow HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan (“HDD IR PPC Plan”) that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event.

O. The HDD IR PPC Plan in the Chapter 102 Permits and the Chapter 105 Permits require Sunoco to:

1. Provide the Department with immediate verbal notification of any citizen complaint of an impact to a private water supply or when Sunoco otherwise becomes aware of an impact to a private water supply.
2. Report the information referenced in paragraph N.1., above, to the Department’s online Oil and Gas Reporting Electronic (“OGRE”) application within 24 hours.

P. On August 14, 2017, through the OGRE application, Sunoco submitted notification to the Department of a citizen complaint of an impact to a private water supply in the vicinity of the Preston Road Site. The citizen had complained of adverse impacts to their private water supply in the form of diminution.

Q. From July 6, 2017 through July 14, 2017, through the OGRE application Sunoco submitted notification to the Department of 15 citizen complaints of impacts to private water

supplies in the vicinity of the Shoen Road Site, specifically on Township Line Road, Valley View Drive, and North Pottstown Pike. The citizens had complained of adverse impacts to their private water supplies including cloudy water, turbid water, discolored water, loss of water pressure, and diminution of water from July 2, 2017 through July 14, 2017.

R. On September 14, 2017, through the OGRE application Sunoco submitted notification to the Department of a citizen complaint of an impact to a private water supply in the vicinity of the Lawn Road Site. The citizen had complained of adverse impacts to their private water supply in the form of turbid water.

S. The citizens identified Paragraphs O., P., and Q., above, have water wells that draw water from groundwater. Groundwater is a “Water of the Commonwealth” within the meaning of Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

T. In response to the water supply complaints, Sunoco collected water samples from the private water supplies in the vicinity of the Shoen Road Site and the Lawn Road Site between July 5, 2017 through November 7, 2017, and had them analyzed for various parameters. The private water supplies that were sampled by Sunoco included those for which a citizen complaint had been reported through the OGRE application.

U. Special Condition B. of Water Obstruction and Encroachment Permit Number E15-862 and Special Condition 20b. of Water Obstruction and Encroachment Permit Numbers E06-701 and E38-194 provide as follows:

In the event the permittee’s work causes adverse impacts to a public or private water supply source, the permittee shall also immediately notify the Department and implement a contingency plan, to the satisfaction of the public and private water supply owners that addresses all adverse impacts imposed on the public and private

water supply as a result of the pollution event, including the restoration or replacement of the impacted water supply.

V. Section 1917-A of the Administrative Code (Abatement of Nuisances), 71 P.S. § 510-17, provides, in relevant part, that:

The Department of Environmental Resources shall have the power and its duty shall be:

- (1) To protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the department;
- (2) To cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality, and, for that purpose, without fee or hinderance, to enter, examine and survey all grounds, vehicles, apartments, buildings, and places, within the Commonwealth, and all persons, authorized by the department to enter, examine and survey such grounds, vehicles, apartments, buildings and places, shall have the powers and authority conferred by law upon constables;
- (3) To order such nuisances including those detrimental to the public health to be abated and removed;

W. The term "Pollution" is defined in Section 1 of the Clean Streams Law (Definitions), 35 P.S. § 691.1, as:

"Pollution" shall be construed to mean contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical,

chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined.”

X. The Department determined that Sunoco’s activities impacted the private water supplies of the citizens noted in Paragraphs P, Q, and R, above, during pipeline construction activities at the Preston Road Site, the Shoen Road Site, and the Lawn Road Site, by causing cloudy, turbid, and discolored water or a diminution of quantity.

Y. Sunoco’s activities at the Preston Road Site, the Shoen Road Site, and the Lawn Road Site caused pollution and potential pollution to Waters of the Commonwealth.

Z. The adverse impacts to the private water supplies of the citizens at the Preston Road Site, the Shoen Road Site, and the Lawn Road Site, consisting of cloudy water, turbid water, and discolored water, diminution of domestic water supply, and loss of water pressure in domestic water supply, constitute a “nuisance” under Section 1917-A of the Administrative Code (Abatement of Nuisances), 71 P.S. § 510-17.

AA. The Department has determined that Sunoco failed to immediately notify the Department of adverse impacts to private water supplies at the Shoen Road Site, as required by Special Condition B. of Water Obstruction and Encroachment Permit Number E15-862.

BB. The violations described in Paragraphs Y, Z, and AA, above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18; a statutory nuisance under Section 601 of the Clean Streams Law, 35 P.S. § 691.601; and subject Sunoco to civil penalty liability under Section 605 of the

Clean Streams Law, § 691.605 and Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by Sunoco:

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of The Clean Streams Law, 35 P.S. § 691.605 and Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21, the Department hereby assesses a civil penalty of \$147,747.00 which Sunoco hereby agrees to pay.

2. **Civil Penalty Settlement.** Sunoco consents to the assessment of the civil penalty of \$147,747.00, which shall be paid within 30 days of the effective date of this CACP. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs X, Y, Z, and AA, above, covering the period from July 6, 2017 to the date of execution of this CACP. The payments shall be by corporate check(s) or the like, made payable to the "Commonwealth of Pennsylvania". The payment of ONE HUNDRED FORTY-SEVEN THOUSAND SEVEN HUNDRED FORTY-SEVEN DOLLARS (\$147,747.00) shall be divided between the Department's Special Funds as follows: NINETY-NINE THOUSAND SEVEN HUNDRED FORTY-SEVEN DOLLARS (\$99,747.00) shall be deposited in the Clean Water Fund, and FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00) shall be deposited in the Dams and Encroachments Fund. All checks shall be sent c/o Ronald C. Eberts, Jr., Environmental Protection Compliance Specialist, DEP Waterways and Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

3. **Findings.**

a. Sunoco agrees that the findings in Paragraphs A through X are true and correct, and in any matter or proceeding involving Sunoco or any of their affiliates and the Department, Sunoco shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the Findings in this CACP in any matter or proceeding.


4. **Remedies.** In the event that Sunoco fails to make the payment required by this CACP, all remaining payments shall be immediately due and payable. In that event, the Department may pursue any remedy available for failure to pay a civil penalty, including an action for breach of contract or the filing of this CACP as a lien in any county in this Commonwealth.

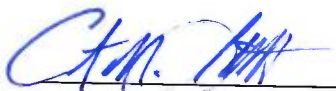
5. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Sunoco reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties have caused the CACP to be executed by their duly authorized representatives. The undersigned representatives of Sunoco certify, under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this CACP on behalf of Sunoco, that Sunoco consents to the entry of this CACP as an ASSESSMENT of the Department; that Sunoco hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and, that Sunoco knowingly waives its rights to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. §7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other

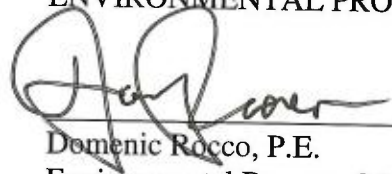
provision of law. Signature by Sunoco's attorney certifies only that this CACP has been signed after consulting with legal counsel.

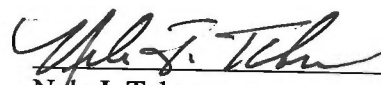
FOR SUNOCO PIPELINE L.P.:

 7-27-18
Joseph Colella Date
Senior Vice President

 7/31/18
Curtis N. Stambaugh, Esq. Date
Attorney for Sunoco Pipeline, L.P.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

 8/2/18
Domenic Rocco, P.E. Date
Environmental Program Manager

 8/2/18
Nels J. Taber Date
Senior Litigation Counsel