

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:

Sunoco Pipeline, L.P.	:	Violations of The Clean Streams Law
535 Fritztown Road	:	and DEP Chapter 93 and 102 of Title 25 of
Sinking Springs, PA 19608	:	the Pennsylvania Code
	:	
	:	PA Pipeline Project – Mariner East II
	:	E&S Permit No. ESCG0300015002
	:	WO&E Permit No. E38-194
	:	
	:	South Annville Township, Heidelberg Township
	:	and South Londonderry Township,
	:	Lebanon County
	:	
	:	DEP File NOV 38 17 102

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 21st day of *December*, 2017, 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 (“The Clean Streams Law”). Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17; and the rules and regulations promulgated thereunder.

B. Sunoco Pipeline, L.P. (“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 Pipeline, L.P. 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 Lebanon County, Pennsylvania.

D. On August 15, 2017, the Department received notice from Sunoco of an active release of sediment into Bachman Run (S-A15) as a result of pipeline construction activities west of Mount Wilson Road in South Annville Township, Lebanon County (“Site 1”).

E. On September 8, 2017, the Lebanon County Conservation District (“LCCD”) conducted a routine partial inspection of the pipeline construction activities in Heidelberg Township, Lebanon County (“Site 2”).

F. On October 12, 2017, the Department conducted a routine partial inspection of the pipeline construction activities in South Londonderry Township, Lebanon County (“Site 3”).

G. Site 1, Site 2, and Site 3 are collectively referred to herein as the (“Sites”).

H. The receiving waters for the Sites are Bachman Run, Middle Creek, and Killinger Creek, waters of this Commonwealth. The fishery classification for Bachman Run and Killinger Creek in 25 Pa. Code § 93.9(o) is Trout Stocking (TSF). The fishery classification for Middle Creek in 25 Pa. Code § 93.9(o) is Warm Water Fishes (WWF).

I. On August 15, 2017, September 8, 2017, and October 12, 2017, the LCCD and Department inspected the Sites and determined that Sunoco did not implement effective Best Management Practices (“BMPs”) to effectively minimize accelerated erosion and sedimentation at the Sites.

J. On August 15, 2017, September 8, 2017, and October 12, 2017, the LCCD and Department inspected the Sites and determined that Sunoco did not maintain BMPs to effectively minimize accelerated erosion and sedimentation at the Sites.

K. On August 15, 2017, September 8, 2017, and October 12, 2017, the LCCD and Department inspected the Sites and determined that Sunoco conducted earth disturbance activities at the Site in a manner contrary to the conditions contained in Erosion and Sediment (“E&S”) Permit No. ESCG0300015002.

L. On August 15, 2017, September 8, 2017, and October 12, 2017, the LCCD and Department inspected the Sites and determined that Sunoco caused or allowed accelerated erosion and resulting sedimentation from earth disturbance activities at the Sites to Bachman Run, Middle Creek, and Killinger Creek, waters of this Commonwealth.

M. Failure to implement erosion and sedimentation control BMPs to effectively minimize accelerated erosion and sedimentation at the Sites is a violation of 25 Pa. Code § 102.4, constitutes a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402, and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

N. Failure to maintain erosion and sedimentation control BMPs to effectively minimize accelerated erosion and sedimentation at the Sites is a violation of 25 Pa. Code § 102.4, constitutes a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402, and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

O. Failure to comply with permit conditions at the Sites constitutes unlawful conduct and a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402 and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

P. Conduct causing or allowing accelerated erosion and resulting sedimentation into waters of this Commonwealth by earth disturbance activities at the Sites constitutes unlawful conduct under Sections 401 and 611 of The Clean Streams Law, 35 P.S. §§ 691.401 and 691.611.

Q. Sunoco's failure to implement erosion and sedimentation control BMPs to effectively minimize accelerated erosion and sedimentation at the Sites is a violation of 25 Pa. Code § 102.4, constitutes a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402, and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

R. Sunoco's failure to maintain erosion and sedimentation control BMPs to effectively minimize accelerated erosion and sedimentation at the Sites is a violation of 25 Pa. Code § 102.4, constitutes a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402, and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

S. Sunoco's failure to comply with permit conditions at the Sites constitutes unlawful conduct and a nuisance under Section 402 of The Clean Streams Law, 35 P.S. § 691.402 and constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611.

T. Sunoco's conduct causing or allowing accelerated erosion and resulting sedimentation into waters of this Commonwealth by earth disturbance activities at the Sites constitutes unlawful conduct under Sections 401 and 611 of The Clean Streams Law, 35 P.S. §§ 691.401 and 691.611.

U. The violations described above, constitute unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611, a nuisance under Section 402(b) of The Clean Streams Law, 35 P.S. § 691.402(b), and subject Sunoco to a claim for civil penalties under Section 605 of The Clean Streams Law, 35 P.S. § 691.605.

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, the Department hereby assesses a civil penalty of \$43,953.00, which Sunoco hereby agrees to pay.

2. **Civil Penalty Settlement.** Sunoco consents to the assessment of the civil penalty of FORTY THREE THOUSAND NINE HUNDRED AND FIFTY THREE DOLLARS (\$43,953.00), which shall be paid in full upon signing. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs Q. through U., above, covering the period from August 15, 2017 to the date of execution of this CACP. The payment shall be by corporate check or the like, made payable to the following: a) payment in the amount of FORTY THREE THOUSAND FOUR HUNDRED AND TWENTY FIVE DOLLARS (\$43,425.00) to the "**Commonwealth of Pennsylvania, Clean Water Fund**" and b) payment in the amount of FIVE HUNDRED AND

TWENTY EIGHT (\$528.00) to the "Lebanon County Conservation District," and sent c/o Mr. Ronald C. Eberts Jr., Compliance Specialist, DEP Waterways and Wetlands Program, 909 Elmerton Avenue, Harrisburg, Pennsylvania 17110-8200.

3. **Findings.**

- a. Sunoco agrees that the findings in paragraphs A. through P. 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, LP:

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION


Joseph Colella
Executive Vice President

12-19-17
Date


Scott R. Williamson
Program Manager
Waterways and Wetlands Program

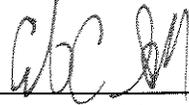
12/21/17
Date



12/20/17

Curtis N. Stambaugh, Esq.
for Sunoco Pipeline, L.P.

Date



12-21-17

Curtis C. Sullivan, Esq.
Assistant Counsel

Date