

August 29, 2018

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 9590 9402 1222 5246 4964 76

Mr. Matthew L. Gordon
Sunoco Pipeline, L.P.
535 Fritztown Road
Sinking Springs, PA 19608

Re: Violations of the Clean Stream Law and Dam Safety and Encroachments Act
Pennsylvania Pipeline Project (a.k.a. Mariner East 2)
Permit Nos. E23-524 and ESG 01 000 15 001
Middletown Township
Delaware County

Dear Mr. Gordon:

This Notice of Violation (“NOV”) regards a series of new incidents at the S3-0620 Glen Riddle Horizontal Directional Drilling (“HDD”) site (PA-DE-0100.0000-RR-16) (“Site”) located in Middletown Township, Delaware County. These incidents are described below:

On August 5, 2018, a subsidence from drilling activities occurred in Wetland WL-I1. To remedy the issue, Sunoco placed approximately twenty-one cubic yards of flowable fill into the wetland. The placement of flowable fill in a wetland is a “water obstruction,” an “encroachment,” and an unauthorized “discharge of fill material” into a “Body of water” under the Department of Environmental Protection’s (“DEP”) regulations at 25 Pa. Code Chapter 105. This activity impairs the functions and values of the wetland. The placement of fill into a wetland without the written approval of DEP is a violation of 25 Pa. Code § 105.11.

On August 22, 2018, DEP received notice of three inadvertent returns of drilling fluids (“IRs”) at the Site. The notice involved a discharge of approximately Two Hundred Fifty (250) gallons total of drilling fluid at three different locations. The first location was in an upland grass area outside of the existing containment identified as the Upland Tunbridge Apartments (“Upland T.A.”). The second and third areas were located in Wetland WL-I1. Approximately One Hundred (100) gallons of drilling fluid flowed from Wetland WL-I1 into a stream, an UNT to Chester Creek (S-I1). A DEP representative confirmed the clean-up of these IRs and that further new containment areas were adequately established at said new IR locations.

On August 26, 2018, DEP received notice of an IR occurring at the Site that involved a discharge of approximately Two Hundred (200) gallons total of drilling fluid to an upland grass area outside of the existing containment identified as the Upland T.A., and the new Upland T.A. containment area of August 22. Approximately One Hundred (100) gallons of drilling fluid flowed from the upland IR into Wetland WL-11.

The drilling fluids that comprised the IRs constitute "Industrial Waste" under Section 1 of the Clean Stream Law, 35 P.S. § 691.1. The unauthorized discharge of Industrial Waste to waters of the Commonwealth is a violation of Section 301 of the Clean Stream Law, 35 P.S. § 691.301.

DEP Permits E23-524 and ESG-01-000-15-00, and paragraph 5 of the Stipulated Order ("Order") entered by the Environmental Hearing Board on April 16, 2018, require the permittee to follow its "HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan" (revised April 16, 2018) ("IR PPC Plan") to reduce, minimize, or eliminate pollutants arising from HDD activities.

Allowing the unauthorized discharge of Industrial Waste to waters of the Commonwealth constitutes a violation of Section 301 of the Clean Streams Law, 35 P.S. § 691.301, and constitutes 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.

DEP requests that you submit the following to the attention of Mr. Frank De Francesco via e-mail at fdefrances@pa.gov by **September 5, 2018**:

1. Any initial or interim IR reporting form(s) for the Site as required by Section 6.3 of the HDD IR PPC Plan. An aerial depiction of all existing IR containment areas on site which have been established as of the date of this NOV and date-labeled for initial IR.
2. A detailed description, including photos documenting current site conditions, of the actions taken to contain and remove the IRs from waters of the Commonwealth, and a plan for any additional measures necessary to complete remediation.
3. A Site-Specific Restoration Plan for the impacts to Wetland WL-11, including, at a minimum, the following:
 - Site plans showing the limits of the impact.
 - A narrative description of the composition/make-up of the existing wetland.
 - A sequence narrative indicating the process and activities Sunoco will undertake to restore Wetland WL-11, including all its functions and values.

4. A strategic plan to reduce, minimize, or eliminate pollutants arising from HDD activities throughout the reaming/swabbing phase and the pipe pullback.

Please be reminded that DEP approval is required before restarting drilling operations for PA-DE-0100.0000-RR-16. Additionally, a reevaluation report is required to be submitted to DEP for the second line, PA-DE-0100.0000-RR-20, in accordance with paragraph 3 of the August 10, 2017, Corrective Stipulated Order.

This Notice of Violation is neither an order nor any other final action of DEP. It neither imposes nor waives any enforcement action available to DEP under any of its statutes. If DEP determines that an enforcement action is appropriate, you will be notified of the action.

I look forward to your cooperation in this matter. If you have any questions, please call Mr. Frank De Francesco, Compliance Specialist, at 484.250.5161.

Sincerely,



John Hohenstein, P.E.
Acting Regional Manager
Waterways and Wetlands

cc: Mr. Embry – Sunoco Pipeline
Mr. Prosceno – TetraTech
Ms. Wheeler – Delaware County Conservation District
PA Fish and Boat Commission, Southeast Office
Mr. Caplan – U.S. Army Corps of Engineers, Philadelphia District
Middletown Township
Re 30 (GJS18WAW)241-8