

February 28, 2018

NOTICE OF VIOLATION

Mr. Matthew Gordon
Sunoco Pipeline, L.P.
535 Fritztown Road
Sinking Springs, PA 16908

CERTIFIED MAIL NO. 9171 9690 0935 0150 2170 34

Mr. David Bell
Precision Pipeline, LLC
3314 56th Street
Eau Claire, WI 54703

CERTIFIED MAIL NO. 9171 9690 0935 0150 2170 41

Re: Violations of The Clean Streams Law, and the
Dam Safety and Encroachments Act
Pennsylvania Pipeline / Mariner East II Project
DEP Permit Nos. ESG0300015002 and E21-449
DEP File No NOV 21 18 101
Lower Frankford Township, Cumberland County

Dear Mr. Gordon & Mr. Bell:

On February 27, 2018, the Department of Environmental Protection (“Department”) received notice of an inadvertent return (“IR”) of 100 gallons of drilling fluids into stream S-J41 (an unnamed tributary to Locust Creek) and wetland J35 in Lower Frankford Township, Cumberland County associated with Horizontal Directional Drill No. PA-CU-0062.0000-WX (“Site”). On February 27, 2018, the Department conducted an inspection of the Site and documented that the IR occurred within stream S-J41 (an unnamed tributary to Locust Creek, a warm water fishery) and wetland J35, waters of the Commonwealth. The drilling fluids that comprised the IR constitute Industrial Waste. The discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of Section 301 of The Clean Streams Law, 35 P.S. § 691.301. The Department did not authorize any IRs at the Site by permit or other authorization.

Department permits E21-449 and ESG030015002 require permittee(s) to follow their ‘*HDD Inadvertent Return, 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. The current version of the HDD IR PCC Plan contains a revision date of February 6, 2018.

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.

In order to develop an appropriate enforcement strategy, the Department requests that you submit the following to the attention of Andrea Blosser by email at ablosser@pa.gov by March 9, 2018:

1. Any additional interim or final IR reporting form(s) for the site—as required by the Section 6.3 of the HDD IR PPC Plan.
2. A detailed description, including photos documenting current Site conditions, of the actions taken to contain and remove the IR from waters of the Commonwealth and a plan for any additional measures necessary to complete remediation.
3. In accordance with Section 5.1.5 (Monitoring Protocol for Condition 3) of the HDD IR PPC Plan, a “restart report” prepared and sealed by a Pennsylvania licensed Professional Geologist (PG) containing an overview of the HDD activities, the PG’s assessment of strata where the IR occurred, depth and alignment of the drill bit at the time of the IR, profile of the drill path as constructed overlain on the permitted drill profile, an analysis of the risk of additional inadvertent returns to waters of the Commonwealth, and recommendations on measures that will minimize the likelihood that further drilling will result in harm to the environment, or impact any private or public water supplies.

Please be reminded Department approval of the restart report is required before resuming drilling operations for PA-CU-0062.0000-WX. Additionally, as an IR occurred during the first pipe installation at this location, a re-evaluation is required for PA-CU-0062.0000-WX-16 in accordance with Paragraph 3 of the August 10, 2017 Corrected Stipulated Order.

This Notice of Violation is neither an order nor any other final action of the 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.

Mr. Matthew Gordon
Mr. David Bell

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DEP looks forward to your cooperation in this matter. If you have any questions, please contact me at 717.705.4763.

Sincerely,



Andrea Blosser
Environmental Group Manager
Conservation, Restoration, and Inspection Section
Waterways & Wetlands Program

cc: Matt Stough – Cumberland County Conservation District
Captain Alan Robinson - PA Fish and Boat Commission, Southcentral Region
Debby Nizer - US Army Corps of Engineers, Baltimore District
Chris Embry - Sunoco Pipeline, LP
Lower Frankford Township