

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, 102, and 105 of
Sinking Springs, PA 19608	:	Title 25 of the Pennsylvania Code.
	:	
	:	PA Pipeline Project—Mariner East II
	:	E&S Permit Nos. ESG0300015002;
	:	ESG0500015001; ESG0100015001
	:	
	:	WO&E Permit Nos.; E02-1718; E06-
	:	701; E07-459; E11-352; E15-862; E21-
	:	449; E22-619; E23-524; E31-234; E32-
	:	508; E34-136; E36-945; E38-194; E50-
	:	258; E63-674; E65-973; E67-920
	:	

ADMINISTRATIVE ORDER

Now this 3rd day of January, 2018, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), has found and determined the following facts and findings and by this Administrative Order imposes the specified performance obligations upon Sunoco Pipeline, L.P. (“Sunoco”).

Findings

Parties

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, 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 et seq. (“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 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 seventeen counties in Pennsylvania, including Berks, Blair, Cumberland, Dauphin, Huntingdon, Perry, and Washington Counties.

Permits

D. To construct PPP-ME2 through Pennsylvania, Sunoco obtained the following permits from the Department:

- a. Three (3) Erosion and Sediment Control Permits under 25 Pa. Code Chapter 102, Permit Numbers ESG0300015002, ESG0500015001, and ESG0100015001 (Chapter 102 Permits) and;
- b. Seventeen (17) Water Obstructions and Encroachment (“WOE”) Permits under 25 Pa. Code Chapter 105, Permit Numbers E02-1718, E06-701, E07-459, E11-352, E15-862, E21-449, E22-619, E23-524, E31-234, E32-508, E34-136, E36-

945, E38-194, E50-258, E63-674, E65-973, and E67-920 (Chapter 105 Permits). Sunoco obtained one Chapter 105 Permit for each of the seventeen (17) counties where the Department permitted PPP-ME2 activities to occur.

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

F. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E07-459 to construct PPP-ME2 through Blair County.

G. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E21-449 to construct PPP-ME2 through Cumberland County.

H. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E22-619 to construct PPP-ME2 through Dauphin County.

I. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E31-234 to construct PPP-ME2 through Huntingdon County.

J. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E50-258 to construct PPP-ME2 through Perry County.

K. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0500015001, and Water Obstruction and Encroachment Permit, Permit Number E63-674 to construct PPP-ME2 through Washington County.

L. 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.

Sites

M. The work area for PPP-ME2 in Berks County, Pennsylvania includes the crossing of an unnamed tributary (“UNT”) to Hay Creek (S-Q90) in New Morgan Borough, Berks County (“Berks HDD Site 1”), the crossing of an unnamed tributary (“UNT”) to Cacoosing Creek (S-C33) in Spring Township, Berks County (“Berks HDD Site 2”), the crossing of an UNT to Allegheny Creek (S-B30) in Brecknock Township, Berks County (“Berks HDD Site 3”), and a crossing of Wetland W35 in New Morgan Borough and Caernarvon Township, Berks County (“Berks HDD Site 4”). Berks HDD Site 1, Berks HDD Site 2, Berks HDD Site 3, and Berks HDD Site 4 are collectively referred to herein as (“Berks HDD Sites 1-4”).

N. The work area for PPP-ME2 in Blair County, Pennsylvania includes the crossing of Clover Creek (S-L58) and Wetland M23 in Woodbury Township, Blair County (“Blair HDD Site”).

O. The work area for PPP-ME2 in Cumberland County, Pennsylvania includes an upland area east of North Locust Point Road in Silver Spring Township, Cumberland County (“Cumberland HDD Site”).

P. The work area for PPP-ME2 in Dauphin County, Pennsylvania includes the crossing of Wetland C28 in Lower Swatara Township, Dauphin County (“Dauphin HDD Site”).

Q. The work area for PPP-ME2 in Huntingdon County, Pennsylvania includes HDD No. PA-HU-0110.0000-SR-16, located east of Shade Valley Road (State Route 35) in Tell Township, Huntingdon County (“Huntingdon HDD Site”).

R. The work area for PPP-ME2 in Perry County, Pennsylvania includes the crossing of Shaeffer Run in Toboyne Township, Perry County (“Perry Bridge Site”).

S. The work area for PPP-ME2 in Washington County, Pennsylvania includes the crossing of an UNT to Mingo Creek (S140) in Nottingham Township, Washington County (“Washington HDD Site”).

T. On November 11, 2017, the Department received notice of a release of sediment to the UNT to Hay Creek (S-Q90) at Berks HDD Site 1.

U. On November 13 and 14, 2017, the Berks County Conservation District (“BCCD”) conducted inspections of the Berks HDD Site 1 and documented that an inadvertent return (“IR”) of drilling fluids had occurred within an UNT to Hay Creek (S-Q90), a water of the Commonwealth, as a result of HDD activities at this location. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

V. The designated use for the segment of Hay Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as Exceptional Value Waters (“EV”), Migratory Fishes (“MF”).

W. Hay Creek is classified as a Class A wild trout water by the Fish and Boat Commission. 25 Pa. Code § 93.1. *See*

<http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>

X. On November 15 and 16, 2017, the Department issued Sunoco a notice of violation (“NOV”), DEP file number NOV 06 17 102, for Berks HDD Site 1.

Y. On November 22, 2017, Sunoco submitted a response to the NOV referenced in Paragraph X., above, containing the following information associated with Berks HDD Site 1:

- a. Pipeline installation activities were in operation between November 4 and November 11, 2017;
- b. The pipeline installation activities experienced losses of circulation of drilling fluid on November 8, 9, and 10, 2017;
- c. A pollution event to an UNT Hay Creek, referenced in Paragraph R., above, had occurred on November 10, 2017;
- d. The cleanup of the pollution event within the UNT to Hay Creek was completed on November 18, 2017; and
- e. Sunoco provided landowner notification (titled Mariner East 2- Pennsylvania Pipeline Project Horizontal Directional Drilling Construction Notification and Private Water Supply/Well Sampling Offer) via certified mail dated August 24, 2017 to five (5) landowners within 450' of the HDD alignment.

Z. On November 17, 2017, the BCCD conducted an inspection of pipeline construction activities in the location of a UNT to Cacoosing Creek (S-C33) at Berks HDD Site 2.

AA. During the inspection referenced in Paragraph Z., BCCD documented that pipeline installation activities were underway at the Berks HDD Site 2 utilizing HDD construction methods. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

BB. The receiving waters for discharges from the Berks HDD Site 2 is a UNT to Cacoosing Creek (S-C33). The designated use for the segment of Cacoosing Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as Cold Water Fishes (“CWF”), Migratory Fishes (“MF”).

CC. Cacoosing Creek is classified as a Class A wild trout water by the Fish and Boat Commission. 25 Pa. Code § 93.1. *See*

<http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>

DD. The Department subsequently learned that pipeline installation activities at the Berks HDD Site 2 were in operation between September 25, 2017 and November 14, 2017. Prior to initiating construction, Sunoco provided landowner notification (titled Mariner East 2- Pennsylvania Pipeline Project Horizontal Directional Drilling Construction Notification and Private Water Supply/Well Sampling Offer) via certified mail dated August 23, 2017, to ten (10) landowners within 450’ of the unauthorized HDD alignment.

EE. On November 21, 2017, the Department issued Sunoco a NOV, DEP file number NOV 06 17 103, for Berks HDD Site 2.

FF. On November 28, 2017, Sunoco submitted a written response to the DEP File No. NOV 06 17 103. Within this response, Sunoco identified seven locations where pipeline crossings of waters of the Commonwealth were permitted to be open cuts but were field changed to a trenchless construction method without first obtaining a permit modification or any other authorization from the Department. The seven locations Sunoco described in its response included the Berks HDD Sites 1-4, the Blair HDD Site, the Dauphin HDD Site, and the Washington HDD Site.

GG. The receiving waters for discharges from the Berks HDD Site 3 is an UNT to Allegheny Creek (S-B30). The designated use for the segment of Allegheny Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as CWF. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

HH. Allegheny Creek is classified as a wild trout (natural reproduction) water by the Fish and Boat Commission. See http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/trout_repro.pdf

II. Sunoco conducted its unauthorized pipeline installation activities at Berks HDD Site 3 between September 20, 2017 and November 11, 2017.

JJ. The receiving water for discharges from the Berks HDD Site 4 is wetland W35 in New Morgan Borough and Caernarvon Township, Berks County. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

KK. Sunoco conducted its unauthorized pipeline installation activities at Berks HDD Site 4 between June 28, 2017 and July 8, 2017.

LL. The receiving waters for discharges from the Blair HDD Site is Clover Creek (S-L58). The designated use for the segment of Clover Creek referenced in this Order is listed in 25 Pa. Code § 93.9n as High-Quality Waters (“HQ”), MF. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E07-459 authorized Sunoco to conduct HDD activities at this site.

MM. Clover Creek is classified as a Class A wild trout water by the Fish and Boat Commission. See

<http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>.

NN. Sunoco conducted its unauthorized pipeline installation activities at the Blair HDD Site between June 4, 2017 and October 3, 2017.

OO. The receiving waters for discharges from the Washington HDD Site is an UNT to Mingo Creek. The designated use for the segment of Mingo Creek referenced in this Order is listed in 25 Pa. Code § 93.9v as HQ, Trout Stocking (“TSF”). Neither Erosion and Sediment Control Permit, Permit Number ESG0500015001, nor Water Obstruction and Encroachment Permit, Permit Number E63-674 authorized Sunoco to conduct HDD activities at this site.

PP. Sunoco conducted its unauthorized pipeline installation activities at the Washington HDD Site between July 7, 2017 and July 15, 2017.

QQ. The receiving water for discharges from the Dauphin HDD Site is wetland C28 in Lower Swatara Township, Dauphin County. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E22-619 authorized Sunoco to conduct HDD activities at this site.

RR. Sunoco conducted its unauthorized pipeline installation activities at the Dauphin HDD Site between November 8, 2017 and November 20, 2017.

SS. On December 5, 2017, the Department responded to a complaint that a stream crossing was installed at Perry Bridge Site in Toboyne Township, Perry County without a permit. During the inspection, the Department found that an “air bridge” was installed over an existing bridge that had previously been deemed unsafe by county inspectors. The Department later

identified that Sunoco's contractor (Michels Corporation) had installed the bridge on October 28, 2017 without first obtaining a Chapter 105 permit from the Department.

TT. The receiving waters for discharges from the Perry Bridge Site is Shaeffer Creek. The designated use for the segment of Shaeffer Creek referenced in this Order is listed in 25 Pa. Code § 93.9n as HQ, CWF.

UU. Shaeffer Creek is classified as a Class A wild trout water by the Fish and Boat Commission. See <http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>.

VV. On December 6, 2017, Sunoco and the Department met to further discuss Sunoco's November 28, 2017 written response to the DEP File No. NOV 06 17 103. During this meeting Sunoco stated that they were unaware of any other pipeline crossings of a water of the Commonwealth along the entire Mariner East II Project where construction had been completed and/or initiated using a crossing methodology other than what was authorized by the initial permit approval or amendment thereto, outside of those described in their November 28, 2017 written response.

WW. On December 18, 2017, the Cumberland County Conservation District ("CCCD") conducted an inspection of pipeline construction activities in the location of an upland area east of North Locust Point Road at the Cumberland HDD Site. Pipeline installation activities at Cumberland HDD Site were permitted to occur using open-cut methodology. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E21-449 authorized Sunoco to conduct HDD activities at this site.

XX. On December 18, 2017, Sunoco notified the Department that it had received complaints from two separate private water supply owners in the vicinity of the Cumberland HDD Site that they were experiencing cloudy water—the first complaint was filed on December 15, 2017, and the second complaint was filed on December 18, 2017.

YY. During the inspection referenced in Paragraph WW., CCCD documented that pipeline installation activities were underway at the Cumberland HDD Site utilizing HDD construction methods. The Department later determined that Sunoco field changed pipeline installation activities at the Cumberland HDD Site from open-cut to a trenchless construction method without first obtaining a permit modification or any other authorization from the Department.

ZZ. On December 7, 2017, the Huntingdon County Conservation District (“HCCD”) conducted an inspection of pipeline construction activities at the Huntingdon HDD Site. During the inspection, HCCD documented an IR in an upland area near the exit pit of the 20-inch pipe. This IR was never reported to the Department, nor was an initial written report submitted to the Department as noted within Section 6.5 of the revised August 8, 2017 HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan (“HDD IR PPC Plan”).

AAA. On December 29, 2017, Sunoco submitted their December 2017 Monthly HDD Report to the Department. Within this report, it noted that the 20-inch pipe reference in Paragraph ZZ., above, had been completed and that the pilot hole for the 16-inch pipe was underway. Sunoco did not perform a re-evaluation of the 16-inch pipe HDD as a result of the IR that occurred during the installation of the 20-inch pipe, as required by Paragraph 3 of the August 10, 2017 Corrected Stipulated Order (“Stipulated Order”) entered into by Sunoco, the Department, and the Appellants at EHB Docket No. 2017-009-L.

BBB. Pursuant to Special Condition 20.xx., of Permit E06-701 (Berks County), no work shall be done in the stream channel of a Class A wild trout fishery, between October 1 and April 1 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

CCC. Pursuant to Special Condition 20.ww., of Permit E50-258 (Perry County), no work shall be done in the stream channel of a Class A wild trout fishery, between October 1 and April 1 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

DDD. Pursuant to Special Condition 20.yy., of Permit E06-701 (Berks County), no work shall be done in the stream channel of a wild trout fishery, between October 1 and December 31 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

EEE. Sunoco did not obtain prior written approval from the Pennsylvania Fish & Boat Commission's Division of Environmental Services to conduct any work in the stream channel of either the UNT to Hay Creek (S-Q90) or the UNT to Cacoosing Creek (S-C33) between October 1 and April 1.

FFF. Sunoco did not obtain prior written approval from the Pennsylvania Fish & Boat Commission's Division of Environmental Services to conduct any work in the stream channel of the UNT to Allegheny Creek (S-B30) between October 1 and December 31.

Violations

GGG. The drilling fluids that comprised the IR at Berks HDD Site 1 constitute Industrial Waste. Sunoco's discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of 25 Pa. Code § 92a.1(b) and Section 301 of the Clean Streams Law, 35 P.S. § 691.301, a nuisance under Section 401 of the Clean Streams Law, 35 P.S. § 691.401, and unlawful conduct under Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

HHH. The Department did not authorize any HDDs, other trenchless technologies, or IRs at either Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site and Washington HDD Site by permit or other authorization.

III. Sunoco's failure to obtain permit authorization prior to conducting HDD activities at Berks HDD Sites 1-4, Blair HDD Site, Dauphin HDD Site and Washington HDD Site violates Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a) and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

JJJ. Sunoco's failure to obtain permit authorization prior to conducting HDD activities at the Cumberland HDD Site violates Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

KKK. The Chapter 105 Permits, Chapter 102 Permits, and Paragraph 15 of the Stipulated Order entered by the Environmental Hearing Board on August 10, 2017 in the matter of *Clean Air Council, Mountain Watershed Association, and Delaware Riverkeeper Network, Inc. v. Department of Environmental Protection and Sunoco Pipeline, L.P.*, (Docket No. 2017-009-L),

require permittee(s) to follow their HDD IR PPC Plan that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event.

LLL. The HDD IR PPC Plan in the Chapter 102 Permits and the Chapter 105 Permits, and referenced in the Stipulated Order, contains the following requirements:

- a. Immediately notify the pertinent Department Regional Office 24-hour Emergency Response Line of an IR. For the Southcentral Office, the number is 866.825.0208.
- b. Notify the Department at least 24 hours prior to the beginning of each HDD, including conventional boring under waters of the Commonwealth.
- c. Submit an initial report of the IR to the Department using Attachment B of the HDD IR PPC Plan.
- d. Obtain an amendment to the applicable Chapter 105 and/or Chapter 102 Permit prior to deviating from the construction methodology or project design that is shown on the approved drawings.

MMM. The approved method of pipeline installation at Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site, and Washington HDD Site was open cut. Sunoco did not obtain a permit amendment or any other authorization prior to altering the construction methodology to an HDD.

NNN. Sunoco did not immediately notify the Department to report the IR that occurred at the Huntingdon HDD Site.

OOO. Sunoco did not notify the Department at least 24 hours prior to beginning the HDD for Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site, the Huntingdon HDD Site (16 inch line) and Washington HDD Site.

PPP. Sunoco did not submit an initial report of the IR at Berks HDD Site 1 and Huntingdon HDD Site to the Department using Attachment B of the HDD IR PPC Plan.

QQQ. Sunoco's failure to obtain permit authorization prior to installing an air bridge over Shaeffer Run at the Perry Bridge Site violates Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a) and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

RRR. With respect to Berks HDD Sites, 1-4, the Blair HDD Site, the Dauphin HDD Site, the Huntingdon HDD Site, and the Washington HDD Site, Sunoco's failure to comply with permit requirements listed in Paragraph NNN., OOO., and PPP., above, constitutes a violation of Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a), and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

SSS. With respect to the Cumberland HDD Site, Sunoco's failure to comply with the requirements of Erosion and Sediment Control Permit, Permit Number ESG0300015002 constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

TTT. Sunoco's conduct allowing the unauthorized discharge of Industrial Waste to waters of the Commonwealth, failing to obtain a Chapter 105 permit, failing to acknowledge permit conditions, and failing to perform work according to permit specifications, 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.

UUU. Throughout the installation of the ME II pipeline, Sunoco has produced IRs in uplands which have created a potential for pollution to waters of the Commonwealth pursuant to Section 402 of the Clean Streams Law, 35 P.S. § 691.402.

VVV. The violations described in Paragraphs GGG. through UUU., above, constitute unlawful conduct under Sections 401, 402, and 611 of the Clean Streams Law, 35 P.S. §§ 691.401, 691.402, and 691.611; a statutory nuisance under Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.601; and subject Sunoco to civil penalty liability under Section 605 of the Clean Streams Law, § 691.605. The violations in Paragraphs III., KKK., LLL., MMM., QQQ., RRR., and TTT. constitute unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18, subject Sunoco to an order under Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20, and subject Sunoco to a claim of civil penalty under Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

WWW. Sunoco's unlawful conduct set forth in Paragraphs T. through FFF., above, demonstrates a lack of ability or intention on the part of Sunoco to comply with the Clean Streams Law, the Dam Safety and Encroachments Act, and the permits issued thereunder. Suspension of the permits described in Paragraph D, above, is necessary to correct the egregious and willful violations described herein. Other enforcement procedures, penalties and remedies available to the Department under the Clean Streams Law and the Dam Safety and Encroachments Act would not be adequate to effect prompt or effective correction of the conditions or violations demonstrated by Sunoco's lack of ability or intention to comply.

NOW, THEREFORE, pursuant to Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; Sections 5, 402, and 610 of The Clean Streams Law, 35 P.S. § 691.5, 691.402,

and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, the Department hereby ORDERS the following:

1. Except as specified herein, Sunoco shall immediately suspend all work authorized by the permits described in Paragraph D, above, until the Department provides written authorization to resume work. In no event shall Sunoco undertake any pipeline installation activities unless expressly authorized by the Department in writing.

2. Within 30 days of the effective date of this Order, Sunoco shall submit a detailed description of any method of trenchless pipeline construction techniques that have been used or will be proposed for use in the completion of PPP-ME2, other than (dry) conventional auger bore and HDD, as those methods are defined in the *'Trenchless Construction Feasibility Analysis'*, dated December 2016, that was approved as part of the Chapter 105 Permits.

3. Within 30 days of the effective date of this Order, Sunoco shall submit to the Department full documentation of each crossing of a wild trout stream, stocked and wild trout fishery, stocked trout fishery and Class A trout fishery. The documentation shall include the date(s) of the installation of the pipeline, which pipeline was installed (20 inch, 16 inch, or both), the municipality and county, the stream number, latitude and longitude, and photographic documentation of the crossing including all before, during and after photographs of the installation. Sunoco shall submit this documentation to the Department on the forms attached hereto as Exhibit 1.

4. Within 30 days of the effective date of this Order, Sunoco shall submit a report to the Department documenting any other unpermitted changes made to the method for installation of the pipeline. Permitted methods of pipeline construction are limited to open trench/open cut, and two trenchless installation methods, (dry) conventional auger bore and HDD, as those methods

are defined in the *'Trenchless Construction Feasibility Analysis'* dated December 2016 and approved as part of the Chapter 105 Permits. Such changes include, but are not limited to, a change from conventional auger bore to HDD (including, but not limited to, "flex bore"), a change from open cut to conventional auger bore or HDD (including, but not limited to, "flex bore"), and a change from HDD (including, but not limited to, "flex bore") or conventional auger bore to an open cut. The report shall document all steps taken by Sunoco to determine if unpermitted changes have occurred. The information regarding the altered crossing methodology shall be provided on the forms attached hereto as Exhibit 2.

5. Within 30 days of the effective date of this Order, Sunoco shall submit a list to the Department that documents the legal name of all drilling contractors and subcontractors who have worked, or will be working, on the PPP-ME2. The list shall include the contact information for each contractor and subcontractor including the name of the business contact person, contact telephone numbers and email addresses, the HDD number for each HDD that the contractor or subcontractor has worked on, or will be working on, the municipality and county for each HDD, and the latitudes and longitudes for each location.

6. Within 30 days of the effective date of this Order, Sunoco shall submit a report to the Department that fully explains the failures that led to the violations described in this Order and the steps Sunoco proposes to implement to ensure that those violations will not re-occur.

7. The permittee shall address all alleged impacts to private water wells in Silver Spring Township, Cumberland County, as described in Paragraph XX. to the satisfaction of the private well owners, to include replacement or restoration of the water supply and reimbursement of any costs of displacement during the period when the water supply is adversely impacted.

8. In order to demonstrate the ability and intention to comply with the Chapter 102 Permits and Chapter 105 Permits, within 30 days of the date of this Order, the permittee shall submit a comprehensive list of all pending earth disturbance and water obstruction and encroachment related activities currently authorized by the Chapter 102 Permits and Chapter 105 Permits that have yet to be completed or commenced. This list shall include for each project activity identified:

- a. the specific Chapter 105 Permit and/or Chapter 102 Permit under which each of these activities are authorized;
- b. the location (county, municipality, latitude and longitude) where each activity will occur;
- c. the pipe installation methodology authorized by the Chapter 105 Permit and/or Chapter 102 Permit (i.e., HDD, open cut, conventional auger bore) at each location;
- d. if the activity is an HDD, the associated drill identification number;
- e. the specific name and contact information for the on-site contractor representative who is responsible for permit and regulatory compliance at each location;
- f. the specific name and contact information for the corporate representative from Sunoco who is responsible for permit and regulatory compliance at each location;
- g. the specific name and contact information for the corporate representative from Sunoco who is responsible for supervision and direction of contractors at each location;

h. the specific name and contact information for the corporate Executive Officer from Sunoco who is responsible for environmental compliance in the Commonwealth of Pennsylvania and for the installation of the Mariner II project, if such Executive Officers are different.

9. Within 30 days of the date of this Order, the permittee shall submit a detailed Operations Plan setting forth the additional measures and controls which the permittee and its contractors shall implement to ensure that all permit conditions will be followed at all times. The Department shall review the Operations Plan and will approve it only when it deems it to be sufficient and satisfactory. The Operations Plan shall also include the additional measures and controls which the permittee and its contractors shall implement to minimize inadvertent return incidents and water supply impacts to the maximum extent possible.

10. Within 10 days of the effective date of this Order, Sunoco shall backfill all areas of trench excavation, unless sufficient justification for an extension of time is provided to and approved by the Department in writing.

11. Within 10 days of the effective date of this Order, Sunoco shall remove the drill bits, reamers, and/or strings for any unpermitted HDD activities, unless Sunoco provides the Department with justification and receives Department approval in writing to leave the bit, reamer, and/or string in place for a specific PPP-ME2 HDD site.

12. Within 10 days of the effective date of this Order, Sunoco shall properly abandon all pilot holes created by the activities in Paragraph 11, unless Sunoco provides the Department with justification and receives Department approval in writing to leave a pilot hole open.

13. Within 10 days of the effective date of the Order, Sunoco shall pull the drill bit and string from the 16-inch line at the Huntingdon HDD Site and properly abandon the pilot hole.

14. Prior to conducting any further HDD activity at the Huntingdon HDD Site, Sunoco shall submit a reevaluation of the 16-inch line as required by Paragraph 3 Stipulated Order and receive Department approval of that reevaluation.

15. Within 30 days of the effective date of this Order, Sunoco shall submit as-built drawings, sealed by a Professional Engineer, and a Hydrologic and Hydraulic (“H&H”) analysis using the Hydrologic Engineering Center’s River Analysis System (“HEC-RAS”), sealed by the licensed Professional Engineer who prepared the analysis, for the air bridge at the Perry Bridge Site. The H&H analysis shall show the calculations performed to determine the design and 100-year frequency flood discharges at the Perry Bridge Site. The H&H analysis must clearly demonstrate the difference in hydraulic capacity, stability and flood water surface elevations prior to the placement of the air bridge and with the air bridge in place and include a backwater analysis of both conditions.

a. If the H&H analysis demonstrates that the air bridge fails to adequately protect the health, safety, welfare and property of the people, natural resources and the environment, then within ten (10) days of receipt of such a determination by the Department in writing, Sunoco shall either remove the air bridge, or submit an application to the Department for issuance of an Emergency Permit for modification of the obstruction/air bridge to immediately address the inadequacies determined through the Department’s review of the H&H analysis.

b. If Sunoco elects to submit an application for issuance of an Emergency Permit, within 15 days of the Department’s issuance of the Emergency Permit, Sunoco shall complete all modifications to the air bridge in a manner consistent with the proposal contained in its application for the Emergency Permit.

16. Within 60 days of the effective date of this Order, Sunoco shall submit a complete Water Obstruction and Encroachment Permit application that complies with the requirements of the Dam Safety and Encroachment Act, the Clean Streams Law, 25 Pa. Code, Chapter 105 and all other applicable statutory and regulatory requirements for the air bridge at the Perry Bridge Site.

a. Sunoco shall submit the complete Water Obstruction and Encroachment Permit application in the name of and on behalf of Toboyne Township, Perry County, who is the owner of the bridge

b. Sunoco shall provide the necessary information, including any bridge design changes determined to be necessary by the Department to meet the applicable requirements, on behalf of Toboyne Township.

c. If any design changes to the air bridge occur during the permitting process that result in required field work or other modifications including but not limited to the air bridge, approaches, or scour protection, Sunoco shall implement any work or other modifications required by the Water Obstruction and Encroachment Permit within thirty (30) days of the Department approving or acknowledging the use of a Water Obstruction and Encroachment permit for the air bridge at Perry Bridge Site.

17. In the event the Department determines that additional information, revisions, modifications or amendments are necessary to any permit, plan, any other submission, or restoration work required by this Order, then within ten (10) days after receipt of written notice from the Department, Sunoco shall submit to the Department such information, revisions, amendments or modifications, and/or complete the modified work, unless an alternative timeframe is approved by the Department in writing.

18. Upon the Department's written approval of all submissions required by Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 15a above, the suspension imposed by this Order shall be terminated and Sunoco may resume the work authorized by the permits described in Paragraph D, above, unless otherwise restricted due to other Department enforcement actions or the Stipulated Order.

19. Effective immediately, Sunoco shall temporarily stabilize all disturbed areas in accordance with the approved E&S Plans and in compliance with 25 Pa. Code § 102.22(b). During the period of the permit suspension, Sunoco shall continue to complete installation of permitted best management practices (BMPs) for PPP-ME2, including perimeter BMPs, in accordance with approved plans and the permit in areas where Sunoco or its contractors have commenced earth disturbance activities. Sunoco shall continue routine monitoring of the installed BMPs and shall perform all necessary ongoing operation and maintenance activities to ensure the BMPs continue to perform as designed, in accordance with the approved E&S Plans and permits.

20. With regard to any in-process and permitted HDD operation (as the HDD installation method is defined in the *'Trenchless Construction Feasibility Analysis'* dated December 2016 and approved as part of the Chapter 105 Permits), the permittee shall be permitted to periodically rotate the downhole drill bits or reamers and move them back and forth within the drill holes without advancing the drill hole or conducting additional drilling, to safeguard the integrity of the downhole equipment.

21. Sunoco shall immediately begin implementing the December 15, 2017 revisions to the *'HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan'*, attached to this Order as Exhibit 3.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Ramez Ziadeh, P.E.
Acting Executive Deputy Secretary