October 23, 2020

By Email

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Re: Comments on Report for HDD PA-CH-0199.0000-RD (HDD# S3-0360)

To whom it may concern:

Pursuant to the Corrected Stipulated Order entered on EHB Docket No. 2017-009-L on August 10, 2017 ("Order"), and on behalf of Clean Air Council, Mountain Watershed Association, Inc., and the Delaware Riverkeeper Network ("Appellants"), please accept these comments on Sunoco Pipeline L.P.'s ("Sunoco") re-evaluation report ("Report") for the horizontal directional drilling ("HDD") indicated by drawing number PA-CH-0199.0000-RD (the "HDD Site").

As explained below, it would be inappropriate for the Department to issue an approval for this HDD proposal without first having determined whether Sunoco has corrupted the scientific basis for the proposal.

1. **Due to serious allegations of perversion of the science, the Department should not grant any more approvals to Sunoco until it can be shown that the HDD Report is based on sound science.**

A former geologist for Sunoco's contractor GES has now publicly explained that—at least in Chester and Delaware Counties—Sunoco has been systematically preventing its contractors from communicating geological problems along the right-of-way and requiring them to submit their scientific reports in editable form. This geologist found a sinkhole along the pipeline route in Chester County and was fired for documenting it since it was not within the permitted limits of disturbance. Sunoco apparently has a policy that any geological hazards, no matter how hazardous, are not to be monitored or reported if they are not within the limits of disturbance.

These facts obviously carry with them great concerns. A geological hazard is a hazard whether or not it falls within the limits of disturbance. And the Department cannot reasonably rely on scientific reports where they may have been doctored after issuance based on Sunoco's whim or convenience.

The Department must investigate Sunoco's policies in this regard. If the Department relies on Sunoco's falsified and covered-up self-reporting in issuing an approval to go ahead, it would be

an arbitrary and capricious decision that would put the neighbors' health, welfare, and lives at risk.

2. The proposal to deepen the bore lacks justification.

The main change Sunoco is proposing in this re-evaluation is deepening the bore. It writes at page 9, "The redesigned HDD profile have maximized [sic] the angle of entry and exit to reduce the potential for IRs." Given that the main problems at the site have been Sunoco's drilling causing the water table to drop precipitously, this proposed remedy appears mismatched to the problems. Sunoco should instead redesign the HDD in a way that addresses the depletion of the aquifer.

This is a recurring problem with the HDD Re-evaluation Reports. There have been a series of these where Sunoco proposes deepening the bore profile without explaining how that would remedy the problem at hand. This is just the latest. This shortcoming mirrors the problems with Sunoco's original drilling plans: namely, that it prefers a simpler one-size-fits-all approach rather than doing the work to tailor its approach to the unique geology of the HDD Site.

The Site is a prime example of unique geology, where the mapped features do not match with what Sunoco has encountered. The Department should not simply allow Sunoco to copy and paste its older plans for this Site.

Furthermore, deepening the bore profile has the potential to intersect a longer portion of aquifer, perhaps leading to a greater draining effect. At a site such as this one, consideration should be given to making the profile *shallower*. This presents a risk of a greater likelihood of drilling fluid spills, so it is by no means a given that it will be the right approach, but the failure to even try to come up with a solution for the problem at hand is simply not acceptable.

3. Sunoco mischaracterizes the seep to appear less concerning than it is, and identifies a new crossing of a wetland that it never disclosed to the Department, much less obtained permitting for.

Appellants have concerns with how the Report characterizes and considers the seep on the property of Virginia Marcille-Kerslake. Sunoco writes at page 4 that "completion of the pilot borings for the 16-inch line created a groundwater discharge and SPLP expects similar conditions during construction of the 20-inch line." Appellants have expressed before that the Department should not be in the business of approving plans that are likely to lead to violations of the law, such as drilling fluid spills. The Department should also not be in the business of approving plans that are likely to lead to a public aquifer being drained and damaging the private property of a non-consenting neighbor.

The Report downplays this likelihood in several ways, starting with its description of the issue at Section 2.3.3 of the hydrogeological report:

> A naturally occurring zone of groundwater seepage occurs along the HDD alignment, north of Shoen Road. This seepage was investigated by Skelly and Loy (2018) with respect to HDD

> construction activities (see Attachment C). The study concluded that the seep is a persistent hydrologic condition that predates the HDD activities. The primary toe-of-slope seep was described as a low-flow, intermittent source of hydrology to the area, which intercepts upgradient less-regular seasonal/ephemeral seeps and surface water flows.

The question is at issue here is whether Sunoco's drilling caused a massive outflow fundamentally changing the nature of the hydrology and land. The answer is that it did.

The Skelly and Loy seep report in Attachment C upon which the statement in the hydrologeologic report is based concludes:

> Based on the evidence observed, it is our opinion that the toe-of-slope seep and associated drainage pattern were present in the area of investigation prior to 2017. Although the exact quantity of hydrology related to this seep prior to the initiation of HDD-360 cannot be determined, it is reasonable to assume what is currently seeping from the area is similar to the seepage of hydrology prior the initiation of the HDD.

Skelly and Loy reach this conclusion based on the existence of hydric soils and facultative wetland vegetation. In other words, they purport to have identified a wetland in the immediate vicinity of the right-of-way that Sunoco's contractors in five years have never before identified, and certainly never disclosed to the Department.

This is very concerning in itself. Sunoco has never obtained permitting to cross this wetland. It was not identified in the aerial site plan submitted to the Department with the original permitting materials (as submitted in December 2016) (see http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/Chester/07%20-%20Site%20Plans/Tab%207A%20Aerial%20Site%20Plans/ChesterCountySitePlan_Rev5_11302016.pdf, Sheet 55 of 97). If this wetland existed in 2016 at all, it was within the survey corridor of the pipeline route but not mapped and never delineated. Either Sunoco identified the wetland and did not bother to report it to the Department, or the wetland did not exist in 2016. If the former is true, that is fraudulent. If the latter is true, Sunoco is currently conveying false information to the Department. Either way, the Department should investigate before taking any action at this site.

Furthermore, whether the soils are hydric and wetland species live there does not answer the question of whether a seep pre-existed at the site. Not all wetlands are caused by seeps. Skelly and Loy's write-up does not investigate whether this purported wetland could have been created by other means such as surface drainage. For these reasons, the conclusion that a seep pre-existed is based on unwarranted assumptions and should be disregarded.

Regardless, the following assumption that "what is currently seeping from the area is similar to the seepage of hydrology prior [sic] the initiation of the HDD" is pure speculation, unexplained and contradicted by the first-hand accounts of the landowner who has lived at the property since 2004 and neighbors uphill for the past 38 years.

The Report understates the loss of groundwater during construction, stating that the discharge at the southeast entry/exit varied between 25 to 50 gpm. The reality is that twenty-two eighteen thousand gallons frac tanks were required to manage the water discharged outside of allowable construction hours (i.e. Saturday 7pm to Monday 7am). That amounts to a discharge of about 183 gpm.

Furthermore, the Skelly and Loy report references the use of soil pits in the area of the seep. According to Virginia Marcille-Kerslake, who has a Master of Science degree in Soil Science, no soil pits were dug on their property. The validity of the entire evaluation is suspect.

After grouting was completed, the pH of the water from seeps increased to a level unsuitable for release into the nearby creek. Three weeks later, this water is still being contained and pumped under Shoen Road to frac tanks on the drill site and hauled away as waste. What is the plan if the pH does not return to allowable levels?

The Department should demand that Sunoco have in place a realistic plan to prevent—not just manage—the flooding that the neighbors experienced. If Sunoco cannot provide that, no approval should issue.

4. The Alternatives Analysis lacks an adequate re-route analysis and ignores another alternative.

The re-route analysis in Sunoco's alternatives analysis is overly simplistic and needs to be fleshed out with more substance. It boils down to (1) the area is crowded with other land uses and (2) might as well use the existing utility corridor. The analysis is sensible as far as it goes, but it omits a number of important considerations.

First, Sunoco a re-route would be possible, just difficult. The existing route is difficult. Sunoco fails to weigh the pros and cons and consider re-route options. Is there an area in this complex geology where Sunoco would be less likely to encounter geologic hazards? Sunoco does not attempt the investigation.

Second, Sunoco fails to consider the no-build option. Sunoco has recently announced that it has launched a "Pennsylvania Access" project whereby it will convert the Mariner East 1 pipeline from Westmoreland County to Berks County to refined petroleum products rather than natural gas liquids. This would empty out product flowing into the Mariner East 1 pipeline in Chester and Delaware Counties, thereby increasing the remaining capacity on the Mariner East system as a whole in those counties. It is not at all obvious that the remaining pipeline under construction is needed for natural gas liquids capacity, given this new announcement about a change in service on the lines. The Department should ask Sunoco to revise its Report to evaluate a no-build alternative for this Site based on the change in needs on the Mariner East project as a whole.

Thank you for considering these comments. Please keep us apprised of your next steps on the HDD Site.

Sincerely,

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