

November 16, 2017

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 7015 1520 0002 1486 3023

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

Re: Violations of the Clean Stream Law
Pennsylvania Pipeline Project (a.k.a. Mariner East 2)
Permit Nos. E15-862 and ESG 01 000 15 001
West Whiteland Township
Chester County

Dear Mr. Gordon:

On November 11, 2017, the Department of Environmental Protection (“DEP” or “Department”) received notice of an inadvertent release of drilling solution at Horizontal Directional Drill (HDD) Site S-3-0400 near 479 Lisa Drive in West Whiteland Township, Chester County from a third party. DEP conducted inspections of this area on November 14, 2017; a copy of the inspection report is enclosed. The drilling solution was discharged to an upland area and appears to have caused ground subsidence and the potential to pollute groundwater, a water of the Commonwealth. Drilling solution is an “industrial waste” under Section 301 of the Clean Streams Law, 35 P.S. § 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law.

There is a history of incidents with this Drill. First, on August 18, 2017, Sunoco contacted DEP and stated that, due to several losses of circulation, the original pilot hole was going to be abandoned and grouted in and a new pilot hole was going to be drilled. Next, on August 24, 2017, Sunoco reported a loss of circulation at the site. Third, on September 21, 2017, DEP received a complaint about a potential “void” under the SEPTA lines in the area of HDD 400. The complainant reported that they had spoken to workers walking the Right-of-Way. The Department performed a field investigation on September 27, 2017. Sunoco was reminded, once again, of the requirement to immediately notify the Department of losses of circulation. Sunoco was also advised to contact Amtrak about the possibility of voids under their tracks and to keep the Department apprised of any ongoing coordination with Amtrak. To date, no notice of any loss of circulation has been received from Sunoco, and Sunoco has not provided the Department with information about

any contacts they may have made with Amtrak on this issue, despite an explicit Department request for such information. Additionally, on October 5, 2017, Sunoco reported a release of drilling solution in uplands. Finally, on November 11, 2017, as indicated above, a second inadvertent return (IR) occurred from the Drill.

DEP Permits E15-862 and ESG 01 000 15 001, and paragraph 15 of the Corrected Stipulated Order (“Order”) entered by the Environmental Hearing Board on August 10, 2017, require permittee(s) to implement their revised “*HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan* (revised August 8, 2017) (“IR PPC Plan”) that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event.

The IR PPC Plan, and DEP Permit E15-862, require “immediate” notification to the Department’s Southeast Regional Office 24-hour Response Line. Yet, the Department has no record of receiving any such notice from Sunoco after the November 11, 2017, IR. Moreover, no notification for the above-described losses of circulation has ever been received from Sunoco. The Department is very concerned with Sunoco’s continued failure to provide the required notifications for these incidents.

The IR PPC Plan also requires that a written initial report be submitted by Sunoco within one working day of the IR. Sunoco has, to date, failed to provide the required initial IR report for the November 11, 2017, IR to the Department. Sunoco characterizes the incident as a “loss of containment from a previous IR,” rather than an IR. The Department disputes this characterization. Whether an IR occurs at a site of containment of a previous IR, or in a new location, it is still an IR. Accordingly, the “incident report” that the Department received from Sunoco on November 15, 2017, fails to satisfy the initial IR report requirement of the IR PPC Plan.

Sunoco’s failure to provide required notifications and reports in accordance with the IR PPC Plan, the Order, and DEP Permits E15-862 and ESG 01 000 15 001, constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachment Act, 32 P.S. § 693.18.

The Department requests that you submit the following to the attention of Mr. Frank De Francesco by e-mail at fdefrances@pa.gov by **C.O.B. November 21, 2017**:

1. A detailed description, including photos documenting current site conditions, of the actions taken to contain and remove the IR and a plan for any additional measures necessary to complete remediation, including specifically addressing the subsidence area.
2. An assessment by a qualified professional geologist of the events, circumstances, and/or site conditions that caused or contributed to the IR. The assessment should also

include a discussion and evaluation of the effectiveness of any and all measures that have been employed to prevent or minimize the occurrence of an IR at the site, including, but not limited to, reduced drilling pressures, thickened drilling fluid mixture, and/or addition of pre-approved loss circulation materials. **Finally, this assessment must list the actions or measures that will be taken to prevent or minimize any future IRs to less than 50 gallons.** The assessment must be completed, signed, and sealed by a qualified professional geologist licensed to practice in the Commonwealth of Pennsylvania.

3. Answers to the following questions:

- a. Was the original pilot hole abandoned and grouted?
- b. Was the loss of circulation on August 24, 2017, at the new pilot hole?
- c. Was there any other loss of circulation between August 24, 2017, and October 5, 2017?
- d. Why was the crew walking the right-of-way during the week of September 18, 2017?
- e. Did any other anomaly happen at the site between August 24, 2017, and October 5, 2017?

Please be reminded that Department approval is required before restarting drilling operations for PA-CH-0256.0000-RR-20. Additionally, a reevaluation is required for PA-CH-0256.0000-RR-16 in accordance with paragraph 3 of the August 10, 2017, Corrective Stipulated Order.

Please be advised that DEP and/or the Chester County Conservation District will conduct additional inspections of the site. If future inspections reveal that corrective actions have not been made and/or additional violations have occurred, DEP may initiate enforcement action.

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.

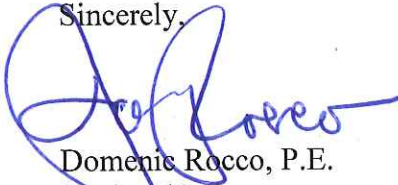
Mr. Matthew L. Gordon

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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,



Domenic Rocco, P.E.
Regional Manager
Waterways and Wetlands

Enclosure(s): DEP Inspection Report

cc: Mr. Embry – Sunoco Pipeline
Mr. Prosceno – TetraTech
Mr. Sofranko – Chester County Conservation District
PA Fish and Boat Commission, Southeast Office
Mr. Caplan – U.S. Army Corps of Engineers, Philadelphia District
West Whiteland Township
Re 30 (GJS17WAW)320-1