



August 20, 2020

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 7018 0040 0000 0100 4669
RETURN RECEIPT NO. 9590 9402 3847 8032 5779 67

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

CERTIFIED MAIL NO. 7018 0040 0000 0100 4676
RETURN RECEIPT NO. 9590 9402 3847 8032 5779 74

Mr. Jayme Fye
Michels Corporation
817 Main Street
Brownsville, WI 53006

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
Upper Uwchlan Township
Chester County

Dear Messrs. Gordon and Fye:

On August 10, 2020, the Department of Environmental Protection (“DEP”) received notice from Sunoco Pipeline, L.P. (“Sunoco”), of an inadvertent return (“IR”) of drilling solution at HDD Site S-3-0290, PA-CH-0100.0000-RD, in the vicinity of Green Valley Road in Upper Uwchlan Township, Chester County. On August 11, 2020, DEP received notice of a subsidence event in a wetland on the same drill site. DEP conducted inspections of this area on August 10, 2020, August 11, 2020, August 12, 2020, and August 13, 2020. The drilling solution was discharged through the IR and the subsidence event to wetland WL-17 and unnamed tributaries S-H 10 and S-H 11 of Marsh Creek Reservoir, which then flowed and discharged into Marsh Creek Reservoir, 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 from the IR and via subsidence to waters of the Commonwealth is a violation of the Clean Streams Law.

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 follow the revised “*HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan*” (revised April 2018) (“IR PPC Plan”) that is part of the approved plans in the aforementioned permits to reduce, minimize or eliminate a pollution event. Further, Conditions RRR of Permit E15-862 and C.IV.A. of ESG 01 000 15 001 require that Sunoco comply with the “*Preparedness, Prevention and Contingency Plan*” (“PPC Plan”).

To date, Sunoco has not provided an immediate or long-term restoration plan to address impacts to waters of the Commonwealth. To demonstrate an appropriate compliance strategy, DEP requests that you submit the following for review and approval, to the extent not previously provided since the IR and subsidence event occurred, to the attention of Mr. Frank De Francesco by e-mail at fdefrances@pa.gov by August 27, 2020:

1. An Interim IR report form(s) for the site, as required by Section 6.3 of the IR PPC Plan.
2. A detailed description, including photographs and monitoring data collected to date documenting the initial and current site conditions, of the actions taken to contain and remove the industrial waste from each water of the Commonwealth, including wetlands, impacted by the IR and the subsidence event. Also include a detailed plan describing the additional measures Sunoco proposes to perform to complete remediation of the IR, including its plan to assess and restore wetlands functions and values impacted by the IR and the subsidence event, as well as any aquatic resources in the wetland, tributary stream, and reservoir. Separate descriptions and actions need to be provided for the impacted wetland, the impacted tributary streams, and the impacted reservoir. Among other things, data collected documenting the initial and current site conditions, separated as specified by wetland, tributary, and reservoir should detail:
 - a. A geospatial representation of the survey area, impact area, remediation area, and other limits of disturbance, investigation, or ingress/egress.
 - b. Characterization of the reservoir substrate, tributary substrate, linear and longitudinal profiles, and pool/riffle complexes.
 - c. Quantification and characterization of nutrient, carbon, and trace metal flux between the reservoir substrate and water column.

- d. Quantification and characterization of aquatic planktonic and macrophytic plant communities and terrestrial plant communities.
 - e. Quantification of hydrologic impacts, including surface/groundwater flowpaths and subsurface aquifers/hyporheic zones.
 - f. Delineation and mapping of the floodway.
 - g. Delineation of the floodway along both trib and wetland, including delineation of pasture, shrub coverage, and tree coverage with identification of dominant species within the delineated floodway.
3. A detailed resource delineation and functional assessment (DEP Rapid Assessment method *see* <http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4678> and Wetland Evaluation Technique (WET) Functions and Values assessment) for wetland, stream, and bodies of water of the entire area impacted by the IR, subsidence and cleanup efforts (Impact Area). Please also delineate resources outside of the Impact Area that are being used for sampling control sites. The delineation needs to include a quantitative assessment of acreage of bodies of water (wetlands and lake) impacted and linear feet of stream impacted by the IR and cleanup activities. Also include a detailed work schedule for assessment activities and contact information for Sunoco's personnel performing these assessment activities. Sunoco or its consultants should provide a minimum of 48-hour notice to DEP and DCNR before performing any assessment activities. Provide notice to Mr. John Hohenstein, Ms. Desiree Henning-Dudley and Mr. Frank De Francesco and Mr. James Wassel for DCNR.
 4. A restart report meeting the requirements of Section 5.1.5 (Monitoring Protocol for Condition 3) of the April 2018 IR PPC Plan, that has been prepared and sealed by a Pennsylvania Licensed Professional Geologist. (DEP has received Sunoco's restart report required pursuant to the Section 5.1.5 (Monitoring Protocol for Condition 3) of the April 2018 IR PPC Plan on August 17, 2020.)
 5. A detailed description of the geophysical testing to be conducted at the site that includes, at a minimum, testing and analysis for resistivity, seismicity, and gravity. Also include a detailed evaluation of the local geology in the vicinity of the IR area and the potential for the presence of any solution channels that might have contributed to the occurrence of the IR and the subsidence.
 6. Michels Corporation drilling logs for both drill rigs associated with PA-CH-0100.0000-RD from July 27, 2020, to August 11, 2020. DEP received drilling logs from Sunoco on August 14, 2020. Please confirm that there are no additional drilling logs or supplement the information previously produced.

7. The method and calculations used to determine the volume of drilling solution released. There are three primary mud-related components of the HDD system: the borehole, the mud pit(s), and the mud system (tanks, external piping, etc.). The calculation provided by Sunoco on August 17, 2020, only accounts for the borehole component. Please provide the status of the mud pit(s) and the mud system prior to and immediately following the IR.
8. An explanation of the remediation techniques used in response to IRs associated with the installation of the 16-inch pipe on the site.
9. An explanation of which LCMs were implemented during all phases with the HDD of the 20-inch pipe.
10. Drilling logs note how much fluid is pumped down hole each day and how much fresh water is added every day, but there is no indication of how much fluid is lost to the formation every day. Provide data on how much fluid/drilling mud is lost to the formation and how much is recovered each day.
11. Drilling logs indicate that from June 2, 2020, through June 6, 2020, over 20,000 gallons of drilling fluid were reported as lost. Please explain how the daily volume of lost drilling fluid is calculated. Also, please explain how Sunoco determines when the drill has experienced a loss of circulation. Further, please explain why a 500-gallon fluid loss was reported in a Loss Prevention Report on March 3, 2020, but the June fluid losses were not so reported.
12. Drilling logs indicate that on August 8, 2020, 17,000 gallons of mud were mixed and the washover tool was tripped out of the bore. Please explain the rationale for these actions and the drilling conditions/observations at that time.
13. In the drilling logs, please explain the columns "Clean Water Used," "Bags of Bentonite Used," and "Mud mixed," and how they are related. There are times when over 100 bags of bentonite are added, but no "Clean Water Used" or "Mud Mixed" (i.e., August 3, 2020). Explain what happened in this instance.
14. What is contained in the "super sacks" noted on Form B of the drilling logs and how many pounds is each Super Sack?
15. Explain why grout was used in the drilling mud on July 9, 2020, and July 10, 2020. Was this a labeling mistake or was grout pumped downhole?
16. Define "donut" and "washover tool" and describe how they are used. Both are noted on Form B in the comments in the drilling logs, with the donut used in July and the washover tool used in August.

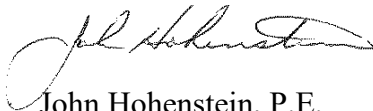
Please be reminded DEP approval is required before restarting drilling operations for PA-CH-0100.0000-RD.

If future inspections by DEP or the Chester County Conservation District 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. This Notice of Violation does not relieve Sunoco from addressing any additional issues of any property owner impacted by the IR and the subsidence. Nothing herein should be construed to authorize any injury to public or private property or obviate the necessity of obtaining the assent of the property owner when necessary.

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.
Environmental Program Manager
Waterways and Wetlands

cc: Mr. Bryan, Energy Transfer
Mr. Embry, Energy Transfer
Ms. Styles, Energy Transfer
Mr. Simcik, TetraTech
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
Ms. Bollinger – DCNR
Ms. Reese – DCNR
Upper Uwchlan Township
Re 30 (GJS20WAW)232-1