



October 21, 2020

NOTICE OF VIOLATION
AND
SCHEDULING OF THE CLEAN STREAMS LAW SECTION 609 INFORMAL HEARING

Mr. Matthew Gordon
Sunoco Pipeline, L.P.
535 Fritztown Road
Sinking Springs, PA 19608

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 E38-194
DEP File No NOV 38 20 106
West Cornwall Township, Lebanon County

Dear Mr. Gordon:

On October 19, 2020, the Department of Environmental Protection (“Department”) received notice from Sunoco Pipeline, LP (“SPLP”) of an approximate 200-gallon inadvertent return of drilling fluids (“IR”) in Snitz Creek located in West Cornwall Township, Lebanon County associated with Horizontal Directional Drill PA-LE-0055.0000-RD-16, aka. North Zinns Mill Road HDD, (“Site”). On October 20, 2020, the Lebanon County Conservation District conducted an inspection of the Site and documented that the IR occurred within Snitz Creek, a water of the Commonwealth and wild trout stream (Trout Stocking, Migratory Fishes), and observed that a sandbag dam and corrugated plastic pipe was installed to bypass the stream. 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. Failing to obtain a permit is a violation of Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. §693.6(a), 25 Pa. Code §105.11(a) and is unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18. Construction, operation, or maintenance of a water obstruction or encroachment without a permit, is a violation of the Dam Safety and Encroachments Act, 32 P.S. § 693.6. The Department did not authorize a stream bypass at this Site.

Department permits ESG0300015002 and E38-194 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 PPC Plan contains a revision date of April 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 and appropriate enforcement strategy, the Department requests that you submit the following to Scott Williamson and me by email at scwilliams@pa.gov and reberts@pa.gov by October 28, 2020:

1. An initial IR reporting form for the Site—as required by Section 6.3 of the HDD IR PPC Plan.
2. A detailed description, including photographs 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 remedial measures necessary to complete remediation.
3. A “restart report” meeting the requirements of Section 5.1.5 (Monitoring Protocol for Condition 3) of the April 2018 HDD IR PPC Plan, that has been prepared and sealed by a Pennsylvania licensed Professional Geologist.
4. Remove the sandbag dam, and corrugated plastic pipe (stream bypass) from the stream.

Please be reminded Department approval is required before restarting drilling operations for PA-LE-0055.0000-RD-16.

In addition, pursuant to Section 609 of the Clean Streams Law, 35 P.S. § 691.609, the Department is providing an opportunity for informal hearing. The hearing is being held to determine if Sunoco has failed and continues to fail to comply with any relevant rule, regulation, permit or order of the Department and/or if Sunoco has a lack of ability or intention to comply with the law as indicated by past or continuing violations.

Based upon the information presented by SPLP at the informal hearing, the Department will determine whether to withhold issuance, renewal or amendment of permits required by the Clean Streams Law. Please let the Department know when SPLP might be available for an informal hearing between now and November 6, 2020.

This Notice of Violation is neither an order nor any other final action of the Department. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

The Department looks forward to your cooperation in this matter. If you have any questions, please contact me at 717.705.4819.

Ronald C Eberts, Jr.

Sincerely,

Ronald C. Eberts, Jr.
Environmental Protection Compliance Specialist
Conservation, Restoration, and Inspection Section
Waterways & Wetlands Program

cc: Karl Kerchner- Lebanon County Conservation District
Captain Anthony Quarracino - PA Fish and Boat Commission, Southcentral Region
Debby Nizer - US Army Corps of Engineers, Baltimore District
Chris Embry - Sunoco Pipeline, LP
Monica Styles - Sunoco Pipeline, LP
Nick Bryan – Sunoco Pipeline, LP
West Cornwall Township

