

June 5, 2017

NOTICE OF VIOLATION

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

CERTIFIED MAIL NO. 9171 9690 0935 0133 7705 49

Mr. David Bell
Precision Pipeline, LLC
3314 56th Street
Eau Claire, WI 54703

CERTIFIED MAIL NO. 9171 9690 0935 0133 7705 56

Re: Violations of The Clean Streams Law
Pennsylvania Pipeline / Mariner East II Project
DEP Permit Nos. ESG0300015002 and E21-449
DEP File No NOV 21 17 101
Middlesex Township, Cumberland County

Dear Mr. Gordon & Mr. Bell:

The Department of Environmental Protection (Department) has reviewed the initial and interim inadvertent return reports that you submitted for inadvertent returns (IRs) that occurred in Wetlands I30 and I32 on May 6, 2017 and May 19, 2017, respectively in Middlesex Township, Cumberland County. These IRs occurred within wetlands, waters of the Commonwealth that are classified as Exceptional Value (EV) wetlands associated with Letort Spring Run (High Quality–Cold Water Fishery/Wild Trout). The drilling fluids that comprised the IRs constitute Industrial Waste and 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.

In reviewing your initial and interim IR reports, the Department has determined that you failed to comply with DEP permits E21-449 (at Special Conditions kk., mm., and nn.) and ESG030015002 (at Part C, Paragraph IV), which require the permittee(s) to follow their *'HDD Inadvertent Return, Preparedness, Prevention, and Contingency Plan, (IRCP)* that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event.

Specifically, the IR reports indicated that drilling continued prior to completing successful remediation, in contradiction with Sections 6.0 and 6.3 of the IRCP, Permit E21-449 Special Conditions kk., mm., and nn., and Permit ESG0300015002, Condition Part C., paragraphs I.A., I.B., and IV. Failing to fully remediate the IR allowed a continuous unauthorized discharge of Industrial Waste to EV wetlands while active drilling continued. Additionally, the IR reports fail to document if any additional corrective measures were implemented before the drilling activities resumed to reduce the likelihood of the IR from reoccurring.

Failing to comply with the IRCP and Permit E21-449 Special Conditions kk., mm, and nn. and 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 unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18.

Failing to comply with Permit ESG0300015002 Conditions Part C.I.A., C.I.B., and C.IV. and 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. § 691.61.1

From the date of the initial IRs to present, the Department requests that you submit a report that includes, but is not limited to, the items noted below. Please submit this report to the attention of Mr. Ronald C. Eberts, Jr. by email at reberts@pa.gov within 2 business days of receipt of this letter.

1. On which days did drilling occur (duration of the disturbance)
2. What is the total quantity of each IR (pump rate, estimate of return volumes)
3. On which days was an IR observed
4. What additional steps or methods were implemented to eliminate each IR before drilling activities resumed, including for example, but not limited to, changes to the additives included in the drilling fluids, changes to the manner in which drilling fluids were introduced to the Horizontal Directional Drilling (HDD) process, and/or changes to the depth or direction of the HDD
5. The reasons for abandoning the original pilot hole and choosing a new pilot hole location, including for example, but not limited to, what changes have been incorporated for drilling the new pilot hole to decrease the potential for an IR, changes in depth or direction of the new pilot hole compared to the original pilot hole, changes to the additives included in the drilling fluids, and/or changes to the manner in which drilling fluids are being introduced into the HDD

6. Specify the dates when IRs were remediated and methods used to remediate the IRs
7. Identify and describe the impacts that have occurred to the EV wetlands

The Department also requests that you submit a restoration plan to remediate each impacted wetland, to the attention of Mr. Ronald C. Eberts, Jr. by email at reberts@pa.gov within 5 business days of receipt of this letter. As per the IRCP and Permit E21-449 Special Condition mm., the Department strongly recommends that drilling activities cease until these areas have been fully remediated.

This Notice of Violation is neither an order nor any other final action of the 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.

DEP looks forward to your cooperation in this matter. If you have any questions, please contact me at 717.705.4799.

Sincerely,



Scott R. Williamson
Program Manager
Waterways and Wetlands Program

cc: Matthew Stough - Cumberland County Conservation District
Captain Alan Robinson - PA Fish and Boat Commission, Southcentral Region
Debby Nizer, US Army Corps of Engineers, Baltimore District
Chris Embry, Sunoco Pipeline, LP
Middlesex Township