

October 16, 2017

By Email

ra-eppipelines@pa.gov



Re: Sunoco's Responses to DEP's request for information for HDD PA-LA-0014.0000-SR and PA-CH-0135.000-RD

Dear Mr. Rocco and Mr. Williamson,

On October 11, 2017, Sunoco submitted two letters to the Department in response to the Department's requests for additional information regarding two horizontal directional drilling sites, HDD PA-LA-0014.0000-SR, and PA-CH-0135.000—RD. 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 in reply.

First, thank you. The HDD re-evaluation process that was ordered by the Environmental Hearing Board is critical to protecting drinking water supplies and natural resources across Pennsylvania and Appellants very much appreciate that the Department is treating the process with the seriousness it is due. Appellants support the Department's request for information regarding the risks that the permitted activity poses to drinking water supplies. Especially in light of the known water supply contamination and damage that has already resulted from Sunoco's project, these requests are not only appropriate and unquestionably within the Department's authority, but really go to the heart and intent of Chapter 105 permitting and the Department's responsibilities to public.

Appellants also support the Department's question regarding whether all residents living near these sites have been contacted and do not believe Sunoco's response was adequate. In fact, Sunoco's defense of its outreach only provides more cause for concern. Sunoco describes having sent mailers to residents living near the Lancaster site on September 27, 2017, a mere two days before the comment deadline. This inexplicable delay diminished the comment opportunity these residents were granted by the Order. More problematic though, is that the timeline Sunoco has described is an admission that it did not even attempt to gather information about drinking water supplies from residents prior to submitting its re-evaluation report on September 15, 2017. Sunoco similarly admits that it did not attempt to contact residents at the Chester County site until after it had already submitted that re-evaluation report. Those mailers went out on September 25, 2017, four days before the close of the comment period, and ten days after the re-evaluation for that site had been submitted.¹ Despite this, Sunoco insists it has properly "considered and mitigated any potential risks to private water supplies." That, of course, cannot be the case where it failed to even identify wells.

¹ Sunoco suggests you check with Ms. Yordy for certified mail receipts, but the unorganized, uncatalogued piles of photocopies Sunoco has provided would take considerable resources to glean information from. Given the short windows of time in the re-evaluation process, Sunoco is in a far better position than the Department, or anyone else, to provide site specific verifications.

Sunoco's blanket refusal to respond to the Department's request for information regarding potential risks to private water supplies is wholly unacceptable and defies both the terms and intent of the Order. The Order requires a re-route analysis, which cannot be complete in this context without first understanding where water wells are located relative to route options and then determining the risks any given route would pose to those water supplies. The Order also requires Sunoco discuss actions it will take to eliminate, reduce, or control impacts to water supplies. Any such actions are rendered meaningless -- and impossible for the Department to evaluate -- if not based on a discussion of the risks those actions seek to address. Even more explicit is that the Order requires an analysis of well production zones. All of this though, is beside the point: Sunoco's refusal to provide this basic, critical information demonstrates a clear disregard for the the authority and role of the Department as the permitting and enforcing agency, utter callousness toward the public it has harmed, and obstinate defiance of the spirit of the Order that was entered as a result of its destruction of drinking water supplies.

Appellants urge the Department to stand by its requests and that the Department withhold approval of the newly submitted plans until complete and satisfactory answers have been provided by Sunoco. Sunoco's insistence that it does not have to assess the risks its drilling poses to drinking water is absurd, particularly now, after ongoing reports of drinking water contamination, over a hundred inadvertent returns, public outcry and political blowback, and a court of law determining that the risks were so dangerous that a temporary ban of HDD activity was necessary. The public is counting on your protection. One effective way to protect the public's health and safety is to require Sunoco to provide all information regarding the risks to water supplies and to ensure Sunoco properly utilizes that information in its planning.

Respectfully,

s/ Melissa Marshall, Esq.

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