

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Sunoco Pipeline, L.P.	:	Violations of The Clean Streams Law
535 Fritztown Road	:	and DEP Ch. 92a, 93 and 102 of Title 25
Sinking Springs, PA 19608	:	of the Pennsylvania Code, and the Dam
	:	Safety and Encroachments Act and DEP
	:	Ch. 105 of Title 25 of the
	:	Pennsylvania Code
	:	
	:	PA Pipeline Project—Mariner East II
	:	102 Permit No. ESG0100015001
	:	105 Permit No. E15-862

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement (“COA”) is entered into this 6th day of December 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), the Department of Conservation and Natural Resources (“DCNR”) and Sunoco Pipeline, L.P. (“Sunoco”).

The Department has found and determined the following:

Parties

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1 *et seq.* (“Clean Streams Law”); the Dam Safety and Encroachment Act, the Act of November 26, 1978 P.L. 1375, as amended, 32 P.S. §§ 693.1 *et seq.* (“Dam Safety and Encroachments Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S.

§ 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“rules and regulations”).

B. DCNR is the agency with the mission to maintain, improve and preserve State parks, to manage State forest lands to assure their long-term health, sustainability and economic use, to provide information on Pennsylvania's ecological and geologic resources and to administer grant and technical assistance programs that will benefit rivers conservation, trails and greenways, local recreation, regional heritage conservation and environmental education programs across Pennsylvania pursuant to the Conservation and Natural Resources Act (“CNRA”), Act of June 28, 1995, P.L. 89, No. 18, *as amended*, 71 P.S. §§ 1304.101 *et seq.*, and a trustee of the Commonwealth’s public natural resources. Pursuant to Section 101(b)(1) of the CNRA, 71 P.S. § 1340.101(b)(1), DCNR is charged with maintaining, improving, and preserving Pennsylvania’s state parks.

C. Sunoco is a foreign limited partnership doing business in Pennsylvania and maintains a mailing address of 535 Fritztown Road, Sinking Springs, PA 19608. Sunoco Logistics Partners Operations GP LLC (the “General Partner”) is the general partner of Sunoco. Joseph J. Perez is Senior Vice President – Engineering & Construction Services Support of the General Partner. Mr. Perez has been granted authority to sign documents for the General Partner in its capacity as the general partner of Sunoco, on behalf of Sunoco.

D. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco has undertaken an effort to expand existing transportation systems for natural gas liquids in Pennsylvania, which is collectively referred to as the Pennsylvania Pipeline Project – Mariner East II (“ME2”). As part of ME2, Sunoco is

conducting pipeline installation activities in seventeen counties in Pennsylvania, including Chester County.

Installation of ME2 in Chester County at Horizontal Directional Drill 290

E. On February 13, 2017, Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0100015001 (“102 Permit”), and Water Obstructions and Encroachment Permit, Permit Number E15-862 (“105 Permit”), to construct ME2 through Chester County. These Permits are referred to collectively as “the 102 and 105 Permits”.

F. Condition 3 of the 105 Permit provides, in part, that the “permit does not... authorize any injury to private property or invasion of private rights, nor any infringement of Federal, State, or Local laws or regulations; nor does it obviate the necessity of obtaining Federal assent when necessary.”

G. Special Condition Q of the 105 Permit specifies, in relevant part, that “[a]ll disturbed areas are to be restored, stabilized and shall be replanted with indigenous plant species.”

H. Special Condition X of the 105 Permit provides that “the permittee shall avoid wetland impacts, to the extent practicable, and minimize any such impacts.”

I. Special Condition JJ of the 105 Permit provides that “[t]he permittee shall construct and operate the Horizontal Directional Drilling (HDD) crossings at wetlands, streams and floodways ... in a manner to prevent a release of drilling fluid to ‘Regulated waters of this Commonwealth’ (RWC).”

J. For purposes of this COA, HDD means any steerable trenchless construction technology that utilizes fluids under pressure and controls the direction and deviation of the drill bit to a predetermined underground target or location.

Activities at HDD 290

K. The work area for ME2 in Chester County, Pennsylvania includes the HDD installation of a 16-inch diameter pipeline and a 20-inch diameter pipeline that traverses Little Conestoga Road in Upper Uwchlan Township (“HDD S3-0290” or “HDD 290”). The alignment of HDD 290 passes from the northwest to the southeast in the Marsh Creek Watershed.

L. The 16-inch pipeline was installed in 2017. During that installation, an inadvertent return (“IR”) of approximately 100 gallons of drilling fluids occurred in Wetland WL-17 and two unnamed tributaries to Marsh Creek Lake, S-H10 and S-H11, on June 24, 2017. Streams S-H10 and S-H11 are classified as High Quality-Trout Stocked Fisheries. On August 29, 2017, another IR of approximately 40 to 50 gallons occurred in Wetland WL-17 and along Stream S-H11 approximately 40 feet from the June 24, 2017 IR location. (Collectively, “2017 IRs”).

M. In accordance with the Corrected Stipulated Order entered by the Environmental Hearing Board (“EHB”) on August 10, 2017 at Docket No. 2017-009-L, Sunoco was required to conduct a reevaluation of HDD 290 prior to commencing installation of the 20-inch pipeline. On May 28, 2019, Sunoco submitted its HDD 290 reevaluation report to the Department for review and approval (“Reevaluation Report”). The Reevaluation Report can be found at https://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/HDD_Reevaluation_Reports/LittleConestogaRoadCrossing/Little%20Conestoga%20Road%20Crossing%20-%20S3-0290%20-%20E15-862%20-%20PA-0100.0000-RD.pdf

N. As part of that reevaluation, Sunoco considered alternatives to performing HDD for installation of ME2 at this site. Sunoco concluded that:

[a] 1.01 mile reroute to the north of the HDD is technically feasible. This

would entail adjusting the project route prior to this HDD's northwest entry/exit point to proceed north, cross under the Pennsylvania Turnpike, then proceed east for 0.7 miles parallel to the turnpike, cross Little Conestoga Road, then turn south, cross under the turnpike, and then re-intersect the existing project route just east of this HDD's southeast entry/exit point. There is no existing utility corridor here, however; therefore, this route would create a Greenfield utility corridor and would result in encumbering previously unaffected properties. The route would still cross two Waters of the Commonwealth and possible forested wetlands, and would pass in near proximity or immediately adjacent to five residential home sites. Both crossings of the turnpike would require "mini" HDD's or direct pipe bores to achieve the required depth of cover under the highway. *Considered against the possibility of additional IR's occurring on the proposed HDD, which are readily contained and cleaned up with minimal affect (sic) to natural resources, the permanent taking of the new easement and likely need to use condemnation against previously unaffected landowners results in [Sunoco's] opinion that managing the proposed HDD is the preferred option.*

Reevaluation Report at p. 6, "Re-Route Analysis" (emphasis added).

O. The Reevaluation Report also included the "HDD Hydrogeologic Reevaluation Report – HDD S3-0290" dated May 2019 ("Hydro Report"). The Hydro Report concluded that "[t]he synthesis of regional and local geologic data together with past drilling performance during drilling for the 16-inch pipeline indicate that installation of the 20-inch line at HDD S3-0290 has a moderate to high risk of drilling fluid loss and IRs." Hydro Report at p. 15.

P. The Department approved the Reevaluation Report on January 23, 2020.

Q. In February 2020, Sunoco commenced drilling the pilot hole for the 20-inch pipeline at HDD 290.

August 10, 2020 IR and August 11, 2020 Subsidence Event

R. On August 10, 2020, as Sunoco was at the reaming stage of the borehole for the 20-inch pipeline at HDD 290, approximately 7,712 gallons of drilling fluids surfaced in Wetland WL-

17 and Streams S-H10 and S-H11 (“2020 IR”), which were the same aquatic resources impacted by the 2017 IRs. The drilling fluids discharged to Wetland WL-17, Streams S-H10 and S-H11, and then Marsh Creek Lake, all Waters of the Commonwealth. Wetland WL-17 and Streams S-H10 and S-H11 were coated with a layer of drilling mud. A plume of drilling mud discharged to Ranger Cove in Marsh Creek Lake.

S. Marsh Creek Lake is located within Marsh Creek State Park (“Park”), the fifth most visited state park in Pennsylvania. Each year more than 1,000,000 people visit the Park. Marsh Creek Lake is a primary recreational public natural resource in the Park. The 535-acre lake is used year-round for fishing and boating and provides important habitat for migrating waterfowl.

T. On August 10, 2020, DCNR closed public access to Ranger Cove due to the presence of drilling fluids in the lake. DCNR has maintained the closure of Ranger Cove to recreational boating and fishing and all other public use as of the date of this COA due to DCNR’s determination that there is a continued presence of drilling fluid residuals in an approximately 15-acre area of Ranger Cove.

U. The designated use listed in 25 Pa. Code § 93.9g for Marsh Creek Lake and its Basin is High Quality – Trout Stocked Fishes, Migratory Fishes (HQ-TSF, MF).

V. On August 11, 2020, a subsidence event measuring approximately 15 feet in diameter occurred in Wetland WL-17 (“Subsidence”). Additional drilling fluids entered the wetland and adversely impacted its functions and values. The Subsidence was filled with 26 cubic yards of flowable fill on August 12, 2020.

Compliance and Enforcement.

W. On August 20, 2020, the Department issued a Notice of Violation (“NOV”) (attached as Exhibit 1) requesting Sunoco to submit information regarding various aspects of HDD 290 operations and plans to address the impacts of the 2020 IR and the Subsidence to Wetland WL-17, Streams S-H10 and S-H11, and Marsh Creek Lake. Among other things, the Department requested Sunoco to submit:

- a. A detailed description of the actions taken to contain and remove the industrial waste from each water of the Commonwealth, including wetlands, impacted by the 2020 IR and the Subsidence and a detailed plan describing the additional measures Sunoco proposed to perform to complete remediation of the 2020 IR, including Sunoco’s plan to assess and restore wetlands functions and values impacted by the 2020 IR and the Subsidence, as well as any aquatic resources in the wetland, tributary stream and reservoir;
- b. A detailed resource delineation and functional assessment for wetland, stream, and bodies of water of the entire area impacted by the 2020 IR, the Subsidence, and cleanup efforts (“Impact Area”).
- c. A restart report meeting the requirements of Section 5.1.5 (Monitoring Protocol for Condition 3) of the April 2018 IR Preparedness, Prevention and Contingency (“PPC”) Plan, prepared and sealed by a Pennsylvania licensed Professional Geologist.

X. On September 11, 2020, the Department issued an Administrative Order (“AO”, attached as Exhibit 2) requiring Sunoco to, *inter alia*, 1) immediately suspend all work for HDD 290 until the Department provides written authorization to resume work; 2) re-route the pipeline to a route Sunoco indicated was technically feasible in its Reevaluation Report; 3) submit for

review and approval an impact assessment and a cleanup and restoration plan for the HDD 290 Drill Site that addressed all temporary and/or permanent impacts to Waters of the Commonwealth (“Impact Assessment and Restoration Plan”); and 4) secure the partially constructed borehole with grouting or an equivalent method and stabilize all disturbed areas at HDD 290.

Appeal and Supersedeas

Y. On September 25, 2020, Sunoco filed an appeal of the AO and a Petition for Supersedeas with the EHB. Sunoco’s appeal is docketed at EHB Docket No. 2020-085-L.

Z. A supersedeas hearing was held before EHB Judge Bernard A. Labuskes, Jr. from October 27, 2020 through October 30, 2020.

AA. On December 16, 2020, the EHB issued an Order temporarily superseding Paragraph 2 of the AO pending the Department’s review of, and final decision on, Sunoco’s previously submitted restart report for HDD-290. Paragraph 2 required Sunoco to immediately implement a reroute of the 20-inch pipeline.

Restart Report and Permit Modifications: Installation of 20-inch Pipeline.

BB. On August 17, 2020, Sunoco submitted a Restart Report for HDD 290 in which Sunoco proposed to construct “unconventional pressure relief points” consisting of sand-bag dams placed at the location of the 2017 IRs and in Wetland WL-17 in the area of the 2020 IR. Sunoco subsequently amended this Restart Report on November 20, 2020. In addition, on November 23, 2020, Sunoco submitted a modification request to the 102 and 105 Permits.

CC. After reviewing these submissions, the Department issued a deficiency letter on January 4, 2021.

DD. Sunoco subsequently determined that it would not pursue the HDD outlined in the

November 2020 Restart Report and the November 23, 2020 permit modification requests. On April 7, 2021, Sunoco submitted a request for Major Modifications to the 102 and 105 Permits proposing to install the 20-inch line by open trench, rather than HDD, along a route that would use portions of Sunoco's existing right-of-way and a newly acquired right-of-way.

EE. The Department found Sunoco's April 7, 2021 request to amend the Chapter 102 Permit ("102 Modification") incomplete on April 14, 2021, which Sunoco responded to on April 20, 2021. The Department found the 102 Modification to be administratively complete on April 26, 2021. The Department issued a technical deficiency letter to Sunoco on May 25, 2021, which Sunoco responded to on June 1, 2021. The Department issued a second technical deficiency letter on June 22, 2021, which Sunoco responded to on June 25, 2021.

FF. In response to Sunoco's April 7, 2021 request to amend the Chapter 105 Permit ("105 Modification"), the Department found the submission complete on April 16, 2021. On August 6, 2021, the Department issued a technical deficiency letter to Sunoco, which Sunoco responded to on August 27, 2021. The Department requested additional information on September 13, 2021, which Sunoco responded to on September 17, 2021.

Remediation and Restoration of Marsh Creek Lake.

GG. As stated above, Paragraph 4.a. of the AO required Sunoco to submit an Impact Assessment and Restoration Plan to the Department for review and approval.

HH. On October 1, 2020, Sunoco submitted the Impact Assessment and Restoration Plan required by the AO to address all temporary and/or permanent impacts to Waters of the Commonwealth that occurred as a result of the 2020 IR and the Subsidence. The Impact Assessment and Restoration Plan submitted by Sunoco consists of two sections: 1) a Lake Impact

Assessment and Restoration Plan, and 2) a Wetland and Stream Impact Assessment and Restoration Plan. For purposes of this COA, references to the “Impact Assessment and Restoration Plan” shall include both plans.

II. On May 11, 2021, the Department and DCNR issued a deficiency letter, which Sunoco responded to on June 10, 2021.

JJ. Sunoco provided a supplemental sediment sampling plan for Marsh Creek Lake on June 23, 2021, and a supplemental sediment investigation report on July 26, 2021.

KK. After negotiation with the Department and DCNR, Sunoco agreed to dredge, at a minimum, the top 6 inches of sediment within an approximately 14.8-acre area of Ranger Cove.

LL. On August 27, 2021, Sunoco submitted a revised Impact Assessment and Restoration Plan containing the plans for conducting the 6-inch dredge in Ranger Cove.

MM. On August 31, 2021, the Department transmitted to Sunoco a document entitled “Information Needed for Disposal of Dredged Material from Ranger Cove (Marsh Creek Lake) in Upper Uwchlan Township, Chester County, PA” (“Dredging Guidance”). The Dredging Guidance documents the information Sunoco needed to obtain and submit to the Department before dredging operations and associated activities can commence in Ranger Cove.

NN. Sunoco submitted information requested by the Dredging Guidance to the Department on September 14, 16, and 30, 2021.

OO. DCNR and the Department provided comments on the revised Impact Assessment and Restoration Plan and Sunoco’s information concerning the Dredging Guidance to Sunoco on October 27, 2021. Sunoco submitted a response to the DCNR and Department comments on November 11, 2021. The Department and DCNR submitted further comments on the revised

Impact Assessment and Restoration Plan and Sunoco's information concerning the Dredging Guidance to Sunoco on November 24, 2021. On December 1, 2021, Sunoco provided revisions to the Impact Assessment and Restoration Plan addressing the Department's and DCNR's November 24, 2021 comments. Additional revisions were submitted on December 3, 2021. Sunoco's information concerning the Dredging Guidance was incorporated into the revised Impact Assessment and Restoration Plan.

PP. DCNR and the Department approved the Impact Assessment and Restoration Plan on December 6, 2021.

Grouting of the Borehole.

QQ. Paragraph 6 of the AO required Sunoco, *inter alia*, to "secure the partially constructed borehole with grouting or an equivalent method and stabilize all disturbed areas at HDD S-3-0290 in accordance with the approved E&S Plans and in compliance with 25 Pa. Code § 102.22(a) and/or (b), as appropriate."

RR. On September 20, 2020, Sunoco filed an Emergency Water Obstruction and Encroachment Permit ("Emergency Permit") application to conduct borehole grouting and related activities.

SS. The Department issued the Emergency Permit on May 5, 2021. Sunoco filed an appeal of the Emergency Permit with the EHB on June 4, 2021, docketed at EHB Docket No. 2021-057-L.

TT. Pursuant to the requirements of the May 5, 2021 Permit, Sunoco submitted its grouting plan to the Department on June 4, 2021.

UU. Sunoco commenced grouting of the HDD 290 borehole on June 7, 2021. The grouting of the HDD 290 borehole was completed on June 18, 2021.

Violations

VV. The IR drilling fluids constitute “Industrial Waste” as that term is defined at Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

WW. Wetland WL-17, Stream S-H10, Stream S-H11, and Marsh Creek Lake, are “Waters of the Commonwealth” under Section 1 of the Clean Streams Law, 35 P.S. § 691.1, and “Regulated Waters of this Commonwealth” under 25 Pa. Code § 105.1.

XX. Sunoco’s discharge of drilling fluids into Wetland WL-17, Streams S-H10 and S-H11, and Marsh Creek Lake on August 10 and 11, 2020, constitutes a violation of Condition 3 and Special Conditions X and JJ of the Chapter 105 Permit.

YY. Sunoco was not otherwise authorized to discharge the drilling fluids to Wetland WL-17, Stream S-H10, Stream S-H11, and Marsh Creek Lake. Sunoco’s unauthorized discharge of “Industrial Waste” to Waters of the Commonwealth on August 10 and 11, 2020, constitutes a violation of 25 Pa. Code § 92a.1(b), Section 301 of the Clean Streams Law, 35 P.S. § 691.301, 25 Pa. Code § 105.44 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18.

ZZ. Sunoco’s unpermitted discharge of drilling fluid into Wetland WL-17, Stream S-H10, Stream S-H11, and Marsh Creek Lake, and the Subsidence, constitute the unpermitted operation, maintenance, modification, or enlargement of an encroachment or water obstruction under 25 Pa. Code § 105.11(a) and unlawful conduct under Section 18(3) of the Dam Safety and Encroachments Act, 32 P.S. § 693.18(3).

AAA. The violations described above in Paragraphs VV through ZZ constitute unlawful

conduct under Sections 401, 402, and 611 of the Clean Streams Law, 35 P.S. §§ 691.401, 691.402, and 691.611, and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18; a statutory nuisance under Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.601, and Section 19 of the Dam Safety and Encroachments Act, 32 P.S. § 693.19; and subject Sunoco to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. § 691.605, and Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

BBB. DCNR evaluated the natural resource damages at the Park stemming from the 2020 IR, including those resulting from the closure of Ranger Cove, to recreational boating and fishing and other public use as of the date of this COA. DCNR determined that it sustained substantial recreational use losses and ecological benefit losses.

CCC. The violations described above in Paragraphs VV through ZZ constitute natural resource damages. As that term is used in this COA, “natural resource damages” means any damages recoverable to the DCNR and/or the Department under state or federal laws, including, but not limited to, (1) the costs of assessing such injury, destruction, or loss or impairment arising from or relating to such a release; (2) the costs of restoration, rehabilitation, or replacement of injured or lost public natural resources or of acquisition of equivalent resources; (3) the costs of planning such restoration activities; (4) compensation for injury, destruction, loss, impairment, diminution in value, or loss of use of the public natural resources; and (5) any other damages recoverable under statute or common law. Statutes relied upon by DCNR and/or the Department on behalf of the public for injury to, destruction of, or loss or impairment of the public natural resources known as Ranger Cove and the Park, Wetland WL-17, and two unnamed tributaries to Marsh Creek Lake, Stream S-H10, Stream S-H11, as a result of a release of polluting substances,

include but are not limited to the Pennsylvania Hazardous Sites Cleanup Act (“HSCA”), the federal Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) and the Oil Pollution Act.

After full and complete negotiation of all matters set forth in this COA and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Sunoco as follows:

1. **Authority.** This COA is an Order of the Department authorized and issued pursuant to Section 5 of the Clean Streams Law, 35 P.S. § 691.5; Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. **Findings.**

a. Sunoco agrees that the findings in Paragraphs A through UU are true and correct and, in any matter or proceeding involving Sunoco and the Department, Sunoco shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this COA in any matter or proceeding.

3. **Corrective Actions.**

Withdrawal of Appeals and Restart Report, and Superseding of Administrative Order

a. Within five (5) days of the effective date of this COA, Sunoco shall withdraw the appeals docketed at 2020-085-L and 2021-057-L by filing a “Homes of Distinction” settlement with the EHB in each action.

b. Within five (5) days of the effective date of this COA, Sunoco shall withdraw its Restart Report (initially submitted on August 17, 2020 and revised November 23, 2020) and the November 23, 2020 minor modification requests to the 102 Permit and the 105 Permit by submitting written correspondence to the Department indicating that such submissions are withdrawn.

c. This COA supersedes the AO. Any outstanding obligations set forth in the AO are superseded by the Corrective Actions set forth in this COA.

Chapter 102 and 105 Major Permit Modifications

d. Sunoco shall fully and completely implement the terms and conditions of the 102 Modification for earth disturbance activities and the discharge of stormwater associated with the approved activities in open trench installation of that portion of ME2 in Upper Uwchlan Township, Chester County, including any amendments and revisions thereto. The 102 Modification is to be issued by the Department upon full execution of this COA by all parties. The terms and conditions of the 102 Modification, including any amendments and revisions thereto, are hereby incorporated herein as if fully set forth and shall constitute an Order of the Department. Any failure to comply with the terms and conditions of the 102 Modification, including any amendments and revisions thereto, or the terms and conditions of the 102 Permit at this location during construction of the 20-inch pipeline reroute authorized by the 102 Modification, shall be

considered to be a violation of this COA, and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.b. and the Additional Remedies provisions of Paragraph 7.

e.. Sunoco shall fully and completely implement the terms and conditions of the 105 Modification for wetland and encroachment activities associated with the open trench installation of that portion of ME2 in Upper Uwchlan Township, Chester County, including any amendments and revisions thereto. The 105 Modification is to be issued by the Department upon full execution of this COA by all parties. The terms and conditions of the 105 Modification, including any amendments and revisions thereto, are hereby incorporated herein as if fully set forth and shall constitute an Order of the Department. Any failure to comply with the terms and conditions of the 105 Modification, including any amendments and revisions thereto, or the terms and conditions of the 105 Permit at this location during construction of the 20-inch pipeline reroute authorized by the 105 Modification shall be considered to be a violation of this COA, and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.b. and the Additional Remedies provisions of Paragraph 7.

Remediation and Restoration of Marsh Creek Lake and Other Resources

f. Sunoco shall implement the Impact Assessment and Restoration Plan as approved. The Impact Assessment and Restoration Plan, including any amendments and revisions thereto, shall be incorporated by reference as terms and conditions of this COA. Any failure to comply with the terms and conditions of the approved Impact Assessment and Restoration Plan, including any amendments and revisions thereto, during the course of Sunoco's operations associated with the remediation and restoration of Ranger Cove, Wetland WL-17, Stream S-H10, Stream S-H11, or any other resource impacted by the 2020 IR, the Subsidence as well as the

harvesting and removal of vegetative material from Marsh Creek Lake, the active dredging of Ranger Cove, the dewatering of dredge material removed from Marsh Creek Lake, the transportation and removal of dredge material from the Park, the restoration of all disturbed areas associated with the dredging operations, or any other activity otherwise impacting Ranger Cove, Wetland WL-17, Stream S-H10, and/or Stream S-H11, shall be considered to be a violation of this COA, and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.a. and the Additional Remedies provisions of Paragraph 7.

g. Prior to commencing activities pursuant to the Impact Assessment and Restoration Plan, Sunoco shall obtain all authorizations and approvals necessary to conduct the activities set forth in the Impact Assessment and Restoration Plan, including those needed for the dredging of Marsh Creek Lake, the hauling and disposal of dredge material, use of local roads and streets, land use, earth disturbance and/or discharge of dredge dewatering elutriate. Sunoco shall obtain all necessary permits, authorizations, approvals and PNDI clearances, from the appropriate local, state, and/or federal agency including, but not limited to, Upper Uwchlan Township, the Chester County Conservation District, the Department, DCNR, the Pennsylvania Fish and Boat Commission, the U.S. Fish and Wildlife Service, and/or the U.S. Army Corps of Engineers. Sunoco shall obtain an appropriate modification of the Chapter 102 Permit from the Department to conduct its earth disturbance activities under the Impact Assessment and Restoration Plan. Sunoco shall apply for the modification of the Chapter 102 Permit on or before December 31, 2021. This COA and the Impact Assessment and Restoration Plan, as approved by the Department, authorize Sunoco to conduct those activities regulated pursuant to 25 Pa. Code Chapter 105 necessary to implement the Impact Assessment and Restoration Plan. Any approvals and/or

authorizations Sunoco obtains from the Department, including any amendments and revisions thereto, shall be incorporated herein by reference as terms and conditions of this COA. Any failure to comply with the terms and conditions of those Department approvals and authorizations, including any amendments and revisions thereto, shall be considered to be a violation of this COA and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.a. and the Additional Remedies provisions of Paragraph 7.

h. If the Department notifies Sunoco in writing of deficiencies in any document submitted pursuant to this COA and/or the Impact Assessment and Restoration Plan, Sunoco shall respond to those deficiencies in writing within fourteen (14) days of its receipt of the deficiency notice, unless the Department has indicated a different time for response or unless Sunoco requests in writing and receives from the Department a written extension of time for responding to the deficiencies, which extension shall not be unreasonably withheld.

i. Sunoco shall enter into a binding Land Use License Agreement with DCNR on or before April 1, 2022 ("Land Use License Agreement"). Upon execution of the Land Use License Agreement by Sunoco and DCNR, the Land Use License Agreement, including any amendments and revisions thereto, shall be incorporated by reference as terms and conditions of this COA. Any failure to comply with the terms and conditions of the Land Use License Agreement, including any amendments and revisions thereto, shall be considered to be a violation of this COA and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.a. and the Additional Remedies provisions of Paragraph 7.

j. Sunoco shall commence hydraulic dredging and/or vegetation removal in Ranger Cove on April 15, 2022, or within 30 days of receiving the modification of the Chapter

102 Permit as required in Paragraph 3.g., above, whichever is later, unless the modification of the Chapter 102 Permit is issued on or after August 1, 2022. Due to the seasonal restrictions associated with the red bellied cooter, if the modification of the Chapter 102 Permit is issued on or after August 1, 2022, Sunoco shall commence hydraulic dredging and/or vegetation removal in Ranger Cove on April 15, 2023. Sunoco may, as permitted by the DCNR Land Use License Agreement and the approved Impact Assessment and Restoration Plan, perform work associated with its dredging operations in upland areas prior to April 15, 2022 or, if applicable, April 15, 2023. Sunoco shall complete all dredging operations at Ranger Cove, remove all dredge material to an approved disposal facility, and restore the access, laydown and staging areas located within the Park to a condition satisfactory to the DCNR, on or before July 1, 2022, or within 75 days of receiving the modification of the Chapter 102 Permit as required in Paragraph 3.g., above, whichever is later, unless the Department issues the modification of the Chapter 102 Permit on or after August 1, 2022. Due to the seasonal restrictions associated with the red bellied cooter, if the Department issues the modification of the Chapter 102 Permit on or after August 1, 2022, Sunoco shall complete this work on or before July 1, 2023. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan.

k. Sunoco shall conduct the hydraulic dredging operation of the area in Ranger Cove depicted in the Impact Assessment and Restoration Plan to a minimum depth of 6 inches on average. Sunoco shall remove sediment and other material on the lake bottom, consistent with the approved Impact Assessment and Restoration Plan. The measurement of the dredged material removed shall be undertaken in accordance with measurement techniques set forth in the approved

Impact Assessment and Restoration Plan. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan. Within 45 days of the conclusion of the dredging of Marsh Creek Lake and removal of the dewatered dredge material from the Park, Sunoco shall submit to the Department and DCNR for review and approval a report demonstrating that, on average, a minimum depth of 6 inches of sediment was removed from the designated area of Ranger Cove.

1. Sunoco shall replace all fish, bird, and/or turtle habitat structures in the Park impacted by Sunoco's dredging operations or any other activities conducted by Sunoco or its contractors, on or before October 15, 2022, unless the Chapter 102 modification required in Paragraph 3.g., above, is issued after April 15, 2022. If the Chapter 102 modification is issued after April 15, 2022 but prior to August 1, 2022, Sunoco shall complete the corrective actions in this Paragraph 3.l. on or before July 29, 2023. If the Chapter 102 modification is issued on or after August 1, 2022, Sunoco shall complete the corrective actions in this Paragraph 3.l. on or before October 15, 2023. Replacement habitat structures shall be at least equivalent in function as any impacted structure, as determined by DCNR, and shall be constructed and placed as approved by DCNR. A map of habitat structures located in Ranger Cove, which includes their approximate location and type, is attached hereto as Exhibits 3 and 4. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan.

m. Sunoco shall remove and dispose of any vegetation Sunoco, in consultation with the Department and DCNR, determines should be harvested from the area of Ranger Cove to be dredged as authorized by DCNR. All vegetation removed from Marsh Creek Lake shall be

placed in leak proof containment at the time it is removed from Marsh Creek Lake and shall be disposed of or removed for composting at an approved disposal or composting facility located outside the boundaries of the Park no later than 48 hours after it is placed in containment. Transportation, disposal, and/or composting shall be conducted in compliance with any applicable laws, regulations, and guidance for the disposing or composting of such material. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan.

n. Sunoco shall conduct all earth disturbance activities, including for access, staging, and laydown, to prepare and operate a dewatering processing site for the dredging material excavated from Ranger Cove, as approved by the Department and consistent with the Land Use License Agreement. Sunoco shall control the spread of invasive plants in Sunoco's work areas, including, but not limited to all parking areas, temporary roads, and all other areas disturbed by Sunoco (collectively "Work Areas"). Sunoco shall be responsible for preventing the spread of invasive plants and follow DCNR methodologies to remove any growths of these plants from the Work Areas. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan.

o. Sunoco shall transport all material dredged from Marsh Creek Lake by the hydraulic dredge operation to a laydown/staging area in the Park consistent with the Land Use License Agreement and any applicable Department authorizations. Sunoco shall fully restore and stabilize any shoreline areas and riparian buffer impacted by pipes or other structures or equipment used for the process on or before July 1, 2022, unless a later date for completion of such activities is applicable due to the date of issuance of the Chapter 102 modification pursuant to Paragraph

3.g., in which case that completion date shall apply. Sunoco shall monitor the restoration consistent with the restoration and monitoring requirements set forth in Special Conditions L through BB of the 105 Permit. All activities conducted under this subparagraph shall be designed and implemented in accordance with the approved Impact Assessment and Restoration Plan.

p. Sunoco shall establish and operate a dewatering treatment facility for the dredged material utilizing best management practices (BMPs) for the dewatering of dredged material in accordance with the dewatering plan set forth in the approved Impact Assessment and Restoration Plan and any discharge authorization(s) issued by the Department and/or the United States Army Corps of Engineers. Upon issuance of a discharge authorization by the Department, the terms and conditions of the discharge authorization, including any amendments and revisions thereto, shall be incorporated herein as if fully set forth and shall constitute an Order of the Department. Any failure to comply with the terms and conditions of the discharge authorization, including any amendments and revisions thereto, shall be considered to be a violation of this COA, and shall be subject to the Stipulated Penalties set forth below in Paragraph 5.a. and the Additional Remedies provisions of Paragraph 7.

q. Sunoco shall process and transport all dewatered dredged material for disposal or use as alternate daily cover to an approved disposal facility, consistent with the waste handling plans approved in the Impact Assessment and Restoration Plan and in accordance with all applicable laws, regulations and guidance. No material shall be transported from the Park prior to 7:30 a.m. or after 6:00 p.m. on any day.

r. Sunoco shall fully restore Wetland WL-17 and Streams S-H10 and S-H11 and monitor the restoration consistent with the restoration and monitoring requirements set forth

in Special Conditions L through BB of the 105 Permit. Restoration of Wetland WL-17 and Streams S-H10 and S-H11 shall be completed on or before October 15, 2022. Sunoco shall notify the Department when it has completed restoration of Wetland WL-17 and Streams SH-10 and SH-11. Notice shall be made by email to John Hohenstein at the email address set forth below in Paragraph 10. Upon the Department's concurrence that Sunoco has achieved restoration, the five-year monitoring period set forth the 105 Permit shall commence.

s. Sunoco shall conduct all activities under this COA in a manner that will minimize disruption to recreational activities and the operation of the Park, to the satisfaction of DCNR. Sunoco will brief the Park Manager, James Wassell, and Assistant Park Manager, Michael Kuzar, via email daily on or before 8:00 a.m. to coordinate daily operations to ensure minimal disruption to recreational activities and the operation of the Park. Emails shall be sent to James Wassell at jawassell@pa.gov and Michael Kuzar at mikuzar@pa.gov.

t. Sunoco shall submit weekly written reports to the Department and DCNR outlining the activities that occurred in the implementation of dredging operations and restoration activities for the preceding week and a schedule of proposed dredging and restoration activities for the following week. The reports are due by 3:00 p.m. on Friday and shall be submitted via email to John Hohenstein and Heather Bollinger at the email addresses set forth in Paragraphs 10 and 11 below. Sunoco shall employ an Engineer of Record to inspect the erosion and sedimentation controls and BMPS, including the dewatering operations and discharge of elutriate. The Engineer of Record shall conduct weekly inspections of work performed during each calendar month. Sunoco shall submit monthly reports signed and sealed by the Engineer of Record that work has been conducted in accordance with all permits, approvals, and authorizations. The written reports

shall be submitted to the Department and DCNR by the 15th of each month via email sent to John Hohenstein and Heather Bollinger to the email addresses set forth below in Paragraphs 10 and 11.

u. Within thirty (30) days of final execution of this COA, Sunoco shall post and submit to the Department a surety bond (“Bond”) in the amount of Four Million Dollars (\$4,000,000), to the benefit of the “Commonwealth of Pennsylvania,” to ensure the performance of Sunoco’s obligations under this COA.

i. If Sunoco fully performs its obligations under this COA, with the exception of any ongoing monitoring required pursuant to the 105 Permit and Paragraph 3.o. under the restoration and monitoring requirements set forth in Special Conditions L through BB of the 105 Permit (incorporated by reference into Paragraph 3.o.), Sunoco may, in writing, request release of the Bond from the Department. No release or reduction in the amount of the Bond may be sought by Sunoco so long as any obligation(s), current or future (other than the monitoring requirements of the 105 Permit and Paragraph 3.o.), under this COA remain to be addressed.

ii. The Department will forfeit the Bond when it determines that:

(1) Sunoco has violated and continues to violate any of the terms or conditions of this COA;

(2) Sunoco has failed and continues to fail to conduct dredging operations in accordance with the law, the regulations adopted thereunder and/or the terms and conditions of this COA;

(3) Sunoco has abandoned the dredging area, as determined by the Department in consultation with Sunoco;

(4) Sunoco has failed to complete the remediation and restoration

required by the law, the regulations adopted thereunder and/or this COA;

(5) Sunoco has failed to comply with a compliance schedule in the COA; and/or

(6) Sunoco has become insolvent, failed in business, been adjudicated a bankrupt, filed a petition in bankruptcy or for a receiver, or had a receiver appointed by the court; or a creditor of Sunoco has attached or executed a judgment against Sunoco's equipment, materials or facilities at the permit area, or on the collateral pledged to the Department; and Sunoco cannot demonstrate or prove the ability to continue to operate in compliance with the acts, the regulations adopted thereunder and the conditions of this COA.

iii. The Department will send written notification by certified mail to Sunoco and the surety on the Bond of the Department's intent to forfeit the Bond and the reasons for the forfeiture ("Notice of Breach").

iv. Upon Sunoco's receipt of the Notice of Breach, Sunoco must correct the deficiencies identified in the Notice of Breach within thirty (30) calendar days or within such period of time as approved by the Department in writing.

v. If Sunoco fails to timely correct the violations identified in the Notice of Breach, the Department may forfeit the entire Bond. The Department shall send written notification by certified mail to Sunoco and the surety on the Bond of the Department's determination to forfeit the Bond and the reasons for the forfeiture. The written determination to forfeit the Bond, including the reasons for forfeiture, will be a final decision by the Department. Sunoco and the surety shall have the right to appeal the forfeiture of the Bond to the EHB under Section 4 of the Environmental Hearing Board Act of 1988 (35 P. S. § 7514).

vi. Bond money forfeited pursuant to this Paragraph 3.u. shall be placed in a restricted account to be maintained by DCNR to fund the dredging, remediation, and restoration of Marsh Creek Lake and restoration of any areas within the Park impacted by the dredging activities as referenced in Paragraph 3.o., above.

vii. DCNR will use funds collected from Bond forfeiture to complete the dredging, remediation, and restoration of Marsh Creek Lake, or remaining portion thereof, and restoration of any areas within the Park impacted by the dredging activities as referenced in Paragraph 3.o., above.

viii. If the amount forfeited is:

(1) Insufficient to pay for the full cost of dredging, remediation and restoration of Marsh Creek Lake, and restoration of any areas within the Park impacted by the dredging activities as referenced in Paragraph 3.o., above, Sunoco shall be liable for remaining costs. DCNR may complete, or authorize completion of, the dredging, remediation, and restoration of Marsh Creek Lake and restoration of any areas within the Park impacted by the dredging activities as referenced in Subparagraph 3.o., above. The Department and/or DCNR may recover from Sunoco all costs of remediation and restoration in excess of the amount forfeited.

(2) More than the amount necessary to complete the dredging, remediation and restoration of Marsh Creek Lake and restoration of any areas of the Park impacted by the dredging activities as referenced in Paragraph 3.o., above, the excess funds will be returned to Sunoco.

4. **Civil Penalty Settlement.** Sunoco consents to the assessment of a civil penalty of THREE HUNDRED FORTY-ONE THOUSAND DOLLARS (\$341,000.00), which shall be paid

in full within 30 days of the effective date of this COA. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs VV through ZZ, above, covering the period from August 10, 2020, to the date of Sunoco's execution of this COA. Payment shall be by corporate check or the like, made payable to the "Commonwealth of Pennsylvania". The check shall be sent c/o Frank DeFrancesco, Environmental Protection Compliance Specialist, DEP Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401.

5. **Stipulated Civil Penalties.**

a. In the event Sunoco fails to comply in a timely manner with any term or provision of this COA, Sunoco shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$10,000 per day for each violation.

b. In the event Sunoco fails to comply in a timely manner with any term or condition of the 102 Modification or 105 Modification, Sunoco shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$10,000 per day for each violation.

c. The Stipulated Penalties set forth in Paragraphs 5.a. and b., above, shall not be applicable to the post-construction monitoring requirements set forth in Special Conditions L through BB of the 105 Permit and incorporated by reference into Paragraph 3.o., above. Any violations of those monitoring requirements may be subject to a separate civil penalty and/or enforcement action by the Department.

d. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month and shall be forwarded as described in Paragraph 4 (Civil Penalties) above.

e. Any payment under this Paragraph shall neither waive Sunoco's duty to meet its obligations under this COA nor preclude the Department from commencing an action to compel Sunoco's compliance with the terms and conditions of this COA. The payment resolves only Sunoco's liability for civil penalties arising from the violations of this COA for which the payment is made.

e. Stipulated civil penalties shall be due automatically and without notice.

6. **Natural Resource Damages.** Sunoco consents to the assessment of natural resource damages in the amount of FOUR MILLION DOLLARS (\$4,000,000.00), which shall be paid in full within 30 days of the effective date of this COA. The parties agree that this payment is in full settlement and satisfaction of DCNR and the Department's claim for natural resource damages under common law and state and federal laws, including, but not limited to, HSCA, the federal Clean Water Act, CERCLA, and the Oil Pollution Act for all alleged impacts to Marsh Creek Lake and the Park, Wetland WL-17 and two unnamed tributaries to Marsh Creek Lake, S-H10 and S-H11 as described above. Payment shall be by corporate check or the like, made payable to the "Commonwealth of Pennsylvania". The check shall be sent c/o John Norbeck, Deputy Secretary for Parks and Forestry, DCNR, 400 Market Street – 7th Floor, RCSOB, Harrisburg, PA 17105. DCNR shall deposit the payment into a restricted revenue account to be used to develop and implement projects at the Park.

7. **Additional Remedies.**

a. In the event Sunoco fails to comply with any provision of this COA, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this COA and/or forfeit any or all of the bond/financial assurance established pursuant to Paragraph 3.u. above.

b. The remedies provided by this Paragraph and Paragraph 5 (Stipulated Civil Penalties) are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

8. **Reservation of Rights.** The Department reserves the right to require additional measures to achieve compliance with applicable law. Sunoco reserves the right to challenge any action which the Department may take to require those measures.

9. **Liability of Operator.** Sunoco shall be liable for any violations of the COA, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. Sunoco also shall be liable for any violation of this COA caused by, contributed to, or allowed by its successors and assigns.

10. **Correspondence with Department.** All correspondence with the Department concerning this COA shall be addressed to:

John Hohenstein
Pennsylvania Department of Environmental Protection
Southeast Regional Office
Waterways and Wetlands Program
2 East Main Street
Norristown, PA 19401
(484) 250-5161
johohenste@pa.gov

11. **Correspondence with DCNR.** All correspondence with DCNR concerning this COA shall be addressed to:

Heather Bollinger, Chief
Park Operations and Maintenance Division
Department of Conservation and Natural Resources
Bureau of State Parks
P.O. Box 8551
Harrisburg, PA 17105-8551
hbollinger@pa.gov

12. **Correspondence with Sunoco.** All correspondence with Sunoco concerning this COA shall be addressed to:

Nicholas J. Bryan
Sunoco Pipeline L.P.
101 West Third Street
Third Floor
Williamsport, PA 17701
Nick.Bryan@EnergyTransfer.com

Sunoco shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

13. **Force Majeure.**

a. In the event that Sunoco is prevented from complying in a timely manner with any time limit imposed in this COA solely because of a strike, fire, flood, act of God, or other circumstance beyond Sunoco's control and which Sunoco, by the exercise of all reasonable diligence, is unable to prevent, then Sunoco may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this COA shall not constitute circumstances beyond Sunoco's control. Sunoco's economic inability to comply with any of the obligations of this COA shall not be grounds for any extension of time.

b. Sunoco shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Sunoco to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. Sunoco's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Sunoco and other information available to the Department. In any subsequent litigation, Sunoco shall have the burden of proving that the

Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

14. **Severability.** The paragraphs of this COA shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

15. **Entire Agreement.** This COA shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

16. **Attorney Fees.** The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this COA.

17. **Modifications.** No changes, additions, modifications, or amendments of this COA shall be effective unless they are set out in writing and signed by the parties hereto.

18. **Titles.** A title used at the beginning of any paragraph of this COA may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

19. **Execution of Agreement.** This COA may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

20. **Decisions Under COA.** Any decision which the Department makes under the provisions of this COA, including any notice that stipulated civil penalties are due, if such notice is provided, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication

under 2 Pa. C.S. § 101. Any objection which Sunoco may have to the decision will be preserved until the Department enforces this COA.

21. **Termination of COA.** Sunoco's obligations, but not the findings under this COA, shall terminate when Sunoco has both: (a) complied with all requirements of this COA and (b) paid any outstanding penalties under Paragraph 5 above.

IN WITNESS WHEREOF, the parties hereto have caused this COA to be executed by their duly authorized representatives. The undersigned representatives of Sunoco certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this COA on behalf of Sunoco; that Sunoco consents to the entry of this COA as a final ORDER of the Department; and that Sunoco hereby knowingly waives its right to appeal this COA and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Sunoco's attorney certifies only that the agreement has been signed after consulting with counsel.


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[SIGNATURES APPEAR ON NEXT PAGE]

FOR SUNOCO PIPELINE, L.P.:

 12/6/2021

Joseph J. Perez Date
Senior Vice President

 12/6/2021

Curtis N. Stambaugh, Esq. Date
Attorney for Sunoco Pipeline, L.P.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

John Hohenstein, P.E. Date
Environmental Program Manager

Nels J. Taber Date
Senior Litigation Counsel

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES:

John Norbeck Date
Deputy Secretary for Parks and Forestry


Audrey Miner Date
Chief Counsel

FOR SUNOCO PIPELINE, L.P.:

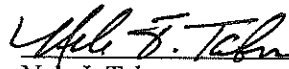
Joseph J. Perez Date
Senior Vice President

Curtis N. Stambaugh, Esq. Date
Attorney for Sunoco Pipeline, L.P.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:


 12-06-2021

John Hohenstein, P.E. Date
Environmental Program Manager

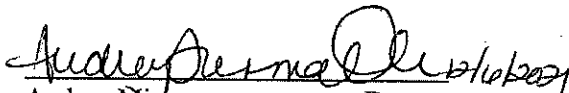
 12/6/21

Nels J. Taber Date
Senior Litigation Counsel

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES:

 12/6/21

John Norbeck Date
Deputy Secretary for Parks and Forestry

 12/6/21

Audrey Mixer Date
Chief Counsel

EXHIBIT 1



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 plantonic 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.

Mr. Matthew L. Gordon
Mr. Jayme Fye

- 5 -

August 20, 2020

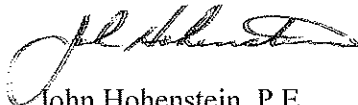
Please be reminded DEP approval is required before restarting drilling operations for PA-CH-0100.0000-RD.

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

EXHIBIT 2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Sunoco Pipeline, L.P.	:	Violations of The Clean Streams Law
535 Fritztown Road	:	and DEP Chapters 93, 102, and 105 of
Sinking Springs, PA 19608	:	Title 25 of the Pennsylvania Code.
	:	
	:	PA Pipeline Project—Mariner East II
	:	E&S Permit No. ESG0100015001
	:	
	:	WO&E Permit No. E15-862

ADMINISTRATIVE ORDER

Now this 11th day of September, 2020, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), has found and determined the following facts and findings and by this Administrative Order imposes the specified performance obligations upon Sunoco Pipeline, L.P. (“Sunoco”).

Findings

Parties

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”); the Dam Safety and Encroachment Act, the Act of November 26, 1978 P.L. 1375, as amended, 32 P.S. §§ 693.1 et seq. (“Dam Safety and Encroachment Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“rules and regulations”).

B. Sunoco Pipeline, L.P. (“Sunoco”) is a foreign limited partnership doing business in Pennsylvania and maintains a mailing address of 535 Fritztown Road, Sinking Springs, PA 19608.

Sunoco Logistics Partners Operations GP LLC is the general partner of Sunoco Pipeline, L.P. Joseph Colella is Executive Vice President for Sunoco Logistics Partners Operations GP LLC. Mr. Colella has been granted authority by Sunoco Logistics Partners Operations GP LLC to sign documents for Sunoco on behalf of the General Partner.

C. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco has undertaken an effort to expand existing transportation systems for natural gas liquids in Pennsylvania, which is collectively referred to as the Pennsylvania Pipeline Project – Mariner East II (“PPP-ME2”). As part of PPP-ME2, Sunoco is conducting pipeline installation activities in seventeen counties in Pennsylvania, including Chester County.

Permits

- D. To construct PPP-ME2 through Chester County, Sunoco obtained:
- a. An Erosion and Sediment Control Permit under 25 Pa. Code Chapter 102, Permit Number ESG0100015001 (“Chapter 102 Permit”) and;
 - b. A Water Obstructions and Encroachment (“WOE”) Permit under 25 Pa. Code Chapter 105, Permit Number E15-862 (“Chapter 105 Permit”).

E. For purposes of this Administrative Order, Horizontal Directional Drilling (“HDD”) is defined to include any steerable trenchless technology that controls the direction and deviation to a predetermined underground target or location.

Site

F. The work area for PPP-ME2 in Chester County, Pennsylvania includes the horizontal directional drill (“HDD”) installation of a 16-inch diameter pipeline and a 20-inch diameter pipeline that traverses Little Conestoga Road in Upper Uwchlan Township, Chester

County, Pennsylvania (“HDD S-3-0290”). The alignment of HDD S-3-0290 passes from the northwest to the southeast in the Marsh Creek Watershed with groundwater flow in the HDD bore alignment being towards Marsh Creek/Marsh Lake to the south and southwest.

G. The 16-inch pipeline was installed in 2017. During that installation, the HDD had an inadvertent return (“IR”) of approximately 100 gallons of drilling fluids to wetland WL-17 and two unnamed tributaries, S-H 10 and S-H 11, to Marsh Creek Lake on June 24, 2017. S-H 10 and S-H 11 are listed as High Quality-Trout Stocked Fisheries. On August 29, 2017, another IR of approximately 40 to 50 gallons occurred in wetland WL-17 along Stream S-H 11 approximately 40 feet from the original IR location during drill ream operations on HDD S-3-0290.

H. In accordance with the Corrected Stipulated Order entered by the Environmental Hearing Board on August 10, 2017 at Docket No. 2017-009-L, Sunoco conducted a re-evaluation of HDD S-3-0290 for installation of the 20-inch pipeline. The HDD S-3-290 re-evaluation report was submitted to the Department on May 28, 2019 and approved by the Department on January 23, 2020 (“Re-evaluation Report”).

I. As part of that re-evaluation, Sunoco reported that:

A 1.01 mile reroute to the north of the HDD is technically feasible. This would entail adjusting the project route prior to this HDD’s northwest entry/exit point to proceed north, cross under the Pennsylvania Turnpike, then proceed east for 0.7 miles parallel to the turnpike, cross Little Conestoga Road, then turn south, cross under the turnpike, and then re-intersect the existing project route just east of this HDDs southeast entry/exit point. There is no existing utility corridor here, however; therefore, this route would create a Greenfield utility corridor and would result in encumbering previously unaffected properties. The route would still cross two Waters of the Commonwealth and possible forested wetlands, and would pass in near proximity or immediately adjacent to five residential home sites. Both crossings of the turnpike would require “mini” HDD’s or direct pipe bores to achieve the required depth of cover under the highway. Considered against the possibility of additional IR’s occurring on the proposed HDD, **which are readily contained and cleaned up with minimal affect to natural resources,** the permanent taking of the new

easement and likely need to use condemnation against previously unaffected landowners results in SPLP's opinion that managing the proposed HDD is the preferred option. (emphasis added). Re-evaluation Report at p. 6 "Re-Route Analysis".

J. The Re-evaluation Report also included an "HDD Hydrogeologic Reevaluation Report – HDD S3-0290 dated May 2019 ("Hydro Report"). It was noted as a conclusion in that report that "[t]he synthesis of regional and local geologic data together with past drilling performance during drilling for the 16-inch pipeline indicate that **installation of the 20-inch line at HDD S3-0290 has a moderate to high risk of drilling fluid loss and IRs.**" (emphasis added) Hydro Report at p. 15.

K. In February 2020, Sunoco commenced drilling the pilot hole for the 20-inch pipeline at HDD S-3-0290.

L. In spite of Sunoco's assurances that it could readily contain and clean up any IRs that might occur on HDD S-3-0290 with minimal affect to natural resources, on August 10, 2020, the Department received notice from Sunoco of an IR at HDD Site S-3-0290, PA-CH-0100.0000-RD, in the vicinity of Green Valley Road in Upper Uwchlan Township, Chester County. Sunoco ultimately reported that approximately 8163 gallons of drilling fluids had surfaced in wetland WL-17 and two unnamed tributaries, S-H 10 and S-H 11, the same aquatic resources impacted by the 2017 IRs.

M. At the time of the Department's inspection on August 10, 2020, Sunoco had attempted to contain the IR by deploying various silt fences in wetland WL-17 and unnamed tributaries S-H 10 and S-H 11 and two sets of instream silt containment booms (weighted silt curtains) to reduce the amount of bentonite entering Marsh Creek Lake. There was no sandbag containment in wetland WL-17 to capture drilling fluids. An effort was being made to pump some of the drilling fluids from wetland WL-17. Representatives from Sunoco indicated that they were

still attempting to obtain landowner permission in order to gain access to areas to fully address the IR. Despite Sunoco's efforts to contain and clean up the IR, the IR discharged to wetland WL-17 and two unnamed tributaries, S-H 10 and S-H 11 and then flowed and discharged into Marsh Creek Lake, a water of the Commonwealth. Wetland WL-17 and two unnamed tributaries, S-H 10 and S-H 11 were coated with a thick layer of drilling mud. A plume of drilling mud filled a cove of Marsh Creek Lake.

N. Marsh Creek Lake is in Marsh Creek State Park, one of the most visited state parks in Pennsylvania. Marsh Creek State Park receives more than 1,000,000 visitors each year. Marsh Creek Lake is one of the primary recreational resources in the park. The 535-acre lake is used year-round for fishing and boating. It also provides important habitat for migrating waterfowl. Following the inadvertent return, 33 acres of Marsh Creek Lake had to be closed to the public.

O. On August 11, 2020, the Department received notice of a subsidence event in wetland WL-17 measuring 15 foot in diameter and 8 foot deep. The subsidence event allowed drilling fluids into the underground horizon and the wetland, adversely impacting the functions and values of the wetland, and constituting a discharge of industrial waste to groundwater, a water of the Commonwealth and wetlands, a water of the Commonwealth.

P. Immediately after the inadvertent return the Department conducted inspections of this area on August 10, 2020, August 11, 2020, August 12, 2020, and August 13, 2020.

Q. On August 17, 2020, Sunoco submitted a Restart Report for HDD S-3-290. In that report, Sunoco proposes to construct "unconventional pressure relief points" ("UPRPs"), which consist of sand-bag dams constructed at the location of the two IRs that occurred in 2017 and in wetland WL-17. Sunoco asserts, once again, that if a future IR were to occur at any of those locations, this time the drilling fluids will be collected and transported to either the entry or exit

pits for HDD S-3-0290 and recycled at the mud plant. Sunoco did recognize that placement of the sandbag dam within wetland WL-17 would require additional permitting. The Department has not approved the Restart Report for HDD S-3-0290.

R. On August 20, 2020, the Department issued a Notice of Violation to Sunoco, requesting that Sunoco provide plans to address the impacts of the inadvertent return and subsidence events to waters of the Commonwealth and information regarding various aspects of the HDD. To date the Department has not received all information requested by that Notice of Violation.

S. Sunoco's efforts to clean up the inadvertent return and assess its impacts to waters of the Commonwealth continues as of the date of this order. The Department continues to monitor conditions and cleanup efforts at this site. The 33-acre portion of Marsh Creek Lake referenced in Paragraph M, above, remains closed to recreational boating and fishing and all other public use due to the presence of drilling fluids on the lake bottom.

Violations

T. The drilling fluids described in Paragraphs L, M and O, above, constitute Industrial Waste. Sunoco's discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of 25 Pa. Code § 92a.1(b) and Section 301 of the Clean Streams Law, 35 P.S. § 691.301 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18.

U. The violations described in Paragraphs L, M and O, above, constitute unlawful conduct under Sections 401 and 611 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.611; and a statutory nuisance under Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.601. The violation in Paragraph L constitutes unlawful conduct under Section 18 of the

Dam Safety and Encroachments Act, 32 P.S. § 693.18; and a statutory nuisance under Section 19 of the Dam Safety and Encroachments Act, 32 P.S. § 693.19.

NOW, THEREFORE, pursuant to Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; Sections 5, 402, and 610 of The Clean Streams Law, 35 P.S. § 691.5, 691.402, and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, the Department hereby ORDERS the following:

1. Except as specified herein, Sunoco shall immediately suspend all work authorized by the permits described in Paragraph D, above, for HDD S-3-0290 until the Department provides written authorization to resume work, except as is necessary to stabilize the site to prevent erosion and sedimentation in accordance with Paragraph 6, and to prevent additional pollutants from entering waters of the Commonwealth, including wetland WL-17, unnamed tributaries S-H 10 and S-H 11 of Marsh Creek Reservoir, and the Marsh Creek Reservoir, which is located in Marsh Creek State Park. In no event shall Sunoco undertake any pipeline installation activities at the site of HDD S-3-0290, including drilling or drilling-related preparation and drilling support activities, or the installation of casing, unless expressly authorized by the Department in writing.

2. Sunoco shall take all steps necessary, including the submission of appropriate applications and supporting materials for permit amendments, to implement the reroute of HDD S-3-290 that Sunoco previously found to be technically feasible in the Re-evaluation Report.

3. Within 30 days of the effective date of this Administrative Order, Sunoco shall submit a report to the Department that fully explains how the August 10, 2020 inadvertent return described in Paragraph L above, occurred and how the August 11, 2020 subsidence event described in Paragraph N above, occurred. Such report shall also detail the results of all geophysical testing

conducted by or on behalf of Sunoco from January 1, 2010 to the date of this Order for the 2000-foot-long by 50-foot-wide section of the HDD profile centered on the August 10, 2020 IR location areas of the HDD profile, as well as the results of all geophysical testing conducted on behalf of Sunoco from January 1, 2010 to the date of this Order in any other areas or resources that were impacted by the August 10, 2020 IR and subsidence event. The geophysical testing data shall include all results of microgravity, electrical resistivity, seismic refraction and any other geophysical testing. The report shall include analyses of each of the tests, verified by a qualified professional,

4. Sunoco shall address, to the Department's satisfaction, all impacts to waters of the Commonwealth that occurred as a result of the August 10, 2020 inadvertent return and the August 11, 2020 subsidence event by restoring and remediating impacted aquatic life, biota, and habitat, including the functions and values of the impacted wetlands resources, and all impacted recreational uses, to a condition equal to or better than that in place before the incidents occurred.

a. On or before October 1, 2020, unless the Department approves a later date in writing, Sunoco shall submit an impact assessment ("Impact Assessment") and a cleanup and restoration plan for HDD S-3-0290 Drill Site ("Restoration Plan") to the Department for review and approval to address all temporary and/or permanent impacts to waters of the Commonwealth that occurred as a result of the August 10, 2020 inadvertent return and August 11, 2020 subsidence event. The Impact Assessment and the Restoration Plan shall include a detailed resource delineation and function assessment for the wetland, stream, and reservoir in the areas impacted by the IR and subsidence event, as well as reference areas. The Restoration Plan shall provide for at least five (5) years of monitoring after the restoration activities are completed. For the first two (2) years, Sunoco shall submit

monitoring reports under the Restoration Plan to the Department on a quarterly basis with monitoring reports due on January 30th, April 30th, July 30th, and October 30th of each year for the preceding calendar quarter. After the initial two (2) year monitoring period, monitoring reports shall be submitted on an annual basis, with the first annual report due on January 30th following year three (3).

b. If the Department finds that Sunoco's implementation of the Restoration Plan has failed to eliminate impacts to waters of the Commonwealth, then Sunoco shall submit a mitigation plan for the HDD S-3-0290 Drill Site ("Mitigation Plan") to the Department for review and approval to address impacts to waters of the Commonwealth that occurred as a result of the August 10, 2020 inadvertent return and the August 11, 2020 subsidence event. The Mitigation Plan shall provide for replacement of the functions and values of all impacted wetlands at a minimum area of 0.25 acre or at a ratio of 2:1, whichever is greater, within the Marsh Creek watershed. In accordance with Permit No. E15-862, special condition EE, the Mitigation Plan shall provide for at least five (5) years of monitoring after the restoration activities are completed.

c. Sunoco shall conduct the Impact Assessment and implement the Restoration Plan at Paragraph 4.a., above, immediately upon receipt of written approval from the Department unless the Department extends that timeframe in writing. If the Department determines that a Mitigation Plan is needed pursuant to Paragraph 4.b., then Sunoco shall implement the Mitigation Plan at Paragraph 4.b., above, within 90 days of receiving written approval from the Department, unless the Department extends that timeframe in writing.

5. In the event the Department determines that additional information, revisions, modifications or amendments are necessary to any permit, plan, any other submission, or restoration and remediation work required by this Order, then within ten (10) days after receipt of written notice from the Department, Sunoco shall submit to the Department such information, revisions, amendments or modifications, and/or complete the modified work, unless an alternative timeframe is approved by the Department in writing.

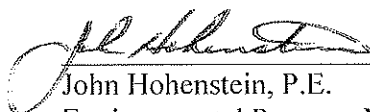
6. Effective immediately, Sunoco shall secure the partially constructed borehole with grouting or an equivalent method and stabilize all disturbed areas at HDD S-3-0290 in accordance with the approved E&S Plans and in compliance with 25 Pa. Code § 102.22(a) and/or (b), as appropriate. Sunoco shall continue routine monitoring of the installed BMPs and shall perform all necessary ongoing operation and maintenance activities to ensure the BMPs continue to perform as designed, in accordance with the approved E&S Plan and permit until the disturbed areas along the current alignment for HDD S-3-0290 are permanently stabilized.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

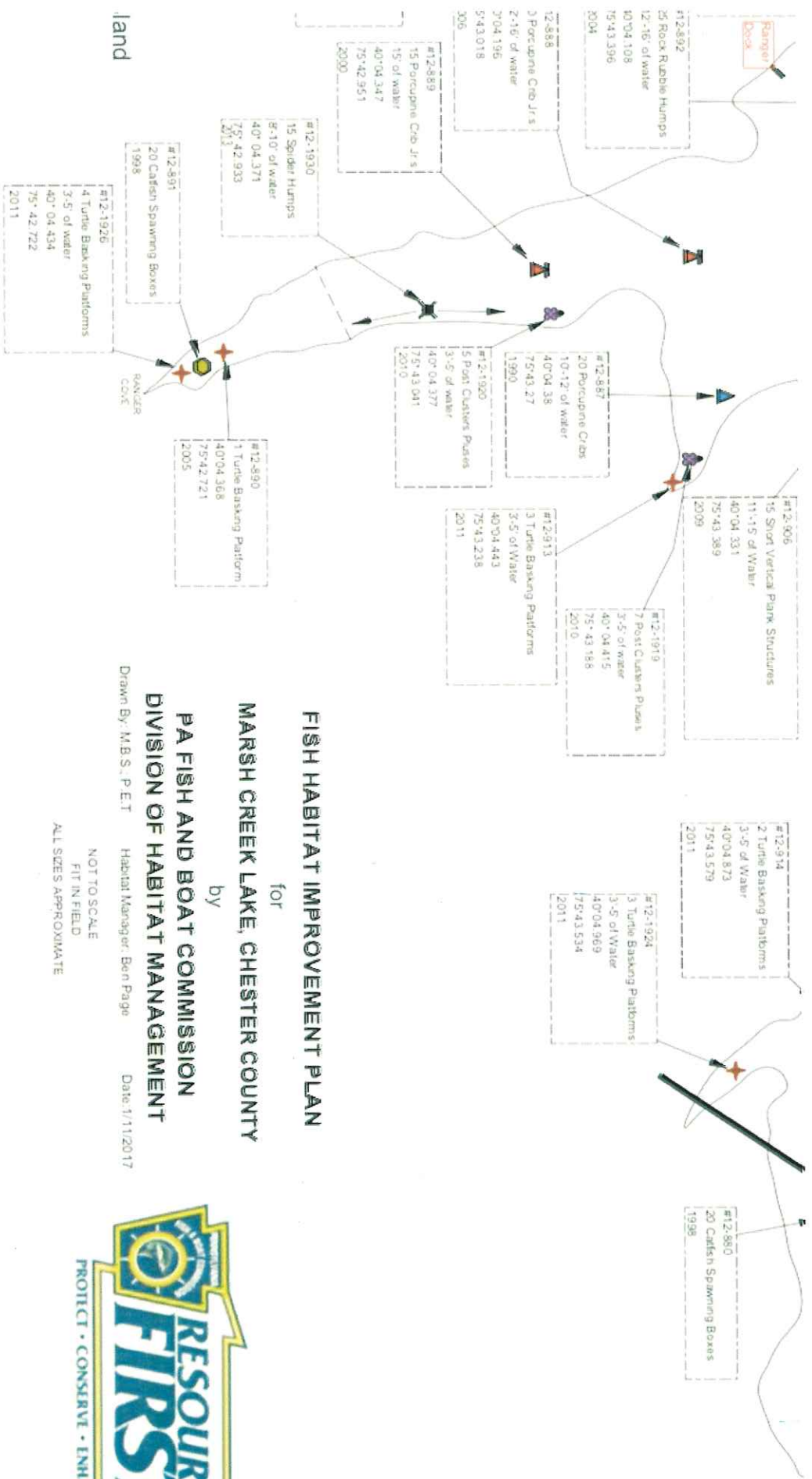
IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

A handwritten signature in cursive script, appearing to read "John Hohenstein", is written over a horizontal line.

John Hohenstein, P.E.
Environmental Program Manager

EXHIBIT 3



NOTE : Blue Text Indicates Proposed Sites
 Black Text Indicates Completed Sites

FISH HABITAT IMPROVEMENT PLAN
 for
 MARSH CREEK LAKE, CHESTER COUNTY
 by
 PA FISH AND BOAT COMMISSION
 DIVISION OF HABITAT MANAGEMENT
 Drawn By: M.B.S., P. ET Habitat Manager: Ben Page Date: 7/11/2017

NOT TO SCALE
 FIT IN FIELD
 ALL SIZES APPROXIMATE



EXHIBIT 4



● Wood Duck Boxes

● Osprey platform and kestrel box