



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

SOUTHWEST REGIONAL OFFICE

June 15, 2015

**CERTIFIED MAIL NO. 7000 1670 0005 1018 0123**

Mr. Chris Embry, Environmental Coordinator  
Sunoco Logistics Partners, LP  
535 Fritztown Road  
Sinking Spring, PA 19608

Re: Executed Consent Assessment of Civil Penalty  
Unauthorized Discharges, Inadvertent Releases  
Allegheny, Washington and Westmoreland Counties

Dear Mr. Embry;

Enclosed is your copy of the Consent Assessment of Civil Penalty signed and executed by the Department. Please contact me at 412.442.5807 or email: [sdemanski@pa.gov](mailto:sdemanski@pa.gov) if you have any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Stuart S. Demanski".

Stuart S. Demanski  
Compliance Specialist

Enclosure

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**IN THE MATTER OF:**

Sunoco Logistics Partners, LP : Violations of the Clean Streams Law  
Mariner East Pipeline  
Washington County  
Westmoreland County  
Allegheny County

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Order and Agreement is entered into this 12 day of June 2015, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Sunoco Logistics Partners, LP ("Sunoco").

The Department has found and determined the following:

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"); 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 regulation promulgated thereunder ("Rules and Regulations").

B. Sunoco is a foreign limited partnership doing business in Pennsylvania and maintains a local mailing address of 535 Fritztown Road, Sinking Spring, PA 19608.

C. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco is the owner of and is currently constructing a pipeline to carry natural gas liquids from Houston Borough in Washington County to Delmont Borough in Westmoreland County. This pipeline construction project is known as the "Mariner East" Project.

D. Sunoco frequently employs Horizontal Directional Drilling ("HDD") on the Mariner East Project to install pipeline under various geographic and geologic structures such as roads, waterways and wetlands. Unplanned releases of drilling fluids and drilling wastewater to the surface waters may occur during HDD operations. Such an unplanned release is known as an Inadvertent Release.

**Inadvertent Release Incidents**

E. On June 12, 2014, Sunoco was conducting HDD operations under Brush Creek near 1710 Penn Avenue, Jeannette, Westmoreland County and experienced an Inadvertent Release.

Approximately 50 gallons of drilling fluid and wastewater discharged into Brush Creek, a “water of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

F. On June 13, 2014, Sunoco was conducting HDD operations under an unnamed tributary (“UNT”) to Little Sewickley Creek near 233 Kalamazoo Drive, Hermine, Westmoreland County and experienced an Inadvertent Release. Approximately 1000 gallons of drilling fluid and wastewater was discharged into the UNT, a “water of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

G. On September 18, 2014, Sunoco was conducting HDD operations under Froman Run near the vicinity of the Mingo Creek Presbyterian Church, Washington County and experienced an Inadvertent Release. An undetermined amount of drilling fluid and wastewater flowed into an UNT to Froman Run, from which it flowed approximately 1.6 mile into Mingo Creek. The UNT, Froman Run and Mingo Creek are all “waters of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

H. On September 27, 2014, Sunoco was conducting HDD operations under highway Route 51 in Forward Township, Allegheny County and experienced an Inadvertent Release. An undetermined amount of drilling fluid and wastewater was discharged into a UNT to Gillespie Run, a “water of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

I. On November 7, 2014, Sunoco was conducting HDD operations near the vicinity of 284 Munntown Road, Eighty Four, Washington County and experienced an Inadvertent Release on the stream bank of Peters Creek. An undetermined amount of drilling fluid and wastewater entered Peters Creek, a “water of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1. Sunoco continued HDD operations concurrently with cleanup efforts. Consequently, drilling fluid and wastewater was intermittently discharged to Peters Creek on November 9, 2014, as well.

J. On November 9, 2014, Sunoco was conducting HDD operations near the vicinity of 370 Ross Road, Eighty Four, Washington County and experienced an Inadvertent Release. An undetermined amount of drilling fluid and wastewater was discharged into a wetland and a UNT to Linden Creek. The wetland and the UNT are “waters of the Commonwealth” as that phrase is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

#### **Clean Streams Law Violations**

K. The various materials discharged into the waters of the Commonwealth, as described in Paragraphs E, F, G, H, I and J above, constitute industrial waste and pollution pursuant to Section 1 of the Clean Streams Law, 35 P.S. § 691.1, and pollutants pursuant to Section 91.1 of the Rules and Regulations, 25 Pa. Code § 91.1.

L. Sunoco’s failures to take necessary measures to prevent pollutants from reaching waters of the Commonwealth, as described in Paragraphs E, F, G, H, I and J, above, constitutes violations of Section 91.34(a) the Rules and Regulations, 25 Pa. Code § 91.34(a).

M. The discharge of industrial waste and pollutants, as described in Paragraphs E, F, G, H, I and J, above, to the waters of the Commonwealth was not authorized by a NPDES Permit.

N. Sunoco's discharges of the industrial waste and pollutants, as described in Paragraphs E, F, G, H, I and J, above, without authorization or a permit constitute violations of Sections 301 and 307 of the CSL, 35 P.S. §§ 691.301 and 691.307, and constitute unlawful conduct pursuant to Section 611 of the CSL, 35 P.S. § 691.611 and are public nuisances pursuant to Sections 3, 307(c), and 401 of the CSL, 35 P.S. §§ 691.3, 691.307(c) and 691.401.

O. The violations described in Paragraphs L and N, above, subject Sunoco to civil penalty liability under Section 605 of the CSL, 35 P.S. § 691.605.

#### **Erosion and Sediment Control Incidents**

P. Pursuant to Section 102.4(b) of the Rules and Regulations, 25 Pa. Code §102.4(b), Sunoco shall implement and maintain Erosion and Sediment Control ("E&S") Best Management Practices ("BMPs") to minimize the potential for accelerated erosion and sedimentation from earth disturbance activities associated with the construction of the Mariner East pipeline.

Q. Pursuant to Section 102.22 of the Rules and Regulations, 25 Pa. Code §102.22, Sunoco shall stabilize earth disturbed areas where cessation of earth disturbance activities will exceed 4 days in order to protect the disturbed area from accelerated erosion and sedimentation.

R. On October 24, 2013, the Department issued Erosion and Sediment Control General Permit 6513806 ("ESCGP") to Sunoco authorizing Sunoco to conduct earth disturbance activities associated with the construction of the Mariner East pipeline. The Department amended the ESCGP on April 2, 2014.

S. The Allegheny County Conservation District ("ACCD") and the Washington County Conservation District ("WCCD") are both public bodies corporate and politic, exercising public powers of the Commonwealth as an agency thereof, as authorized by Section 5 of the Conservation District Law, Act of May 15, 1945, P.L. 547, *as amended*, 3 P.S. §§ 849-864 ("Conservation District Law"), 3 P.S. § 853. Section 9 of the Conservation District Law, 3 P.S. § 857, Powers of Districts and Directors, allows Districts to accept delegated authority from municipal or county governments, the Commonwealth or Federal Government.

T. Sunoco is the "operator" of the Mariner East pipeline, as that term is defined in Section 102.1 of the Regulations, 25 Pa. Code § 102.1, at all times relevant to the matters discussed in this CACP. Sunoco has day-to-day operational control over the earth disturbance activities on the Mariner East pipeline to ensure compliance with ESCGP.

U. Under a delegation from the Department, ACCD and WCCD conduct erosion and sediment control inspection pursuant to the Clean Streams Law and Chapter 102 of the Regulations, 25 Pa. Code Chapter 102.

V. Beginning on May 30, 2014 and continuing through August 27, 2014, ACCD and WCCD conducted inspections of erosion and sedimentation control measures at various locations along the Mariner East pipeline to determine compliance with the ESCGP, the Clean Streams Law and the Erosion and Sediment Control Regulations.

W. During inspections conducted by ACCD on May 30, 2014 and July 7, 2014, ACCD documented that Sunoco failed to implement and/or maintain effective BMPs at various locations along the Mariner East pipeline as approved in its ESCGP, failed to temporarily and/or permanently stabilize areas of earth disturbance at various locations along the Mariner East pipeline, and allowed sediment laden runoff from locations along the Mariner East pipeline to discharge to waters of the Commonwealth contrary to the conditions of its ESCGP.

X. During inspections conducted by WCCD on June 24, 2014, August 6, 2014, and August 27, 2014, WCCD documented that Sunoco failed to implement and/or maintain effective BMPs at various locations along the Mariner East pipeline as approved in its ESCGP and allowed sediment laden runoff from locations along the Mariner East pipeline to discharge to waters of the Commonwealth contrary to the conditions of its ESCGP.

Y. Sunoco's failures to implement and/or maintain effective BMPs, as described in Paragraphs W and X, above, constitute violations of Section 102.4(b)(1) of the Regulations, 25 Pa. Code § 102.4(b)(1).

Z. Sunoco's failures to stabilize disturbed earth where cessation of earth disturbance activities will exceed 4 days, as described in Paragraph W above, constitute violations of Section 102.22 of the Regulations, 25 Pa. Code § 102.22.

AA. Sunoco conducted earth disturbance activities contrary to the conditions of ESCGP at various locations along the Mariner East pipeline. Sunoco's failures to comply with the conditions of the ESCGP constitute violations of Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

BB. Sunoco caused "pollution" to "waters of the Commonwealth," as those terms are defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1, by allowing sediment laden runoff from locations along the Mariner East pipeline to discharge to waters of the Commonwealth contrary to the conditions of its ESCGP. Sunoco's discharges were not authorized by permit or regulation and constitute violations of Section 401 of the Clean Streams Law, 35 P.S. § 691.401.

CC. Sunoco's violations, as described in Paragraphs Y, Z, AA and BB above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; statutory nuisances under Sections 401 and 402 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.402; and subject Sunoco to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. § 691.605.

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

**1. Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of the Clean Streams Law, 35 P.S. § 691.605, the Department hereby assesses a civil penalty of NINETY-FIVE THOUSAND THREE HUNDRED AND SIXTY-SIX DOLLARS (\$95,366).

**2. Civil Penalty Settlement.** Upon signing this CACP, Sunoco shall pay the civil penalty assessed in Paragraph 1. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs L, N, Y, Z, AA, BB and CC above for the dates set forth therein and no others. The payment shall be made as follows:

a. Submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania – Clean Water Fund" in the amount of FORTY-EIGHT THOUSAND SIX HUNDRED THIRTY-SEVEN DOLLARS (\$48,637.00),

b. Submittal of a corporate check or the like made payable to "Commonwealth of Pennsylvania – Clean Water Fund" in the amount of FORTY-SIX THOUSAND SEVEN HUNDRED TWENTY-NINE DOLLARS (\$46,729.00).

c. All payments shall be sent to the attention of Compliance Specialist, Clean Water Program, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

**3. Conservation District Cost Recovery.** Upon signing this CACP, Sunoco shall pay cost recovery to the Washington County Conservation District and the Allegheny County Conservation District for their costs involved in response to the violations cited in Paragraphs Y, Z, AA, BB and CC above. Payment shall be as follows:

a. Submittal of a corporate check or the like made payable to the "Washington County Conservation District Clean Water Fund" for cost recovery in the amount of ONE THOUSAND TWELVE DOLLARS (\$1,012); and,

b. Submittal of a corporate check or the like made payable to the "Allegheny County Conservation District Clean Water Fund" for cost recovery in the amount of EIGHT HUNDRED NINETY FOUR DOLLARS (\$894).

c. The cost recovery payments to the Conservation Districts in Paragraphs 3.a and 3.b, above, shall be sent to the attention of Compliance Specialist, Clean Water Program, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

**4. Findings.**

a. Sunoco agrees that the findings in Paragraphs A through CC, above, 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 CACP in any matter or proceeding.



**5. Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. Sunoco reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties hereto have caused this CACP 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 CACP on behalf of Sunoco; that Sunoco consents to the entry of this CACP, and that Sunoco hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that Sunoco knowingly waives its right to appeal this CACP, 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 provision of law. Signature by Sunoco's attorney certifies only that the agreement has been signed after consulting with counsel.

**FOR SUNOCO LOGISTICS PARTNERS, LP**

**FOR THE COMMONWEALTH OF  
PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**



Name: D.R. CHALSAN  
Title S.V.P. OPERATIONS



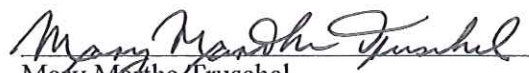
Christopher K. Kriley, P.E.  
Program Manager  
Clean Water Program  
Southwest Region

Name:  
Title

As to form and legality



Name: Curt's N. Stambaugh  
Attorney for Sunoco



Mary Martha Truschel  
Assistant Counsel



NAME: CARL G. BORKLAND  
VICE PRESIDENT, SUNOCO LOGISTICS