pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

May 27, 2020

Mr. Mathew Gordon
Sunoco Pipeline, L.P. (SPLP)
535 Fritztown Road
Sinking Spring, PA 19608

Re: Sunoco Pipeline L.P. – Pennsylvania Pipeline Project (Mariner East II)
DEP File No. E15-862
Major Modification – Installation Method Change at PA Turnpike/0280 HDD
APS No. 879047, AUTH ID 1087479
Upper Uwchlan Township
Chester County

Dear Mr. Gordon:

The Pennsylvania Department of Environmental Protection (DEP) has reviewed the above-referenced application package and has identified the following significant technical deficiencies. The deficiencies are based on applicable laws and regulations, and the guidance sets forth DEP's preferred means of satisfying the applicable regulatory requirements.

Technical Deficiencies:

General environmental review technical deficiencies:

- An Alternatives Analysis (AA) of the proposed amendments was included in the applicant's amendment request. The applicant assumed that the Meadow Creek wetlands (WL-Q76) were "Other wetlands" as defined in 25 Pa. Code § 105.17(2). However, in 2019 the PA Fish and Boat Commission (FBC) classified Marsh Creek and its tributaries as "Wild Trout" waters. 25 Pa. Code § 105.17(1) defines five factors, any one of which classifies a wetland as "Exceptional Value" (EV). 25 Pa. Code § 105.17(1)(ii) states that any wetlands that is hydrologically connected to or located within one-half mile of wetlands identified as habitat for threatened or endangered species are EV. In addition, 25 Pa. Code § 105.17(1)(iii) states that any wetlands located in or along the floodplain of a wild trout stream are EV. Therefore, WL-Q76 is classified as an EV wetland. The EV classification will necessitate several changes in the request.

- An approved bog turtle surveyor did not find suitable bog turtle habitat within the Limits of Disturbance (LOD) but the United States Fish and Wildlife Service (USFWS) was concerned that an occupied bog turtle habitat exists downstream (on the west side of the Pennsylvania Turnpike) and that Meadow Stream and wetland could

serve as summer habitat. However, a December 18, 2019, field meeting (attended by the reviewer) found that a box culvert under the Pennsylvania Turnpike carrying Meadow Creek was elevated 6–8 inches above the stream level at the downstream end, thereby precluding access of bog turtles to the proposed work site. The USFWS stated that the project's proposed amendment would not likely affect bog turtles. But occupied bog turtle habitat does exist within one-half mile downstream and Meadow Creek likely provides hydrology to the habitat.

- An AA must assess the impacts to EV wetlands as stated and meet all the conditions in 25 Pa. Code § 105.18a(a)(1) through (7). Item (3) states, "There is no practicable alternative to the proposed project that would not involve a wetland or that would have less effect on the wetland and not have other significant adverse effects on the environment. An alternative is practicable if it is available and capable of being carried out after taking into consideration construction cost, existing technology and logistics. An area not owned by the applicant which could reasonably be obtained, utilized, expanded or managed to fulfill the basic purpose of the project shall be considered as a practicable alternative."

- Alternatives such as rerouting around WL-Q76 to avoid the wetland, utilization of a boring method (other than HDD) under the stream and wetland, and any other impact avoidance and minimization measures must be fully assessed. Potential impacts to hydrologically connected streams and wetlands must also be assessed. Comparisons addressing the benefits and potential impacts of open trench, HDD and other boring methods and other avoidance methods also need to be assessed. The assessment needs to include assessing the practicability of boring under the Meadow Creek and the wetland. It is noted that the applicant's preferred method of road crossings, such as the Styer Road crossing, included in this amendment request, is hammer-boring.

- An Environmental Assessment (EA) and supporting documents were submitted, but a EA Form was not provided, nor were Level 2 functional assessments of Meadow Creek and WL-Q76 completed in accordance with Module S2, Item D of the EA Form which states, "Characterize the aquatic resources: riverine, wetland and lacustrine present on the project site that are proposed to be directly or indirectly affected by the project. Including, but not limited to, the following resource classification information, Level 2 rapid condition assessment results, discussion of resource functions, characterization of riparian properties and any other relevant information or studies conducted." Other sections of the EA need to be revised due to the Wild Trout status of Meadow Creek (S-Q83) and EV status of WL-Q76.

Specific environmental review technical deficiencies:

1. The applicant notes in various sections (such as third paragraph of page 1) that the applicant is proposing a 50-foot wide LOD across the stream and wetland. The 50-ft ROW was one factor that was stated in the E15-862 permit application documents.

2. Bottom of page 1 states that the 16-in drill stem will be removed but does not state whether the abandoned bore hole will be filled. If not filled, what is the potential of and impacts of subsidence?

3. Bottom of page 13 refers to Goldfinch Lane/William Penn Avenue Reroute. This paragraph should be removed, and the discussion revised to reflect the current PNDI and agency consultations.

4. Pages 6 and 7 present discussions of threatened and endangered species issues that need to be updated to include the recent Wild Trout designation and USFWS's January 16, 2020, letter regarding the bog turtle. The EV wetland discussion on page 12 also needs to be revised. The reclassification of Marsh Creek as wild trout waters will likely establish a seasonal restriction which prohibits in-stream work from October 1 through December 31 to protect spawning of wild trout. Applicant must consult with FBC on this restriction. It should be noted that seasonal restrictions are set forth in Special Conditions VV through YY of Permit E15-862.

5. Page 10 of the amendment submittal refers to direct and indirect impacts as minor and temporary. It is questionable whether the impacts will be minor, and it is suggested that the applicant avoids using this term. The classification of minor and temporary needs to be based on monitoring after the construction is completed and restoration is accomplished. Seasonal restrictions are described as not known by the applicant on page 10 and other sections of the amendment request. These references should be revised in accordance with Item 4, above.

6. The applicant needs to install orange protective fencing along the boundaries of each wetland in or adjacent to the LOD.

7. A benthic macroinvertebrate survey needs to be conducted prior to and after construction is completed. This survey will establish current and post construction data on the recovery of the stream's aquatic life.

8. Page 10 discusses impacts to aquatic species and states that impacts will be temporary. However, the sedimentation of trout redds could be a significant and long-term impact to wild trout spawning. A survey needs to be conducted to determine if any trout redds exist in Meadow Creek and Marsh Creek downstream of the project. If redds are found the applicant needs to consult with the FBC and develop plans to protect these spawning habitats. These sensitive habitats are subject to secondary impacts and are not discussed, but should be, on pages 15 and 16, "Potential Secondary Impact Evaluation".

You may request a time extension, in writing, before **July 26, 2020,** to respond to deficiencies beyond the sixty (60) calendar days. Requests for time extensions will be reviewed by and considered. You will be notified in writing of the decision either to grant or deny, including a specific due date to respond if the extension is granted. Time extensions shall be in accordance with 25 Pa. Code §105.13a(b).

DEP has developed a standardized review process and processing times for all permits or other authorizations that it issues or grants. Pursuant to its Permit Review Process and Permit Decision Guarantee Policy (021-2100-001), DEP guarantees to provide permit decisions within the published time frames, provided applicants submit complete, technically adequate applications/registrations that address all applicable regulatory and statutory requirements, in the first submission. Since you did not submit a complete and/or technically adequate application, DEP's Permit Decision Guarantee is no longer applicable to your application.

Pursuant to 25 Pa. Code §105.13a of DEP's Chapter 105 Rules and Regulations you must submit a response fully addressing each of the significant technical deficiencies set forth above. Please note that this information must be received within sixty (60) calendar days from the date of this letter, on or before **July 26, 2020,** or DEP may consider the application to be withdrawn by the applicant.

If you believe that any of the stated deficiencies is not significant, instead of submitting a response to that deficiency, you have the option of asking DEP to make a decision based on the information with regard to the subject matter of that deficiency that you have already made available. If you choose this option with regard to any deficiency, you should explain and justify how your current submission satisfies that deficiency. Please keep in mind that if you fail to respond, your application may be withdrawn or denied.

Should you have any questions regarding the identified deficiencies, please contact Ms. Ranjana Sharp by e-mail at rsharp@pa.gov or at the telephone number located in the first page footer and refer to Application No. E15-862 to discuss your concerns or to schedule a meeting. The meeting must be scheduled within the 60-day period allotted for your reply, unless otherwise extended by DEP. [*for PDG applications/registrations:* You may also follow your application through the review process via *eFACTS on the Web* at: http://www.ahs2.dep.state.pa.us/eFactsWeb/default.aspx .]

Sincerely,

John Hohenstein, P.E.
Environmental Program Manager
Waterways and Wetlands

Enclosure

cc: Chester County Conservation District
Upper Uwchlan Township
PA Fish and Boat Commission
Army Corps of Engineers - Philadelphia
Mr. Simcik, P.E. – Tetra Tech, Inc.
Mr. Nassani
Mr. Knorr
Ms. Sharp, P.E.
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