

# MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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*Admitted in PA and NJ*

October 11, 2017

Via Electronic Mail

Mr. Scott Williamson  
Program Manager  
Waterways & Wetlands Program  
PA Department of Environmental Protection  
Southcentral Regional Office  
909 Elmerton Avenue  
Harrisburg, PA 17110-8200

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BALA CYNWYD, PA 19004  
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PHILADELPHIA, PA  
\*CHERRY HILL, NJ  
WILLIAMSPORT, PA  
*by appointment only*

*\*Partner responsible - Bruce S. Katcher*

Re: Wetlands A-54 & A-55, Horizontal Directional Drill Location (S3-0161)  
Hydrological Reevaluation Report, PA DEP Permit No. E36-945  
West Cocalico Township, Lancaster County

Dear Mr. Williamson:

SPLP Logistics, L.P. (“SPLP”) submitted to the Department the above-referenced Reevaluation Report which meets all of the requirements of a reevaluation report as set forth in the Corrected Stipulated Order issued by the Environmental Hearing Board dated August 10, 2017 (the “Order”). The Order requires the Department to render a determination on reevaluation reports within 21 days of its receipt of the reevaluation report. (To clear up any confusion, the Department’s posting of the reevaluation report on its website does not trigger the start of the 21 day review period. The Department’s receipt of the reevaluation report begins its review time).

By letter dated October 6, 2017, you transmitted the Department’s response to the above-referenced Reevaluation Report, which requested two categories of additional information, and which we understand to be the Department’s only comments on the Reevaluation Report. Please accept this letter in response to your letter, with each of the Department’s two requests for information set forth in **bold** below, followed by the response.



1. **Provide confirmation that you identified all water supplies within 450 feet from the HDD alignment.**
  - a. **Confirm that you provided the proper and adequate notice to all property owners within 450 feet from the HDD alignment and asked for their water supply information.**
  - b. **Provide all documentation from item 1.a.**
  - c. **Provide the property owners' responses to the notifications.**

In accordance with the terms of the Order, SPLP has identified all landowners with property located within 450 feet of the HDD alignment. SPLP sent each of these landowners a notification letter via both certified and first class mail that includes an offer to sample the landowner's private water supply/well in accordance with the terms of the Order and the Water Supply Assessment, Preparedness, Prevention and Contingency Plan. SPLP requested each landowner contact the Right-of-Way agent for the local area and provide SPLP with information regarding: (1) whether the landowner has a well; (2) where that well is located; and, (3) if the landowner would like to have the well sampled. A sample landowner notice letter is attached to this letter.

There is no requirement in the Order to provide this information along with the reevaluation reports to the Department's Regional Offices. Instead, in accordance with paragraph 10 the Order, copies of the certified mail receipts for the letters sent to landowners for each HDD location have already been provided to Karyn Yordy, Executive Assistant, Office of Programs at the Department's Central Office. If the Department's Regional Offices now request a copy of the certified mail receipts, we suggest that you contact Ms. Yordy directly.

With respect to the HDD which was the subject of the above-referenced reevaluation report, there are three landowners with property located within 450 feet of the HDD alignment. Each of these three landowners was sent a landowner notice letter requesting information on their private water supply/well on September 27, 2017. One landowner responded to SPLP via telephone call on October 5, 2017, requested sampling of his water supply/well, and sampling was scheduled for a mutually-convenient time on October 9, 2017. No other responses have been received.

2. **Provide discussion and consideration of potential risks to private water supplies.**

There is no requirement in the Order that the reevaluation reports include a discussion and consideration of potential risks to private water supplies. Instead, the Department agreed that the Order require, among other things, that: (1) SPLP be required to send the reevaluation reports to all landowners who have a private water supply that are located within 450 feet of an horizontal directional drill ("HDD") (*see* Paragraph 7 of the Order); (2) SPLP notify landowners within 450 feet of an HDD of the start of restart of an HDD prior to 10 days of the start or restart or the HDD (*see* Paragraph 8 of the Order); (3) SPLP offer those landowners with private water supplies within 450 feet of the HDD the opportunity to have their private water supplies tested

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by SPLP before, during and after the start or restart of the HDD (*see* Paragraph 8 of the Order); and, (4) the Water Supply Assessment, Preparedness, Prevention and Contingency Plan (the "Water Supply Plan") be followed in instances where there was any report of an effect to a private well from any landowner, which requirements include reporting to the Department.

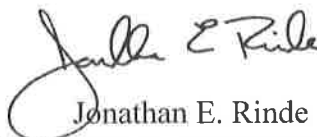
SPLP has followed all of these requirements for any and all its HDDs, and as you may know, has provided in other instances alternate water supplies (e.g., bottled water and water buffaloes) to any landowner who makes a water supply complaint. In this way, SPLP has properly, and in accordance with the Order and Department-approved Water Supply Plan, considered and mitigated any potential risks to private water supplies.

In addition, the reevaluation reports are sent for review to the landowners and the Department 21 days prior to the Department's determination on the reevaluation report, whereas the notice to landowners regarding SPLP's offer to test their private water well, and inform SPLP that they have one, is sent thereafter, a minimum of 10 days prior to the start or restart of the HDD. The timing of these letters are further indication that the Order does not require that the reevaluation reports include a discussion and consideration of potential risks to private water supplies, and instead demonstrates that the Order provides other safeguards to private water supplies, as described above.

**By sending this response to the Department's only comments to the above-referenced Reevaluation Report, we request that the Department now approve this Reevaluation Report.**

In closing, we note that exactly the same comments were raised by the Department on another reevaluation report in a different Regional Office, and therefore are concerned that the Department may be using these comments, which request information not required by the Order for the reevaluation reports, to delay its determination of the reevaluation reports within the 21 day timeframe previously agreed to by the Department and subsequently set forth in the Order. We have therefore provided these same responses to the Department's comments on the other reevaluation report, and have copied this response to the Department's counsel who participated in the negotiation of an agreement to the Order.

Sincerely,



Jonathan E. Rinde

For MANKO, GOLD, KATCHER & FOX, LLP

Enclosure

cc: Curt Sullivan, Esquire (via electronic mail)  
Margaret Murphy, Esquire (via electronic mail)  
Nels Taber, Esquire (via electronic mail)



**SUNOCO PIPELINE**  
An ENERGY TRANSFER Partnership

September 27, 2017

**BY CERTIFIED AND FIRST CLASS MAIL**

1850 West Route 897  
Denver, PA 17517

**Re: Mariner East 2 – Pennsylvania Pipeline Project  
Horizontal Directional Drilling Construction Notification  
and Private Water Supply/Well Sampling Offer**

Dear [REDACTED]

Sunoco Pipeline L.P. (“SPLP”) is writing to inform you that a certain construction activity known as Horizontal Directional Drilling (“HDD”) for Mariner East 2, also known as the Pennsylvania Pipeline Project, is located within 450 feet of your property boundary. This HDD will begin as soon as ten (10) days of the date of this letter.

As part of this construction activity, SPLP is offering private water supply/well testing at SPLP’s expense if you have a private water supply/well located within 450 feet of the HDD alignment. SPLP will provide you copies of all test results from your private water supply/well. Please note that upon their request, we will provide the test results to the Pennsylvania Department of Environmental Protection as well.

To assist with this process, SPLP is requesting that you contact the Sunoco representative for your area by calling Amy Johnson at (717) 208-7735, to provide SPLP with the following information:

1. If you have a private water supply/well on your property;
2. The location of your private water supply/well on your property; and,
3. If you would like to have your private water supply/well tested.

**If you would like to have your private water supply/well tested, you must contact the Sunoco Representative for your area within the next then (10) days by calling Amy Johnson at (717) 208-7735. Your private water supply/well will be tested at a mutually-convenient time within ten (10) days of SPLP’s receipt of your request for testing. If you do not contact the Sunoco representative, there will be no further contact from us regarding any private water supply/well testing.**

If you have any questions or concerns, please do not hesitate to contact the Sunoco representative for your area by calling Amy Johnson at (717) 208-7735.

Thank you for your cooperation.

Mark McConnell  
Land Project Manager  
Representing Sunoco Pipeline L.P.  
Office: (814) 204-0450

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DENVER, PA 17517

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	

Postmark Here: SEP 27 2017

1850 West Route 897  
Denver, PA 17517

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PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions