

September 25, 2017

By Email

ra-eppipelines@pa.gov



Re: Comments on Report for HDDs PA-HU-0078.000-WX and PA-HU-0078.000-WX-16

To whom it may concern:

Pursuant to the Corrected Stipulated Order entered on EHB Docket No. 2017-009-L on August 10, 2017 (“Settlement”), and on behalf of Clean Air Council, Mountain Watershed Association, Inc., and the Delaware Riverkeeper Network (“Appellants”), please accept these comments on Sunoco Pipeline L.P.’s (“Sunoco”) re-evaluation report (“Report”) for the horizontal directional drilling (“HDD”) indicated by drawing numbers PA-HU-0078.000-WX and PA-HU-0078.000-WX-16 (the “HDD Site”).¹

The Department’s Review

Pennsylvanians rely on the Department of Environmental Protection to protect them from dangerous activities that threaten their air, water, land, and health. The Department has recognized that the construction of Mariner East 2 has done damage to the public already. The purpose of Sunoco’s re-evaluations of certain HDD sites is so that it does a better job avoiding

¹ The Settlement reads, in pertinent part:

§ 6(ii) “For all recommendations for which a minor permit modification is required, including, but not limited to, certain changes from HDD to an open cut or certain changes to the Limit of Disturbance (“LOD”), the Department will have 21 days to review the submission and render a determination with respect to such minor permit modification, unless Sunoco agrees to extend the 21-day time period. *Appellants and private water supply landowners, who have received notice pursuant to Paragraph 7 below, shall submit comments, if any, within 14 days of the Department's posting of Sunoco's Reports on the Department's Pennsylvania Pipeline Portal website...The Department shall consider comments received and document such consideration.*” Emphasis added.

§ 6(iii) “For all other recommendations, including, but not limited to, recommendations of no change or of changes that do not require a minor permit modification, the Department will have 21 days to review the submission and render a determination with respect thereto, unless Sunoco agrees to extend the 21-day time period. *Appellants and private water supply landowners who have received notice pursuant to Paragraph 7 below, shall submit comments, if any, within 14 days of the Department's posting of Sunoco's Reports on the Department's Pennsylvania Pipeline Portal website...The Department shall consider comments received and document such consideration.*” Emphasis added.

harm to the public and the environment in its HDD construction. The Department's role is to review and assess Sunoco's Report before deciding what action to take on it.

It is the Department's duty to review and assess the Report with protecting the public and the environment placed first and foremost. Looking at the individual circumstances at the site in question is key. Critically important is accounting for input from those who live nearby, who have a deeper connection with and greater knowledge about the land than the foreign company building the pipelines through it.

A meaningful, objective and substantive review and assessment by the Department will ensure that new or further HDD operations at the re-evaluated sites will cause minimal, if any, harm to the public and the environment. Anything less than a full, careful, and objective review would endanger the public and the environment. Pennsylvanians place their trust in the Department to do a thorough, science-based assessment, taking into account these and other comments, and approving Sunoco's recommendation only if it would protect the public and the environment from any further harm.

Comments on HDDs PA-HU-0078.000-WX & PA-HU-0078.000-WX-16

1. Sunoco ignores the conclusion of its geologists that the HDD Site is susceptible to inadvertent returns.

The biggest takeaway from the Report is at the end of Rettew's Hydrogeological Re-Evaluation Report: "Based on the hydro-structural characteristics described in this report of the underlying geology, and the known profile through shallow soils and bedrock, the Aughwick Creek HDD site is susceptible to the inadvertent return of drilling fluids during HDD operations." Not only is the Site susceptible to inadvertent returns, but an inadvertent return occurred at the Site already during the installation of the first pipe, and contaminated a water supply (referred to by Rettew as a "developed spring catchment.")

Sunoco mentions this in the body of its Report in passing, but does nothing with the information. Based on Rettew's report, Sunoco should not perform further HDD at the Aughwick Creek crossing, as it presents too high a risk of contamination, ecological damage, and property damage.

2. The suggested best management practices are too vague to be evaluated or enforced and it is unclear how they address previous failures.

Sunoco claims it has identified the cause of the existing spills at this site: unspecified "poor drilling practices and lack of pressure monitoring technology." Given the geological and hydrogeological conclusion of its consultant that the location is susceptible to IRs, it is unclear why Sunoco points the finger only at drilling practices. They may have played a role, but it is highly likely that the geology did as well.

Focusing on drilling practices, though, it is not enough to state the root cause without providing a concrete, specific, and enforceable path forward that will solve the problem.

The cursory descriptions of best management practices Sunoco supplies in this reevaluation are too vague to provide any meaningful protection. Which practice or practices will ultimately be utilized is left entirely up to Sunoco's discretion, as are all details regarding how any practice would be employed.

For example, Sunoco neglects to propose how and when viscosity would be monitored, how it will make determinations regarding what will be added to drilling mud and the safety of those products, and how it would make decisions regarding casing. Especially given that the root cause of the existing spills at this site Sunoco claims to be poor drilling practices, withholding all such details from the Department's review, and leaving the same people who failed the first time around to continue to make these decisions independently is no better than Sunoco simply saying they will do better this time. Of course, Sunoco assured the Department that its HDD for Mariner East 2 would be less problematic than it was for Mariner East 1, which was not the case. Sunoco here is committing to nothing and its illusory reference to utilizing BMPs is no assurance that drilling will be any safer. We have been assured, however, that the site is susceptible to further spills and that Sunoco's poor planning has caused problems at the HDD Site before.

The Department needs a concrete, specific, adequate, and enforceable plan for drilling from Sunoco before the Department can authorize Sunoco's commencement of new HDD at the HDD Site—if the location is appropriate for HDD at all.

3. Sunoco appears to have violated the Settlement Agreement by failing to explain why it did not use seismic surveys and electromagnetic surveys / electrical resistivity tomography in this karst area.

Paragraph 4.iv of the Corrected Stipulated Order entered on August 10, 2017 on EHB Docket No. 2017-009-L states: "In karst areas, Sunoco shall consider the use of seismic surveys and electromagnetic surveys/electrical resistivity tomography for the re-evaluation undertaken pursuant to this Order, and if it does not use these evaluation methodologies, it will provide the Department with an explanation for why they were not used at that site."

Sunoco neither uses nor explains why it did not use any of those evaluation methodologies at the HDD Site. Yet the Site is also clearly a karst area. The Hydrogeological Re-Evaluation Report finds "some enhanced dissolution of the carbonate rocks" in the bedrock of the site and vertical fractures, and boring encountered layers of limestone with frequent voids.

This is a violation of the Settlement Agreement and alone requires the Department to deny Sunoco approval in moving ahead with its recommended HDD.

4. The alternatives analysis is incomplete.

Given the dangers of HDD at the site, the incompleteness of the alternatives analysis is striking. Conventional auger boring is never considered or discussed. The open-cut "analysis" is a recitation of facts, some not site-specific, without any actual analysis. And the re-route analysis again lacks any facts specific to the site—clearly a thoughtless exercise. None of these analyses are sufficient to rule out options.

Furthermore, an aerial view of the location reveals that Sunoco plans to cross Aughwick Creek at the location where it is broadest bank-to-bank in the area. It would not take a huge deviation to the north or south—a few hundred feet—to cross the creek where it is a narrower single channel.

Without a more complete analysis, it is impossible for the Department to know what options are truly on the table.

5. Sunoco failed to do a competent survey of water supplies.

One of the primary goals of Sunoco's re-evaluation is to protect water supplies. Sunoco's failure so far to protect water supplies has been egregious. At this location in particular, a water supply has already been contaminated. It is thus baffling that Sunoco repeats the same errors in its re-evaluation for the HDD Site.

Sunoco's permit applications made clear that its methodology for identifying water supplies was limited to: (1) looking up information in Pennsylvania Department of Conservation and Natural Resources' Pennsylvania Groundwater Information System (PaGWIS); (2) accessing public water supply system information; and (3) "water supply data acquired from landowners during the pipeline easement negotiations." See Water Supply Assessment, Preparedness, Prevention and Contingency Plan at §§ 4.0-4.2. It restricted its PaGWIS search to within 150 feet of HDD alignments.

As an initial matter, Sunoco is well aware of the inaccuracy of PaGWIS, and has admitted as much at page 2 in its Water Supply plan. Moreover, it is woefully incomplete—so much so that Sunoco only identified 22 wells within 150 feet of the HDD alignments across the entirety of the state, fewer than the number of water wells Sunoco has contaminated so far.

Much of the damage done to water supplies has been outside the 150-foot radius from the HDDs. As part of the settlement, Sunoco is required to, among other things: "send a copy of the Report (by U.S. Postal Service Certified Mail and First Class Mail) to all landowners who have a private water supply that is located within 450 feet of the HDD addressed by the Report."

While Appellants are not saying that Sunoco failed to contact each such landowner, if it did so, it seems to have failed to then simply ask the landowners whether they had any water supplies that might be impacted by the HDD, and the nature of those supplies. That information is not in the Report.

Sunoco reports that "well records" show a well 330 feet north of the horizontal directional drill location. This location must be verified. Sunoco also reports that there is a residence located 175 feet south of the HDD and that it is "assumed" to have a well. Especially when it comes to drinking water supplies, this sort of guess work is simply unacceptable.

Conclusion

For these reasons, Appellants request that the Department deny the HDD re-evaluation recommendation as dangerous, violating the Settlement Agreement, and based on incomplete information.

Thank you for considering these comments. Please keep us apprised of your next steps on the HDD Site.

Sincerely,

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