

October 19, 2017

By Email

ra-eppipelines@pa.gov



Re: Comments on Report for HDD PA-LE-0001.0000-SR & PA-LE-0001.0000-SR-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-LE-0001.0000-SR & PA-LE-0001.0000-SR-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 HDD PA-LE-0001.0000-SR & PA-LE-0001.0000-SR-16

1. 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. It is thus baffling that Sunoco repeats the same errors in its re-evaluation for this 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.

The Report makes clear that Sunoco merely used PaGWIS plus visual observations to identify additional wells out to 450 feet from the HDD alignment. There is no excuse for Sunoco failing to ask landowners it already had to contact whether they have water supplies and what is the nature of their water supplies and groundwater.

Because Sunoco has failed to identify the water supplies and the nature of the water supplies and groundwater near the HDD Site, it cannot determine whether any hydrogeological interference caused by the HDD would put those water supplies at risk. Without that information, the Department cannot approve Sunoco's proposal.

2. Sunoco's groundwater analysis is underdeveloped.

Besides not determining what water supplies exist near the HDD Site, Sunoco's investigation of groundwater resources at the HDD Site is also inadequate.

Based on its limited review of nearby water supplies, Sunoco identified several water wells in the vicinity. However, it does not appear that an investigation was done into the groundwater production zones of those wells, nor any other site-specific information on groundwater connectivity that might link the HDD pathway to the wells. Without that information, water quality and yield at those (or other, unidentified) water supplies may be impacted.

3. It is not clear that the drilling techniques discussed in the conclusion are an improvement on earlier practices.

In the conclusion of the Report, Sunoco recites a series of drilling practices and procedures that it says it "will employ." This is an improvement on the language in previous re-evaluation reports indicating those measures "may" be implemented. However, as before, it is not clear whether these are new and/or improved measures. Notably, Sunoco does not actually say that these measures are new, or were not employed during its earlier, problematic phase of HDD across the Commonwealth.

This is not to assail the use of improved drilling practices, if Sunoco is implementing any. But this recitation without more does not provide assurance that the use of HDD here will be safe.

4. Sunoco's recommendation is a marked improvement, but it is premature to approve it without waiting first for more information to come in, and evaluating the danger presented by the revised HDD plan.

Sunoco's recommendation to lengthen and deepen its planned HDDs may considerably improve on the original HDD plans in terms of reducing likelihood of inadvertent returns, and possibly also a reduction of surface impacts. However, what right-of-way impacts have already taken place at the HDD Site is not specified in the Report. The revised HDD plans extend the HDD westward into forest and stream terrain that under the existing plans would be open-trenched. Assuming that this area has not already been open-trenched or otherwise degraded, and assuming a low risk of IR and water supply interference by the revised HDD, the revised HDD could have a significant ecological benefit.

To determine whether this is the case and enable the Department to better compare alternatives, the Department should request from Sunoco information on what impacts to the right-of-way in that areas have already taken place.

Moreover, the geological analysis evaluates the IR risk from the original HDD plans, but not the revised plans. While it is likely that deepening and steepening the HDD path reduces risk, actual detailed analysis is warranted here.

In sum, while the revision appears promising, there is more information needed to ensure that the revised HDD plan is the best option.

Conclusion

For these reasons, Appellants request that the Department not approve the HDD re-evaluation recommendation without first (1) requiring that Sunoco gather the needed missing information, as outlined above, and (2) determining that, in light of the newly gathered information, HDD as suggested is appropriate at the HDD Site.

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

Sincerely,

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