

August 29, 2018

By Email

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Re: Sunoco’s Response to DEP’s request for information on PA-DE-0032.0000-RD

Dear Mr. Hohenstein:

On August 23, 2018, Sunoco submitted a letter to the Department in response to the Department’s June 12, 2018 request for additional information regarding horizontal directional drilling (“HDD”) Site PA-DE-0032.0000-RD (“Site”). Pursuant to the Corrected Stipulated Order entered on EHB Docket No. 2017-009-L on August 10, 2017 (“Order”), and on behalf of Clean Air Council, Mountain Watershed Association, Inc., and the Delaware Riverkeeper Network (“Appellants”), we respectfully submit these comments in reply. Our comments mirror point by point the requests and responses from the Department and Sunoco.

Sunoco’s proposal for this location continues to present an unacceptable risk to the neighbors. The Department should deny Sunoco’s proposed HDD plan for the Site.

Point 1.a. (location of leak)

The Department rightly requested the location of the repaired Point Breeze to Montello pipeline leak to understand where the Mariner East 2 HDD might intersect the plume. Sunoco has not identified the extent of the MTBE contamination underground, however, limiting its discussion to the petroleum spill. Appellants understand that Sunoco has claimed that in 2015 when the spill was discovered, the product flowing through the leaking pipeline did not contain MTBE. This implies that the MTBE pre-existed that spill, likely from an earlier spill, as it is a gasoline additive. Residents have reported that there was another nearby spill in 1992.

Sunoco has not discussed the MTBE contamination, and it is very possible that that plume extends outside the boundaries of the identified petroleum plume. Sunoco should identify the location of this contamination as well to, as the Department stated, “be useful in predicting when potentially contaminated cuttings and/or contaminated groundwater may be encountered in the HDD.”

Point 1.b. (plan to address contamination)

Though Sunoco added a small amount of detail to its Re-evaluation Report to address the Department's request that it include "[a] more detailed plan which addresses not only procedures to be employed during drilling to properly handle potentially spill contaminated drill cuttings and groundwater but also adequately addresses and prevents migration of contaminated groundwater from the spill area post construction," the new detail is incomplete and inadequate.

The plans for handling contaminated materials after containment are merely the following: "If impacted cuttings or water is determined in the field, then all waters, fluids, and cutting will be captured and disposed of in accordance with waste regulations." This is nothing more than a statement that Sunoco will follow the law, and illuminates nothing. How Sunoco will ensure that the containments it sets up will not overflow as they did by Martins Lane, also in Delaware County, is not stated. Sunoco states that its containments will be "sufficient to store both water and cutting produced on a daily basis." But Sunoco is relying on laboratory testing to determine the presence of contamination. Laboratory testing is not generally accomplished in under a day. Therefore there is a substantial risk that water or cuttings will be disposed of as if they were not contaminated before the presence of contamination is detected.

Moreover, Sunoco has for other HDD locations illustrated where and how its containment system will operate. Despite the greater importance of containment here, Sunoco has failed to do as it did at those other locations. This is critical. Containment that can only contain a day's worth of water and cutting also will be insufficient. Sunoco needs to specify how and where it will contain these potentially contaminated materials. These plans should be incorporated into the E&S plan for Delaware County.

The plans for laboratory testing are undisclosed. Sunoco speaks of testing for petroleum. Again, it is unclear that that would account for all toxic chemical plumes that the construction may mobilize.

Finally, Sunoco's plan does not "adequately address[] and prevent[] migration of contaminated groundwater from the spill area post construction." Besides the general ground remediation work which Sunoco has undertaken, its only plan to prevent migration of contaminated groundwater is grouting the entry and exit points of the HDD. While that is needed, it is not sufficient. The drilling of an HDD borehole creates a large risk of mobilizing the plume along the borehole annulus. The annulus extends through a residential neighborhood reliant on private wells drawing from the same aquifer. It is unacceptable for Sunoco to do nothing to prevent the spread of contamination through the borehole.

This is not an appropriate route for Mariner East 2 due to this risk. Sunoco has not offered a plan, let alone a credible plan, to address this risk.

Point 5 (surface geophysics)

Sunoco has not complied with the Department's request to employ surface geophysics. It claims that it does not need to "because the bore will remain well-below the already confirmed soil/rock interface," given that core samples show bedrock at between 8 and 55 feet below ground surface.

It also tries to downplay the value of geophysical studies. Sunoco's excuses fail for multiple reasons.

First, despite Sunoco's assurances that its drilling will be well below the 55 feet bedrock boundary it has measured, there are hundreds of feet of the HDD profile along which the borehole would be above 55 feet below ground surface. Even if, as Sunoco has stated, the "majority of the bore will be 100 feet below ground surface," there is no way of knowing based on Sunoco's test bores if the maximum depth of the bedrock interface over the length of this drill is actually 55 feet below ground surface. It is unreasonable to interpolate the bedrock depth of the entire HDD length from five borehole data points.

Second, though Sunoco may generally prefer to use geophysical survey methods – to the extent it uses them at all – as "a diagnostic tool prior to soil sampling and/or rock coring," valuable information can be gleaned from pairing the results of the test bores it already conducted with geophysical data. Appellants, of course, agree that without supplemental data it would be unclear what the boundaries shown in the MASW results actually depict. However, the test bore data Sunoco has already gathered would support the MASW results by showing actual boundaries and together those two data sets would allow Sunoco to determine the depth of the bedrock interface for the length of the profile.

Finally, the Report acknowledges that the route contains "complex structural geology exhibiting a high degree of fracturing." Simply being within fractured bedrock does not mean that the thickness of the bedrock is irrelevant to determining risk.

The Department should require Sunoco to comply with this request.

Point 6 (borehole geophysics)

Again, Sunoco refuses to follow the Department's instruction regarding geophysics, this time with borehole geophysics. Sunoco claims "[b]orehole geophysics would require many newly constructed additional borings, most lying outside the SPLP right-of-way." This is not true. Borehole geophysics can be done with fewer than "many" borings, though obviously more comprehensive measurements require more locations. The locations that Sunoco already bored can be used again, despite backfilling.

Sunoco's response generally here appears to be more of a justification for not doing something it does not want to do rather than a principled conclusion that the work cannot be done or would be of no use. The claim that eminent domain for boring outside of the easement would be required really depends on the relationship Sunoco has with its neighbors. Companies without the power of eminent domain still manage to operate in Pennsylvania and build projects, such as the Shell Falcon Pipeline in the Pittsburgh area, which acquired a right-of-way with no eminent domain.

Point 7 (complaint response plan)

The Department requested Sunoco develop a complaint response plan that is "specific and prescriptive." Sunoco has refused to do so and its plea of ignorance as to what types of complaints might arise at the Site is both concerning and unpersuasive. If the Department

ultimately does allow construction to proceed at this high-risk site, the very least Sunoco can do is have a specific plan to address the dangerous consequences. The water supply testing protocols it listed are not specific to the Site and do not account for site-specific threats, such as the migration of toxic plumes. The standard water supply testing protocols were not designed to address petroleum products entering water supplies. Given the fractured geology, water supplies outside of the 450-foot radius might also be at risk. Sunoco's plan does not address this concern.

At this late point in the process, Sunoco should certainly have sufficient information to understand the types of complaints that may arise at the Site. If it does not, that is another red flag that these construction plans should not be approved. The Department's request for a table of potential impacts and remedies is sensible and straightforward. Appellants urge the Department to demand Sunoco follow through with a complete and substantive response to this important request.

Points 8.b. and 9 (grouting plan)

As noted above, Sunoco's grouting plan is inadequate to prevent the migration of contaminated substances along the borehole annulus.

Also, while Sunoco claims there are "only two minor wetland areas in vicinity to [sic] this HDD," one resident commenting on the Re-evaluation Report wrote that Sunoco had under-represented the extent of wetlands near the 2015 spill site.

Finally, separate from the points the Department raised, the new plan view for geologic analysis of the HDD profile contains an unmarked thick broken yellow line at the left end. It is unclear what this is and whether it is material to the analysis.

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

Sincerely,

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