

October 9, 2019

By Email

ra-eppipelines@pa.gov

kyordy@pa.gov



Re: Sunoco's response to the Department's request for information on HDD PA-WM2-0064.0000-WX (HDD# S2-0010)

Dear Ms. Drake,

On August 21 2019, the Department requested additional information from Sunoco regarding its reevaluation ("Report") of the horizontal directional drilling indicated by drawing number HDD WM2-0064.0000-WX. Sunoco has submitted a response to that Request ("October Response"), supplementing the Report. 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"), please accept these comments regarding the October Response.

1. The Report as revised is not signed and sealed by a Professional Geologist.

Paragraph 5 of the Order reads in part:

Upon completion of Sunoco's re-evaluation of each HDD site referenced in Paragraphs 2 and 3 herein, Sunoco shall provide for each such site a report signed and sealed by a Professional Geologist, describing and presenting the results of its study for that location ("Report"). The Professional Geologist shall be a person trained and experienced in geotechnical and hydrogeologic investigation.

This language is unambiguous and mandatory. Yet, as with previous sites, Sunoco has ignored it. In the October Response, Sunoco revised the Report, making substantive changes to "Alternative 5" and providing analysis of the feasibility of Alternative 5 variations. No Professional Geologist (or for that matter, Professional Engineer) has signed the Report as revised. It is not clear whether Sunoco even showed the revisions to its signatory PG and PE. Previous revisions to the Report submitted by Sunoco in supplemental responses on January 3, 2019, and April 11, 2019 were also not signed or sealed by a qualified professional as required.

This is not a Report revision the Department can accept, because it violates Paragraph 5 of the Order.

2. All alternatives should be given thorough consideration.

The October Response represents a significant improvement in regard to the analysis of Alternative 5. Each of the other proposed alternatives needs to be given thorough consideration, including whether any of the other alternatives would be appropriate if modified. The Department must ensure that Sunoco is actually proposing and fully considering the best alternatives, not deliberately defining unworkable options and avoiding tweaks that could make them viable. Appellants highlighted a number of shortcomings regarding Sunoco's analysis of alternatives in the comments Appellants submitted April 17, 2019. Rather than repeat them, Appellants incorporate those comments here.

3. Sunoco has not adequately addressed avoidance or mitigation of the area of 85% slope associated with Alternative 5.

In regard to Alternative 5, the Department requested Sunoco "discuss the slope mitigation measures that would be employed to address the portion of the valley on the east side of the valley with an 85% slope." Sunoco's response gives a general overview of how to manage steep slopes, but ultimately it does not answer the Department's question. Instead, Sunoco explains a "site-specific investigation" and "detailed, site-specific slope mitigation plan would be required." That missing site-specific plan is seemingly exactly what the Department asked for. Sunoco is again cutting corners. In this particular instance, Alternative 5 may be inappropriate for reasons aside from the 85% slope, but it is still important that the Department not let Sunoco get away with incomplete analysis. To the extent appropriate mitigation of a steep slope could make another of the proposed alternatives viable, Sunoco needs to provide site-specific plans for that option. Additionally, in regard to Alternative 5, as Appellants pointed out in previous comments, a minor adjustment might allow Sunoco to avoid the 85% slope altogether.

Sunoco has concluded that "Once cleared of vegetation and graded to establish a safe workspace on the bluff, a slope of this steepness may not be able to be restored to original contours and conditions due to the slope angle, such that alternative site restoration measures may be needed." Whatever shape the final alternative takes, deforming the bluff so that it is no longer a bluff is not an acceptable alternative.

4. Sunoco has not addressed concerns raised in previous comments.

Appellants are concerned that issues raised in previous comment periods have still not been addressed. These issues include unaddressed risks to water supplies, and Sunoco's about-face on how a quarry wall at the site might lead to inadvertent returns. Appellants understand that the reevaluation process is multistep and that the Department may already be planning on requesting additional information. Appellants urge the Department to follow through and not to ignore the important issues raised in previous comments.

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

Sincerely,

s/ Melissa Marshall, Esq.
Melissa Marshall, Esq.
PA ID No. 323241
Mountain Watershed Association
P.O. Box 408
1414-B Indian Creek Valley Road
Melcroft, PA 15462
Tel: 724.455.4200
mwa@mtwatershed.com

s/ Maya K. van Rossum
Maya K. van Rossum
The Delaware Riverkeeper
Delaware Riverkeeper Network
925 Canal Street, 7th Floor, Suite 3701
Bristol, PA 19007
Tel: 215.369.1188
keepermaya@delawareriverkeeper.org

s/ Joseph Otis Minott, Esq.
Joseph Otis Minott, Esq.
Executive Director & Chief Counsel
PA ID No. 36463
joe_minott@cleanair.org

Alexander G. Bomstein, Esq.
PA ID No. 206983
abomstein@cleanair.org

Kathryn L. Urbanowicz, Esq.
PA ID No. 310618
kurbanowicz@cleanair.org

Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103
Tel: (215) 567-4004

cc: jrinde@mankogold.com
dsilva@mankogold.com
ntaber@pa.gov