

July 3, 2018

By Email

ra-eppipelines@pa.gov
kyordy@pa.gov



Re: Sunoco’s Response to DEP’s request for information on PA-CA-0069.0000-RD

Dear Ms. Drake:

On June 28, 2018, Sunoco submitted a letter to the Department in response to the Department’s June 14, 2018 request for additional information regarding horizontal directional drilling (“HDD”) Site PA-CA-0069.0000-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.

Point 1 (mine vents)

The status of one of the four mines vents in the path of proposed HDD is still undetermined. Given Sunoco’s communications with Larry Neff of Pristine Resources over the past months on the issue of mine vents, it is concerning that this information is purportedly still unknown. Regardless of why Sunoco has not yet learned or disclosed the status of the mine vent, plans for this site should not be approved until up-to-date information is provided to the Department. If the vent is unfilled, the HDD path might have to be altered to avoid it, or Sunoco might have to fill the vent prior to commencing construction so the vent will not serve as a preferential pathway for drilling fluids.

Point 2 (gas monitoring)

The Department directed Sunoco to identify appropriate gas monitoring equipment and safety procedures in the re-evaluation report. While Sunoco claims to have provided a "discussion" on the methods for gas monitoring and safety procedures, it has provided nothing of substance. The entirety of the discussion provided by Sunoco on this significant safety topic consists of three sentences:

Mine gas (methane) monitoring and safety protocols will be implemented during the HDD. Although an HDD is an inert fluid concentrated process, and it is highly unlikely that pressurized combustible gas from the mine could migrate into the pressurized HDD annulus in a concentrated volume such that an explosive environment is created at the HDD entry, SPLP will install a stationary automatic gas monitor at the HDD entry and exit pits and at the mud mix tank to monitor for migrating mine gas. All SPLP and Contractor employees will be provided mine gas safety and response training prior to the start of these HDDs.

Appropriate safety procedures have not been identified and it is unclear whether the entry and exit monitors are sufficient. Sunoco should provide a justification for its limited use of monitors. It should also provide the Department with the curriculum for its safety and response training so the Department can ensure the training will be adequate. Sunoco's previous failed trainings have contributed to the rash of construction incidents that the Department has been working to prevent. Sunoco cannot now be trusted to provide adequate training without any oversight or review.

Point 3 (mine pools)

There can be no disagreement that drilling through a mine pool to install a hazardous liquids pipeline presents a significant danger; it is a threat both in terms of pipeline integrity and the potential for the pool to spread. The Department has rightly informed Sunoco that intersecting the mine pool is unacceptable. Sunoco's response belies the seriousness of the concern and does nothing to ensure its plans are safe.

First, Sunoco's claim that there is no threat because "under normal conditions" the mine pool is maintained at 1,350 ft amsl and the lowest point the pipeline would reach is 1562 ft. amsl is absurd. Shifts in mine pool elevation can be unpredictable and sometimes cannot even be controlled by treatment. Simply because a mine pool is *typically* maintained at elevation 1,350 ft amsl does not guarantee that it is even possible to maintain that elevation for the life of the 20 inch pipeline. Sunoco's own report identified an example of when pumps failed and there was a significant rise in the elevation of the mine pool. Pumps could fail again. It is of no moment that "Mr. Neff did not believe his company would ever allow the pool to approach the maximum permitted level." Accidents, mechanical failures, and natural phenomena happen without anyone allowing for such occurrences. The ultimate conclusion in Sunoco's report that "there is no evidence that under normal operating conditions the mine pool would intersect with the profile during HDD activities" is thus understandably weak. Sunoco is attempting to escape the fact that it is Sunoco's responsibility to prove its plans are safe. Ignoring or refusing to investigate evidence to the contrary proves nothing but the weakness of Sunoco's argument.

Second, it is not clear that Sunoco even has reliable information regarding the elevation of mine pool. It is increasingly acknowledged that predicting discharges using calculations based on the maximum mine pool elevation is flawed methodology. Mine pools in Pennsylvania have been documented 54 feet above the highest elevation of mining.

According to the Office of Surface Mining Reclamation and Enforcement Annual

Evaluation Report for 2017, “[t]he ability to reduce the risk of post-mining discharges hinges on the accuracy of the post-mining prediction.” The same report also found that the common methodology for predicting mine pool elevation used by the Commonwealth is flawed. It states that the Department often relied on the assumption that “the highest elevation of mining would be the post-mining pool elevation.” It went on to explain that “this assumption proved to provide inaccurate predictions for the mines reviewed and resulted in areas that have the potential to discharge.” *See* Office of Surface Mining Reclamation and Enforcement, 2017 Annual Evaluation Report for the Regulatory and Abandoned Mine Land Reclamation Programs Administered by the Pennsylvania Department of Environmental Protection, p.35.

The report lists examples of miscalculations:

PFD reviewed five underground mines and compared the predicted mine pool level to the actual mine pool level after the mine closure to evaluate prediction accuracy. The post-mining pool elevation could not be determined for two of the mines. One of these mines did not have a piezometer drilled into the mine pool and the elevation was unknown and the other mine appeared mostly dry. For the remaining three mines, the discrepancy between the actual and predicted pool elevation were +20, +34, and + 45 ft. Two of the mines would have been incapable of discharging to the surface if the prediction had been correct; **however, they are capable of creating a post-mining surface discharge since the actual mine pool elevation is +20 and +34 ft. higher than the predicted elevation. P.7**

Here, we do not know what methodology Sunoco is relying on.

Third, Sunoco erroneously asserts that the mine pool discharge will never be a threat to the pipeline even if the levels do rise. Sunoco states that “The water quality of mine pool discharge is actually alkaline due to a thick limestone unit 80 feet above the mine. The pH of the mine pool is typically at about 7.2.” This conclusory statement is wholly unsupported as Sunoco has provided no evidence that exposing the pipeline to alkaline liquids would be safe. It is also unclear that the pH would even be the same if the elevation of the mine pool changed.

Finally, despite acknowledging in its report that mine pool hydrology could be altered, Sunoco has completely ignored the Department’s request to explain potential impacts to regional groundwater. Instead, Sunoco is counting on operating conditions to remain normal, turning a blind eye to the threat. This is reckless. Sunoco must analyze the risks to groundwater, disclose them to the public and the Department, and plan accordingly.

Ultimately, Sunoco’s plan must be to avoid the mine pool all together.

Point 4 (ME1 location)

In response to the Department’s request that Sunoco include the location of ME1 in the HDD profile depictions, Sunoco claims the scale of the image would not allow accurate representation of ME1’s location. This is a dubious excuse and especially concerning in the light of Sunoco’s demonstrated failure to be able to locate its own pipelines.

In Delaware County, ME2 was recently struck by a public water utility because Sunoco misrepresented the depth at which it had installed ME2 just months before. In attempting HDD for the Norfolk Southern crossing in Westmoreland County, Sunoco failed to accurately locate ME1. ME1, ME2, and ME2X are sometimes separated by as little as 10 feet and Sunoco's drilling has veered off its planned course by several feet on more than one occasion. Understanding the location of ME1 is critical. The Department was right to require Sunoco to locate ME1 here. And yet, Sunoco has all but dismissed the Department's directive.

The original profile view for the Site has a line that shows the rolling ground surface. The updated profile view does little more than add a label to this line, indicating the ME1 and the surface are the same, with a note that ME1 is under 3 feet of cover. This "mock" representation is of no value and must not be accepted by the Department. First of all, Sunoco controls the scale of its drawings. If it does not feel ME1 can be accurately depicted using its chosen scale, it could comply with the Department's request by providing the profile on a different scale. Second, and more importantly, even using the same scale, Sunoco could add notes indicating the various depths of ME1 across the profile. The fact that Sunoco has not done this indicates that it simply has not done the work to locate ME1. The Department should continue pressing for this crucial information.

Point 5 (overburden)

Appellants are concerned that Sunoco has, yet again, deleted information from its reports in response to questions raised by the Department. Appellants thank the Department for holding Sunoco accountable on this point and seeking an explanation. While Sunoco has now provided data, Sunoco's excuse for deleting the paragraph in question misses the import of the Department's concern. The deleted paragraph speaks not only to overburden, but the depth of bedrock. Both are important. As Sunoco's own geologist stated in the hydrogeological report, "In general, the IRs have been related to shallow overburden, coarse grained unconsolidated materials near the surface (such as alluvium and mine spoil)..."

For the forgoing reasons, Appellants believe the plans for this Site cannot be approved in their current form. Thank you for considering these comments. Please keep us apprised of your next steps.

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/ Aaron J. Stemplewicz

Aaron J. Stemplewicz, Esq.
Pa. ID No. 312371
Delaware Riverkeeper Network
925 Canal Street, 7th Floor, Suite
3701 Bristol, PA 19007
Tel: 215.369.1188
aaron@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

