



April 25, 2019

**NOTICE OF VIOLATION**

**CERTIFIED MAIL NO. 7015 0640 0002 3146 0225**  
**RETURN RECEIPT NO. 9590 9402 1222 5246 4841 38**

Mr. Matthew L. Gordon  
Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 16908

**CERTIFIED MAIL NO. 7001 2510 0006 1769 6744**  
**RETURN RECEIPT NO. 9590 9402 1222 5246 4841 69**

Mr. Jayme Fye  
Michels Corporation  
817 Main Street  
Brownsville, WI 53006

Re: Violations of the Clean Stream Law, Dam Safety and Encroachments Act,  
and the Oil and Gas Act of 2012  
Pennsylvania Pipeline Project (a.k.a. Mariner East 2)  
Permit Nos. E15-862, E23-524, and ESG 01 000 15 001  
Various Municipalities  
Chester and Delaware Counties

Dear Mr. Gordon and Mr. Fye:

The Department of Environmental Protection (“DEP”) issues you the following Notice of Violation (“NOV”) for violations of various statutes and regulations administered by DEP, as well as permits authorizing Sunoco Pipeline, L.P. (“SPLP”), to conduct earth disturbance and water obstruction and encroachment activities in installing the Mariner 2 hazardous liquids pipeline in Chester and Delaware Counties. The violations are detailed below.

On March 19, 2019, DEP received, via a citizen complaint, notice of an oil sheen in the drilling solution return pit at SPLP’s Horizontal Directional Drilling (“HDD”) Site S-3-0350 (Glendale Road/Concord Avenue) in Uwchlan Township, Chester County. An inspection revealed that the sheen was the result of a hydraulic grapppler that developed a hydraulic fluid leak that discharged to the ground surface in an upland area. The grapppler was taken out-of-service and the spill had been cleaned up by the time of inspection. DEP was not notified by SPLP of the discharge. Hydraulic fluid is an “industrial waste” under Section 301 of the

Clean Streams Law, 35 P.S. § 691.301. The unpermitted discharge of Industrial Waste to Waters of the Commonwealth is a violation of the Clean Streams Law.

On March 22, 2019, DEP received, via a citizen complaint, notice of a discharge of drilling solution by SPLP from the drilling solution return pit at HDD Site S-3-0350 (Glendale Road/Concord Avenue) in Uwchlan Township, Chester County to an upland area. This discharge is classified as a “punch out return.” DEP was not notified by SPLP of the discharge. Drilling solution is an “industrial waste” under Section 301 of the Clean Streams Law, 35 P.S. § 691.301. The unpermitted discharge of Industrial Waste to Waters of the Commonwealth is a violation of the Clean Streams Law.

On April 5, 2019, in response to a citizen complaint, Chester County Conservation District (“CCCD”) inspected an area at the intersection of Routes 82 and 30 in the City of Coatesville. The inspection found that SPLP’s co-permittee, the Michels Corporation, was using the area as a contractor staging area, and there was evidence of earth disturbance activities greater than 5,000 square feet. Two violations were noted: (1) the site lacked a written erosion and sedimentation control plan; and (2) the area was not stabilized. The failure to develop erosion and sedimentation control measures to effectively minimize accelerated erosion and sedimentation violates 25 Pa. Code § 102.4 and Section 611 of The Clean Streams Law, 35 P.S. § 691.611. The failure to temporarily stabilize all disturbed areas of the project upon completion of the project violates 25 Pa. Code § 102.22 and Section 611 of The Clean Streams Law, 35 P.S. § 691.611

On April 13, 2019, DEP received notice of a complaint about an impact to a private water supply in Thornbury Township, Delaware County, via an after-hours voice mail from SPLP. This is in violation of Section 6.5 (Notifications) of the HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan (revised April 2018) (“IR PPC Plan”), which requires SPLP, when a citizen complaint of a water supply impact is made to SPLP, to make at least three attempts to provide verbal notification to DEP directly over the phone to a PADEP employee. SPLP’s failure to report the well impact complaint within 24 hours to DEP through the Oil and Gas Reporting Electronic (“OGRE”) system also violates 25 Pa. Code § 78a.68a(j) and the Oil and Gas Act of 2012, 58 Pa.C.S. § 3259.

On April 14, 2019, DEP received notice from SPLP that Erosion and Sedimentation Control BMPs were overwhelmed at HDD 410 (Ship Road/Concord Avenue) and failed, allowing sediment-laden water to be discharged off site to an existing stormwater basin in West Whiteland Township, Chester County. DEP has not received the written report for this incident from SPLP within 5 days as required by Section A.III.5 ((Noncompliance Reporting) of Permit ESG 01 000 15 001.

On April 15, 2019, DEP was made aware that SPLP commenced drilling activities at 2 HDD drill sites, HDD 510 (North Chester Road) in East Goshen Township, Chester County, and HDD 570 (Shepherd Lane/Meadow Lane) in Edgmont Township, Delaware County, without providing 24-hour advance notification of drilling activities through the OGRE system. The failure of SPLP to provide 24-hour advance notification of drilling activities through the OGRE violates Section 6.5 (Notifications) of the HDD IR PPC Plan and 25 Pa. Code § 78a.68a(c).

On April 22, 2019, DEP received notice from SPLP that it will not be commencing wetland restoration work at the HDD 620 (Glen Riddle/SEPTA) area in Middletown Township, Delaware County until spring of 2020. Special Condition Q of Permit E23-524 requires that all disturbed areas must be restored and stabilized. And Special Condition X of Permit E23-524 requires that SPLP shall “immediately” restore all disturbed wetland areas to their original contours and replant with indigenous vegetation in accordance with approved restoration plans. Further, Condition X also requires that wetland disturbances shall be minimized and stabilized with indigenous vegetation within 10 days of final earth disturbance to prevent erosion and provide cover, shading, and food source for aquatic life. Failing to “immediately” restore disturbed wetland areas in accordance with approved restoration plans as required in Permit E23-524 constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachment Act, 32 P.S. § 693.18.

SPLP needs to commence restoration work immediately, not in spring of 2020, pursuant to approved restoration plans for the site.

DEP Permits E15-862, E23-524, and ESG 01 000 15 001, and paragraph 15 of the Corrected Stipulated Order (“Order”) entered by the Environmental Hearing Board on August 10, 2017, require permittee(s) to follow their revised “*HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan*” (revised April 2018) (“IR PPC Plan”) that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event. Further, Conditions RRR. of Permits E15-862 and E23-524, and Condition C.IV.A. of ESG 01 000 15 001 require that SPLP comply with the “*Preparedness, Prevention and Contingency Plan*” (“PPC Plan”).

For any discharge of material other than drilling fluid, the PPC Plan, and DEP Permits E15-862, E23-524, and ESG 01 000 15 001, require that an immediate verbal notification be made, and a written report submitted, within 15 working day of the discharge. As of the date of this letter, DEP has not received any of these notifications.

Moreover, the failure to “immediately” notify DEP of the discharge of industrial waste into Waters of the Commonwealth that may “result in pollution or create a danger of pollution” to such waters is a violation of 25 Pa. Code § 91.33(a) (Incidents causing or threatening

Mr. Matthew L. Gordon  
Mr. Jayme Fye

- 4 -

April 25, 2019

pollution), 25 Pa. Code § 105.23 (Compliance with other applicable statutes), and Condition QQQ of Permits E15-862 and E23-524.

Failing to comply with the PPC Plan, IR PPC Plan, DEP Permits E15-862, E23-524, and ESG 01 000 15 001, and the above statutory and regulatory provisions, constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611, Section 18 of the Dam Safety and Encroachment Act, 32 P.S. § 693.18, and under the Oil and Gas Act of 2012, 58 Pa.C.S. § 3259.

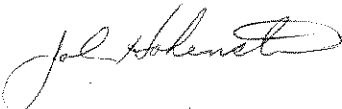
DEP acknowledges your clean-up efforts regarding the above but is troubled by SPLP's continuing failure to provide required notifications and reports to DEP in a timely manner. Timely notifications and reports are critical in that they allow DEP to respond with alacrity to pollution incidents, or incidents that may pose a danger of pollution or an impact to public health, as needed.

Please be advised that DEP and/or the CCCD or the Delaware County Conservation District will conduct additional inspections of the site. If future inspections reveal that corrective actions have not been made and/or additional violations have occurred, DEP may initiate enforcement action.

This Notice of Violation is neither an order nor any other final action of DEP. It neither imposes nor waives any enforcement action available to DEP under any of its statutes. If DEP determines that an enforcement action is appropriate, you will be notified of the action.

I look forward to your cooperation in this matter. If you have any questions, please call Mr. Frank De Francesco, Compliance Specialist, at 484.250.5161.

Sincerely,



John Hohenstein, P.E.  
Acting Regional Manager  
Waterways and Wetlands

cc: Mr. Embry – Sunoco Pipeline  
Mr. Prosceno – TetraTech  
Mr. Sofranko – Chester County Conservation District  
PA Fish and Boat Commission, Southeast Office  
Mr. Caplan – U.S. Army Corps of Engineers, Philadelphia District  
West Whiteland Township  
Re 30 (GJS19WAW)115-20