



June 16, 2021

NOTICE OF VIOLATION

CERTIFIED MAIL NO. 7001 2510 0006 1769 4856
RETURN RECEIPT NO. 9590 9402 5118 9092 8105 50

Mr. Matthew L. Gordon
Sunoco Pipeline, L.P.
535 Fritztown Road
Sinking Springs, PA 19608

Re: Violations of the Dam Safety and Encroachments Act (“DSEA”) and Regulations Promulgated under the DSEA and Clean Streams Law
Pennsylvania Pipeline Project (a.k.a. Mariner East 2)
Permit Nos. E15-862 and ESG 01 000 15 001
West Whiteland Township
Chester County

Dear Mr. Gordon:

On June 2, 2021, and June 3, 2021, the Department of Environmental Protection (“DEP”) received notifications and complaints that Sunoco Pipeline, L.P.’s (“SPLP”) dewatering facility at the boring under Wetland B71 was discharging discolored, sediment laden turbid water. Consequently, sediment and clay were being deposited into Wetland B71, Ship Road Run, and Valley Creek. DEP inspected the site on June 3, 2021, and June 4, 2021.

A Notice of Violation (“NOV”) issued on June 4, 2021, details the violations of the Clean Streams Law, 35 P.S. §§ 691.1 *et seq.*, from the unpermitted discharge of turbid water from the groundwater treatment system into Ship Road Run and Valley Creek. This NOV addresses the violations of the DSEA, 32 P.S. §§ 693.1 *et seq.*, applicable regulations, and Permit E15-862 that resulted from SPLP’s operation of the dewatering facility and the impacts to Wetland B71.

On June 3, 2021, and June 4, 2021, DEP inspected the site to determine impacts from the dewatering operation on Wetland B71, Ship Road Run, and Valley Creek. DEP found that the discharge from the bore pit dewatering operation had resulted in the depositing of additional sediment, including an orange-colored colloidal clay, in the area of the previous dewatering discharges in Wetland B71.

The ongoing issues with the operations at the dewatering facility need to be addressed. DEP is concerned that Wetland B71 is being inappropriately used as a treatment facility for turbid, sediment laden water, and a depository for sediment and clay fill.

Wetland B71 is a “Body of Water” as defined under Section 3 of the DSEA, 32 P.S. § 693.3, and a “Regulated Water of this Commonwealth” as defined under 25 Pa. Code § 105.1. The deposit of undetermined amounts of sediment and clay into Wetland B71 as a result of the discharges from SPLP’s dewatering operation constitutes the “Discharge of Fill Material” that is a “Water Obstruction” and “Encroachment” as those terms are defined at Section 3 of the DSEA, 32 P.S. § 693.3.

Special Condition Q of Permit E15-862 provides that “all disturbed areas are to be restored, stabilized, and replanted with indigenous plant species” and that “excess fill from disturbed areas and construction activities shall be located outside of the floodway, floodplain, and wetlands.” Additionally, Special Condition X specifies that the permittee “shall avoid wetland impacts, to the extent practicable, and minimize any such impacts.” This Condition further specifies that “[e]xcess fill shall not be deposited in any wetland, watercourse, floodway, floodplain, or other body of water.”

Failing to comply with DEP Permit E15-862 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.

DEP requests that SPLP do the following on or before June 30, 2021:

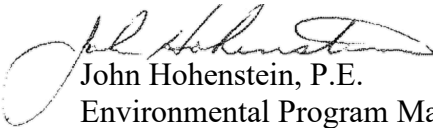
1. Conduct an assessment and evaluation of WB71 that analyzes the functions and values of the Wetland as well as: (a) any physical, biological, and chemical impacts associated with the deposit of sediment, clay, and other substances from the dewatering operation on these functions and values; and (b) any hydrological impacts from inundation of Wetland WB71 by sediment laden waters discharging from the dewatering operation into and across Wetland WB71.
2. Submit for review and approval, the results of the assessment and evaluation performed pursuant to paragraph 1, above, and a plan for the restoration of Wetland WB71 to a condition equal to or better than that in place before the commencement of the dewatering operation. The plan must include provisions for monitoring in accordance with Special Conditions related to Restoration and Monitoring in Permit E15-862.

Please be advised that DEP and/or the Chester 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 contact Mr. Frank De Francesco, Compliance Specialist, by e-mail at fdefrances@pa.gov or by telephone at 484.250.5161.

Sincerely,



John Hohenstein, P.E.
Environmental Program Manager
Waterways and Wetlands

cc: Mr. Bryan – Energy Transfer Partners (ETP)
Mr. Embry – ETP
Ms. Styles – ETP
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
Mr. Hoernemann – U.S. Army Corp of Engineers, Philadelphia District
West Whiteland Township
Re 30 (GJS21WAW)167

bcc: Mr. Patterson – DEP (via e-mail)
Mr. Shankar, P.E. – DEP (via e-mail)
Ms. Nurk – DEP (via e-mail)
Mr. Fogel – DEP (via e-mail)
Mr. Rocco, P.E. – DEP (by e-mail)
Mr. Hohenstein, P.E. – DEP (via e-mail)
Mr. Magge – DEP (via e-mail)
Mr. Knorr – DEP (via e-mail)
Mr. De Francesco – DEP (via e-mail)
Mr. C. Smith, P.E. – DEP (via e-mail)
Mr. Vlot – DEP (via e-mail)
William J. Gerlach, Esq. – OCC (via e-mail)
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