

May 17, 2017

**NOTICE OF VIOLATION**

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

**CERTIFIED MAIL NO. 7016 0600 0000 5827 5362**

Mr. David Bell  
Precision Pipeline, LLC  
3314 56<sup>th</sup> Street  
Eau Claire, WI 54703

**CERTIFIED MAIL NO. 7016 0600 0000 5827 5379**

Re: Violations of The Clean Streams Law  
Pennsylvania Pipeline / Mariner East II Project  
DEP Permit Nos. ESG0300015002 and E21-449  
DEP File No NOV 21 17 101  
Middlesex Township, Cumberland County

Dear Mr. Gordon & Mr. Bell:

On May 6, 2017, the Department of Environmental Protection (DEP) received notice of an inadvertent return (IR) of drilling fluids near station #10146+00 in Middlesex Township, Cumberland County (Site). On May 8, 2017, the Cumberland County Conservation District (CCCD) conducted an inspection of the Site. A copy of the CCCD inspection report is enclosed. The CCCD's report documents that the IR occurred within wetland WL-130, a water of the Commonwealth that is an Exceptional Value (EV) wetland associated with Letort Spring Run (High Quality-Cold Water Fishery/Wild Trout). The drilling fluids that comprised the IR constitute Industrial Waste and the discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of Section 301 of the Clean Streams Law, 35 P.S. § 691.301. DEP did not authorize any IRs at the Site by permit or other authorization.

In the event of an IR, DEP permits E21-449 (at Special Conditions kk., mm., and nn.) and ESG030015002 (at Part C, Paragraph IV), require the permittee(s) to follow their '*HDD Inadvertent Return, Preparedness, Prevention, and Contingency Plan*', (IRCP) that is part of the approved plans in the aforementioned permits. The IRCP, E21-449, and ESG030015002 include requirements for the following actions to be taken following an IR within a water of the Commonwealth:

- A. Immediately cease drilling operations, quantify the amount of drilling fluid lost through the return, documentation of the return location, photograph the return, assessment of the severity of the return, and assessment of potential impact to water resources by the return.
- B. Immediately notify the pertinent DEP Regional Office 24-hour Emergency Response Line. For the Southcentral Office, the number is 866.825.0208.
- C. Complete and submit the data form provided in Attachment B of the IRCP, to DEP and the United States Army Corps of Engineers (USACE). The general reporting shall be "Initial", "Interim", and then "Final" and shall comprehensively document the IR from initial discovery/notification through final restoration.

While DEP did receive timely notification of the IR at the Site in accordance with item B., above, to date the only reporting received by DEP in accordance with item C., above, is the "Initial Report", dated May 6, 2017 and submitted to DEP on May 16, 2017. This report does not correctly identify the impacted "Trout Stream/EV Water" and indicated that drilling continued despite successful remediation not having been completed, in contradiction with Section 6.3 of the IRCP, Permit E21-449 Special Condition (S.C.) kk., mm., and nn., and Permit ESG0300015002, Condition Part C., paragraphs I.A., I.B., and IV. Failing to fully remediate the IR allowed a continuous unauthorized discharge of Industrial Waste to the EV wetland while active drilling continued.

Failing to comply with the IRCP and Permit E21-449 S.C. kk., mm, and nn. and allowing the unauthorized discharge of Industrial Waste to waters of the Commonwealth constitutes a violation of Section 301 of the Clean Streams Law, 35 P.S. § 691.301 and constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18.

Failing to comply with Permit ESG0300015002 Conditions Part C.I.A., C.I.B., and C.IV. and allowing the unauthorized discharge of Industrial Waste to waters of the Commonwealth constitutes a violation of Section 301 of the Clean Streams Law, 35 P.S. § 691.301 and constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.61.1

In order to develop an appropriate enforcement strategy, DEP requests that you submit the remaining required Attachment B reporting form(s) referenced in item C., above, to the attention of Mr. Ronald C. Eberts, Jr. by email at [reberts@pa.gov](mailto:reberts@pa.gov) within 5 business days of receipt of this letter.

This Notice of Violation is neither an order nor any other final action of the 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.


Mr. Matthew Gordon  
Mr. David Bell

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DEP looks forward to your cooperation in this matter. If you have any questions, please contact me at 717.705.4819.

Sincerely,



Ronald C. Eberts Jr.  
Environmental Protection Compliance Specialist  
Waterways & Wetlands Program

Enclosure: CCCD Inspection Report

cc: Matthew Stough - Cumberland County Conservation District  
Captain Alan Robinson - PA Fish and Boat Commission, Southcentral Region  
Debby Nizer - US Army Corps of Engineers, Baltimore District  
Chris Embry - Sunoco Pipeline, LP  
Middlesex Township

