

**Report in Response to Paragraph 6**  
**of the**  
**Administrative Order issued to Sunoco Pipeline, L.P.**  
**dated January 3, 2018**  
**by the**  
**Pennsylvania Department of**  
**Environmental Protection**

January 2018

On January 3, 2018, the Pennsylvania Department of Environmental Protection (the “Department”) issued an Administrative Order (the “Order”) to Sunoco Pipeline, L.P. (“Sunoco”) which, among other things, suspended work authorized by twenty permits issued by the Department for the construction of the Mariner East 2 pipeline project (the “Project”).

Paragraph 6 of the Order states as follows:

*6. Within 30 days of the effective date of this Order, Sunoco shall submit a report to the Department that fully explains the failures that led to the violations described in this Order and the steps Sunoco proposes to implement to ensure that those violations will not reoccur.*

The violations described by the Department in the Order are set forth in Paragraphs GGG to JJJ and MMM to QQQ, inclusive<sup>1</sup>. The violations described by the Department in the Order allege that:

- (a) An inadvertent return from an unauthorized horizontal directional drill (“HDD”) in Berks County discharged drilling fluids into the waters of the Commonwealth (§GGG).
- (b) There were unauthorized construction methodologies employed for the project at several specific locations set forth in the Order. (§§HHH, III, and JJJ, MMM)
- (c) There was no notification to the Department for a certain inadvertent return (“IR”), and no IR reports submitted for other IRs. (§§NNN, OOO, and PPP).
- (d) There was a failure to obtain permit authorization prior to the installation of an air bridge in Perry County. (§QQQ)

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<sup>1</sup> Other paragraphs in the Order either state introductory information or state conclusions of law.

In compliance with Paragraph 6 of the Order, Sunoco has prepared the following report which identifies factors which explain the conditions which led to the violations described by the Department in the Order. The information set forth below is the result of an on-going investigation.

An Operations Plan, required to be submitted to the Department pursuant to Paragraph 9 of the Order, details the actions that Sunoco proposes to take to prevent the violations described by the Department in the Order, and potential future violations, from occurring. A resolution to the air bridge situation is separately described in item No. 5 below.

The factors contributing to the conditions which led to the violations described by the Department in the Order are as follows:

**1. Contracted Field Staff Not Exerting Authority to Stop Unpermitted Construction Activities.**

Field staff contracted by Sunoco to monitor the progress of construction and compliance with the permits did not exert their authority to stop construction in instances where there was a field change in construction methodology which had not been previously approved by either the Department or the appropriate County Conservation District (“CCD”). This field staff includes the Environmental Inspectors, Utility Inspectors and Professional Geologists (in areas subjected to horizontal directional drilling). This condition led to the implementation of field changes to construction methodologies which had not been approved by the Department or a CCD.

As set forth in detail in the Operations Plan to be submitted to the Department in response to Paragraph 9 of the Order, re-training for contracted field personnel, including Environmental Inspectors, Utility Inspectors and Professional Geologists, will re-emphasize their authority to halt construction if they observe the start of any unauthorized activities. In addition, as is more fully described in the Operations Plan, re-training will also focus on compliance with permit

conditions, and approved plans. Finally, as described in the Operations Plan, the re-training program will also include a re-affirmation of contact and notification procedures, as well as the chain of command for construction management and environmental compliance, which are additional mechanisms to avoid the implementation of unpermitted activities.

2. **Contractor-Implemented Field Changes Which Reduced Impacts or were Conducted at the Request of a Property Owner.**

In several instances described by the Department as violations in the Order, there were changes to construction methodologies that reduced environmental impacts, but were not previously approved by either the Department or the appropriate CCD. In another instance, a field change was made at the request of an affected property owner to lessen the impact of construction on that property owner (i.e., the Washington County HDD Site). However well-intentioned, in each of these locations, these field changes were not subject to a permit modification approved by either the Department or the appropriate CCD.

As stated above, the Operations Plan will address the re-training of field personnel contracted by Sunoco to re-emphasize that any change in construction methodology as set forth on the approved plans needs to be approved as a permit modification by the Department or applicable CCD, as appropriate, prior to implementation. In addition, each contractor and subcontractor will be contacted to reemphasize their obligation, as a co-permittee and pursuant to their agreements with Sunoco, to comply with the permits. Perhaps more significantly, SPLP will institute an internal Management of Change procedure which will formalize the consideration of any potential changes to the approved plans, ensuring that desired changes to the approved plans will be properly processed with the Department prior to implementation.

**3. Contractor-Implemented Field Changes in Uplands that Did Not Require a Change to the Approved Erosion and Sedimentation Control Plans.**

During construction of the Project, a field change to the construction methodology was made in an upland area that did not require a change to the applicable Erosion and Sedimentation Control Plan approved as part of the permits (i.e., Cumberland County HDD site). Although there was no change to the applicable Erosion and Sedimentation Control Plan, and the construction site was entirely within uplands, there was a misunderstanding regarding whether such a change required Department approval. Going forward, if there is a proposed change in construction methodology, Sunoco will seek the Department's approval prior to making such a change. (In compliance with the Order, the boring rig has been removed and pilot hole properly abandoned from the Cumberland County site).

As set forth in the Operations Plan, the re-training of the contractors and contracted field personnel will include training on the Management of Change procedures if contractors suggest changes to the construction methodologies as set forth in the permit and approved plans.

**4. Notification and Reporting to the Department.**

Several of the violations described by the Department in the Order refer to the lack of reports required to be submitted to the Department. Specifically, the Order describes that an immediate notification was not made to the Department for the Huntington HDD site, the Department was not notified 24 hours prior to the start of several HDDs (Berks HDD Sites 1-4, and the Blair, Cumberland, Dauphin, Huntington and Washington HDD Sites), and the Department did not receive an initial inadvertent reporting form for two inadvertent returns (Berks HDD Site 1 and Huntingdon HDD Site).

With respect to the immediate notification and submission of an inadvertent return form to the Department for the inadvertent return occurring at the Huntingdon HDD Site, this

inadvertent return occurred in close proximity of the exit pit, and because it was so close to the exit pit, it was not considered by the field staff as an inadvertent return. With respect to the 24-hour reporting at the identified sites, Sunoco's contractors did not believe notice was required.

As is set forth in more detail in the Operations Plan, training will re-emphasize compliance with the reporting requirements in the permits and the accompanying PPC Plans. The re-training program will also include a re-affirmation of contact and notification procedures, as well as the chain of command for construction management and environmental compliance, which are additional mechanisms to avoid the implementation of unpermitted activities.

#### **5. Installation of Air Bridge in Toboyne Township**

During construction of the pipeline, Perry County closed an existing County bridge in Toboyne Township which was used by vehicles constructing the pipeline. This bridge is located off the Mariner East 2 project right-of-way and therefore was not in an area inspected by the field staff. County representatives were contacted to discuss the placement of a pre-made "air bridge" to be installed over the existing bridge. The County agreed to allow the installation of the air bridge subject to the approval of its installation by the County's bridge inspector. The Township and residents were also supportive of this remedy, so the installation proceeded pursuant to the County's approval and inspection. There was no federal permit required for this bridge installation, but a permit was required from the Department, which was not obtained.

As noted previously, re-training of field personnel and contractors will re-emphasize the requirement to obtain permits or permit modifications prior to undertaking activities that lack Department authorization. With respect to the air bridge at Toboyne Township, and in compliance with the Administrative Order, Sunoco will be submitting to the Department a

complete Section 105 application, in the name of Toboyne Township, to permit the bridge to remain in place indefinitely.