



PENNSYLVANIA
AMERICAN WATER

August 12, 2016

Pennsylvania Department of Environmental Protection
South-Central Regional Office
Waterways and Wetlands Program
909 Elmerton Ave.
Harrisburg, PA 17110

Re: Comments of Pennsylvania-American Water Company regarding the Mariner East Pipeline II; Permit Application E06-701 – Berks County

Ladies and Gentlemen:

Pennsylvania-American Water Company (“PAWC”) appreciates this opportunity to submit the following comments regarding the Sunoco Pipeline L.P. (“Sunoco”) Mariner East Pipeline II project (“Pipeline”) that Sunoco is planning for the transportation of natural gas liquids (“NGLs”) in Pennsylvania.

These comments relate to Sunoco’s Permit Application E06-701 – Berks County (the “Permit Application”) to the Department of Environmental Protection (“DEP” or “Department”).

INTRODUCTION AND BACKGROUND

PAWC is a regulated public utility under 66 Pa.C.S. §§ 101, *et seq.*, that provides public water and wastewater services to portions of 36 counties that include approximately 400 communities across the Commonwealth of Pennsylvania. As a regulated public utility, PAWC falls under the jurisdiction of the Pennsylvania Public Utility Commission (“PUC”) and has a statutory duty to furnish and maintain adequate, efficient, safe, and reasonable public utility services and facilities. 66 Pa.C.S. § 1501.

PAWC owns two properties located in Spring Township, Pennsylvania (“Tract 44” and “Tract 55,” collectively referred to as the “Properties”) that are dedicated to public use. Both tracts contain equipment and facilities that are necessary for the operation of the “Wyomissing System” – a public water system that supplies water to approximately 12,200 customers within Berks County, including private and public schools, hospital facilities, and an elderly care facility. Tract 55 contains two wells (#12 and #13), treatment facilities, and two water storage tanks.

In a separate proceeding, Sunoco has filed a declaration of taking that seeks to condemn portions of Tracts 44 and 55 for purposes of installing a portion of the Pipeline. A portion of one of the properties that Sunoco seeks to condemn is within approximately 300 feet of a public water well (“Well No. 12”) and overlays an aquifer within a PAWC “Source Water Protection Zone” (the “Aquifer”). The Pipeline itself will be within 300 feet of Well No. 12 and overlaying the Aquifer. The Aquifer serves as a re-charge zone for PAWC’s Wyomissing System and is a source of supply.

PAWC submits these comments so that the Department may evaluate the potential impact of the Pipeline on PAWC's public water supplies in connection with Sunoco's Permit Application. Among other things, when considering whether to approve applications like Sunoco's, DEP has the obligation to consider the impacts of the project on public water supplies such as PAWC's. 25 Pa. Code § 105.14. DEP must also consider the potential impacts a project will have on property, or riparian rights of owners upstream, downstream, or adjacent to the project; and the impacts of the project on water quality and other significant environmental factors. Furthermore, DEP is obligated to evaluate a project's general impact on environmental and public natural resources. 25 Pa. Code § 105.16.

SUMMARY OF COMMENTS

As described in more detail below, DEP should evaluate the Pipeline's impact on PAWC and its public water supplies in Berks County, Pennsylvania or order that Sunoco submit further evaluation regarding the potential impact the Pipeline may have on PAWC's public water supplies. Given the proximity of the Pipeline to Well No. 12 and the Aquifer, the proposed route of the Sunoco Pipeline has the potential to endanger PAWC's public water supplies that are vital to the provision of public water service to over 12,000 Pennsylvanians within Spring Township, Berks County – a fact which unfortunately is not mentioned anywhere in the Permit Application. Furthermore, the Pipeline's current proposed alignment raises the risk level to water resources devoted to the public use that serve (among other customers) several schools, hospital facilities, and an elderly care facility. Accordingly, PAWC urges DEP to require that Sunoco submit further evaluation of the potential impacts and consider alternative routes that would avoid PAWC's public water supplies that are already devoted to providing public water service. At a minimum, DEP should impose permit conditions on the Pipeline sufficient to mitigate against any potential risk to PAWC's public water supplies.

GENERAL COMMENTS

PAWC submits the following general comments to the Permit Application:

1. The Pipeline poses a risk to PAWC's Public Water Supplies.

The Commonwealth's Water Plan imposes requirements on the Department regarding public water supplies. The Water Plan states that "the protection of water resources must be considered early in the development process." *State Water Plan Principles* at 21, 43 (2008).

Sunoco's proposed route for the Pipeline crosses the Properties near Well No. 12 and other equipment and facilities for public water service and overlays the Aquifer. No matter how sound the construction and operation, a pipeline project always poses a level of risk, and those concerns are enhanced when the pipeline will be close to a public water supply. Simply put, if approved, the Pipeline increases the risk of damage or pollution to PAWC's water supplies.

As it relates to the Permit Application, Sunoco knew or should have know that its Pipeline had the potential of affecting PAWC's water supplies since at least the fall of 2015, if not before, given its proximity to the Aquifer, to Well No. 12, to other facilities used for the provision of public water service in Spring Township. Yet, Sunoco did not disclose that fact anywhere in its Permit Application, despite having the opportunity and responsibility to do so in several places in the

Permit Application. Without that information, the Department cannot fully evaluate the Pipeline's potential impact on PAWC's water supplies as required by the Commonwealth's Water Plan and other statutes and regulations.

2. *The Department should require that Sunoco evaluate alternative routes.*

The Department has the authority to require applicants to undertake further studies and submit additional information, analyses, and reports as necessary. 25 Pa. Code § 105.15. Sunoco should be required to analyze potential route alternatives that would avoid PAWC's public water supplies. Sunoco did not analyze alternative routes for the Pipeline even though Sunoco knew or should have known the Pipeline poses a level of risk to water supplies on PAWC's Properties. (If Sunoco did know, then it made the curious determination that siting the Pipeline over a public water supply within 300 feet of Well No. 12 was proper). The Department should require Sunoco to analyze the potential alternative routes before approving the Permit Application given the Pipeline's proximity to public water resources.

3. *The Department should impose conditions on the Permit if approved.*

The Department has the authority to impose conditions on permits. *See* 25 Pa. Code § 105.21. Environmental conditions are routinely imposed on pipelines to protect environmental resources.

As provided in the Commonwealth's Water Plan, when considering human activities that disturb the surface of the land and that will have an impact on water quality of whatever source, "the goal is to conduct those activities in such a way that the impacts to the land surface and the potential impacts on water quality are minimized to the greatest extent possible." *State Water Plan Principles* at 40. The Department's regulations provide that in the event a project subject to a Chapter 105 Permit may have an impact on natural resources or the environment, the Department should consult with the application to examine ways to mitigate environmental impacts. *See* 25 Pa. Code § 105.16.

If the Department approves the Permit Application, DEP should impose environmental conditions that will mitigate, to the greatest extent possible, any potential damage or pollution from a leak, failure, or other accident involving the Pipeline given its proximity to Well No. 12, the Aquifer, and other equipment and facilities designed for providing water to the public in Spring Township.

SPECIFIC COMMENTS

PAWC also submits the following specific comments to Sunoco's Permit Application regarding the Permit Application.

The Department cannot approve a Chapter 105 permit application unless the applicant demonstrates that the application is complete and accurate. 25 Pa. Code § 105.21. Furthermore, a permit should be denied if the applicant has not demonstrated that the proposed project will adequately protect public health, safety, and the environment.

As stated in detail in the specific comments that follow, the Permit Application is incomplete and/or inaccurate because it does not account for the proximity of the Pipeline to public water supplies and does not indicate what steps (if any) Sunoco has taken to ensure the protection of the

public water supplies on the Properties. The Department should not approve the Permit Application until these issues are adequately addressed.

- In Sunoco's *Joint Application for Pennsylvania Water Obstruction and Encroachment Permit and U.S. Army Corps of Engineers Section 404 Permit*, Sunoco describes the Pipeline's general route but fails to disclose that the Pipeline will pass through the Properties, which are critical to providing safe drinking water to more than 12,000 residents of Berks County.
- DEP's *General Information Form – Authorization Application ("GIF")*, page 2, specifically asks Sunoco to identify any of the listed facility types that the Pipeline will modify. If the Pipeline is constructed as proposed without DEP requiring Sunoco to adhere to environmental conditions to mitigate impacts to PAWC's public water supplies, PAWC may need to implement several modifications to its existing facilities. Sunoco knew or should have known, but did not disclose, that the Pipeline will require modifications to a "Public Water Supply System" and "Water Resource."
- In Question #1 of the Project Information Section of the *GIF*, Sunoco indicated that it had addressed all community concerns prior to submitting its application to DEP. This is not the case. PAWC expressed concerns to Sunoco regarding the proposed route of the Pipeline and how it will affect PAWC's water resources that serve the citizens of Berks County. These concerns have not been addressed by Sunoco.
- In Question #14.0 of the Coordination Information Section of the *GIF*, Sunoco indicated that the Pipeline will not require the "construction or modification of a drinking water supply to serve 15 or more connections or 25 or more people, at least 60 days of the year." This is incorrect. PAWC's Wyomissing System serves more than 12,000 people every day of the year. If the Pipeline is constructed along Sunoco's proposed route, PAWC must consider and implement significant modifications to the public water supply system in order to further protect its public water supplies.
- Question #15.0 of the Coordination Information Section of the *GIF* asks Sunoco if the Pipeline will include infiltration of storm water or waste water to ground water within one-half mile of public water supply well, spring or infiltration gallery. Sunoco responded, "No." However, if the Pipeline is constructed across the Properties, it is possible that storm water or waste water could impact the Aquifer or other integral parts of PAWC's Wyomissing System.
- Sunoco provided DEP with *Site Plans* and a *Location Map* for the proposed Pipeline route. None of these drawings identify PAWC's Wyomissing System, the Aquifer, Well No. 12 or other water wells, or any other critical public water infrastructure on and underlying the Properties.
- Sunoco's *Project Description* does not disclose the fact that the Pipeline will traverse the Properties, exposing the Wyomissing System and over 12,000 residents

of Berks County to potential risks in the event of a leak or other accident involving the Pipeline.

- Sunoco's *Environmental Assessment Form* ("E.A. Form") does not adequately address the potential impacts of the Pipeline to PAWC's Wyomissing System and the water resources of Berks County.
- Enclosure A to the *E.A. Form*, the *Aquatic Resources Report Addendum*, should have identified the Aquifer and its role in re-charging the Wyomissing System and serving as a source of supply during shortage events.
- Enclosure B to the *E.A. Form*, the *Land Use Maps*, does not depict PAWC's public water infrastructure or the Aquifer.
- Enclosure C to the *E.A. Form*, Sunoco's *Aquatic Habitat and Wetlands Functions and Values Assessment* discusses the interplay between aquifers and wetlands in general but provides no analysis or discussion of the Aquifer located in and under the Properties.
- There are also several deficiencies involving Enclosure D to the *E.A. Form*, *Project Impacts*:
 - Section A asks Sunoco to discuss resources that would be impacted by the Pipeline. Sunoco did not mention PAWC's public water supplies or other water resources.
 - Section B, *Aquatic Impacts*, does not include any discussion of the Aquifer or Well No. 12 or other public water supplies despite a discussion of the Pipeline's impacts on other water resources, such as wetlands and streams.
 - Section B.3, *Water Quality*, does not account for the possibility that the construction of the Pipeline along its proposed route may pose a significant increased risk to the water quality of the Aquifer or other water supplies on the Properties in the event of a leak or other incident involving the Pipeline.
 - Additionally, in Section B.6, *Other Environmental Factors*, Sunoco states as follows: "There were no other environmental factors of concern identified during field surveys or associated research activities conducted for the proposed Project." Given the absence of a discussion of the potential danger that the Pipeline could pose to the Wyomissing System and Berks County's public water supplies elsewhere in the Application, this statement is incorrect. These potential dangers were brought to Sunoco's attention in or before the fall of 2015 and have not been addressed.
 - Moreover, Section C, *Environmental Impacts on Adjacent Land and Water Resources*, fails to discuss any of the potential impacts to PAWC's public water supplies located in Berks County.


- Sunoco's *Alternatives Analysis* does not include any discussion or analysis related to potential route alternatives that would avoid the Properties or further mitigate potential impacts to PAWC's public water supplies located in Berks County.
- Although Sunoco's *Aquatic Resource Avoidance, Minimization, and Mitigation Plan* discusses some of the Pipeline's potential impacts on the Commonwealth's waterbodies, it fails to identify or address any potential impact on other public water supplies.

CONCLUSION

PAWC thanks the Department for considering these comments. In summary, Sunoco should be required to perform a thorough analysis of the Pipeline's impacts on PAWC's public water supplies, including alternative routes that avoid the Properties and PAWC's water resources to determine if there is a viable route for the Pipeline that will not endanger public water supplies. In the event that the Pipeline is approved along Sunoco's currently proposed route, the Department should impose environmental conditions to mitigate potential dangers to the public water supplies that address risks associated with the construction and operation of an NGL pipeline adjacent to the Wyomissing System and PAWC's public water supplies.

Very truly yours,

Dave Kaufman



V.P. - Engineering