



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Southwest Regional Office

July 15, 2019

NOTICE OF VIOLATION

Via Certified Mail No. 7018 2290 0001 5349 1932 and First-Class Mail (Shell Pipeline Company, LP)
Via Certified Mail No. 7018 2290 0001 5349 1932 and First-Class Mail (Minnesota Limited)

Pamela Alley
Shell Pipeline Company, LP
WCK Building A
150 North Dairy Ashford Road
Houston, TX 77079

Chris Houx
Minnesota Limited
PO Box 410
Big Lake, MN 55309

RE: Violations of the Clean Streams Law
Falcon Ethane Pipeline System
DEP Permit Nos. E02-1773 and ESG0000717003
Raccoon and Independence Townships
Beaver County

Dear Ms. Alley and Mr. Houx:

On July 9, 2019, the Department of Environmental Protection ("Department") and the Beaver County Conservation District ("BCCD") conducted an inspection of the Shell Pipeline Company, LP ("SPLC") Falcon Ethane Pipeline System Project and the associated Right-of-Way ("ROW") located in Raccoon and Independence Townships, Beaver County ("Site"). The Department and BCCD has determined that the Site is in violation of the Clean Streams Law, the Act of June 22, 1937, P.L. 1987 as amended, 35 P.S. §§691.1-691.1001 ("Clean Streams Law") and the rules and regulations promulgated thereunder ("Regulations") as follows:

1. Failure to maintain Erosion and Sediment ("E&S") control Best Management Practices ("BMPs") to effectively minimize accelerated erosion and sedimentation, in violation of Section 102.4(b) of the Regulations, 25 Pa. Code § 102.4(b).
2. Failure to provide temporary stabilization of earth disturbance activities at the Site, in violation of Section 102.22(b) of the Regulations, 25 Pa. Code § 102.22(b). At least 1.78 miles of ROW was observed without temporary stabilization. Areas without temporary stabilization include slopes identified in Department Permit No. ESG0000717003 ("ESCGP Permit") as moderate to high slip risk and the location of the April 13, 2019 landslide.
3. Failure to comply with permit conditions at the Site, in accordance with the ESCGP Permit and the E&S Plan, which resulted in the potential for sediment pollution to enter Raccoon Creek, unnamed tributaries to Gums Run, and Gums Run, all waters of the

Commonwealth, in violation of Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611, and Sections 102.4 and 102.5 of the Regulations, 25 Pa. Code §§ 102.4 and 102.5.

Based on the above violations, the following are recommendations for compliance at the Site:

1. Stabilize areas where a cessation of earth disturbance activities has exceeded 4 days, per the ESCGP Permit and the approved E&S Plan. This includes areas along the entire project ROW that have been idle for 4 or more days.
2. Maintain the sumps and compost filter sock ("CFS") at the uphill portion of SCI-33 and near 1343+50.
3. Repair the culvert near 1342+00 such that it no longer discharges into the ROW over HOU-9.
4. Capture changes to BMPs as redline changes on the E&S Plan, such as wick drains over steep slopes and confirm changes with BCCD.

In addition to the violations noted above, the Department would also like to bring the following items of concern to your immediate attention:

- A. **Right-of-Entry:** Section 691.5(b)(8) of the Clean Streams Law provides authority to the Department or its personnel to perform inspections of public or private property as necessary to determine compliance with the Clean Streams Law, the Regulations, and permits issued pursuant to the statute. Under Section 691.611 of the Clean Streams Law, it is unlawful for any person to hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of its duties.

Recently, SPLC requested the Department and its personnel schedule site inspections in advance and stated that SPLC's safety policy requires Department and its personnel have an escort during the inspections. For the past four months, the Department and its personnel conducted inspections at the Site using the following procedure: Arrived on-site, located a SPLC representative (if one was available), obtained a safety briefing and signed the Job Safety Analysis, and performed the inspection. If there was no SPLC representative on Site during the time of the inspection, the Department and its personnel would conduct an inspection independently. While the Department appreciates and respects SPLC's safety policy, the Department prefers to conduct inspections using the procedure implemented for the past four months, of which there were no safety-related incidents or injuries. The Department does not agree that site inspections should be scheduled, pre-arranged, or require any advanced notice by the Department to coordinate with SPLC.

- B. **Mapping Requests and Weekly Project Updates:** In May, the Department requested additional mapping information of the Falcon Ethane Pipeline System Project to include: station numbers over a map with local roads, watercourses, and a scale. This information was requested to assist to Department in planning inspections and performing inspections efficiently. The Department has requested this information on multiple occasions to several representatives of SPLC and has not received the additional mapping information or a response to explain why this information cannot be provided. Additionally, the Department requested SPLC include station numbers on their "Weekly Project Update" that details the work planned for the upcoming week. The Department made this request in April and July and has not received a response.
- C. **Slip Risk Slopes:** The ESCGP Permit identified slope-risk areas and provided SPLC with options for precautions to implement both during and after construction on slope-

risk areas. On May 23, 2019, June 21, 2019, and June 28, 2019, the Department requested information about what precautions were taken regarding a High-Risk Slope Stability Area by Cowpath Road in Beaver County. To date, the Department has not received a response to inquiries regarding the precautions SPLC implemented on this slope.

- D. **May 11, 2019 Diesel Spill:** SPLC reported by telephone a 40-gallon diesel spill that occurred on May 11, 2019. SPLC is required to provide written notice of the diesel spill to the Department. To date, SPLC has not provided the required written notice or responded to Department inquiries on the subject from May 23, 2019, June 3, 2019, June 21, 2019, and June 28, 2019.

In order to develop an appropriate enforcement strategy, the Department requests that you submit the following to my attention by email at aevan@pa.gov by July 29, 2019:

1. A written response with photographs and specifics on the status of addressing the above violations.
2. A written response to items A. through D., above, including the requested and/or required information.


Please be advised that the Department and the BCCD will conduct additional inspections of the Site. If future inspections reveal that required corrective actions have not been taken and/or additional violations have occurred, the Department may initiate additional enforcement action.

This letter is only intended to inform you of the existence of a violation and of the ways in which you may move into compliance with the law. It shall not be construed to waive or impair any rights of the Department, including the right to take an action in the future. Finally, this letter shall not be construed to waive either expressly or by implication, the power or authority of the Commonwealth of Pennsylvania to prosecute for any and all violations of the law arising prior to or after the issuance of this letter, or for the conditions upon which this letter is based.

This letter should not be considered as a final appealable action of the Department of Environmental Protection.

I look forward to your cooperation in this matter. If you have any questions, please contact Aileen Evan at 412-442-4127 or aevan@pa.gov.

Sincerely,



Aileen Evan
Environmental Group Manager
Conservation, Restoration, and Inspection Section
Waterways and Wetlands Program

Enclosure

cc: BCCD – via email
AECOM (Casey Talento) – via email
Bruce Barger – via email