

L A M B | M c E R L A N E ^{PC}

ATTORNEYS AT LAW

Guy A. Donatelli
Voice: 610.430.8000
gdonatelli@lambmcerlane.com

January 16, 2019

Via Electronic Filing
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: In Re: Meghan Flynn, et al. v. Sunoco Pipeline, L.P.
Docket Numbers: C-2018-3006116; P-2018-3006117

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission please find the Petition to Intervene of the Downingtown Area School District, Chester County, Pennsylvania with regard to the above-captioned proceeding.

All parties of record have been served pursuant the attached Certificate of Service. If you have any questions or concerns, please do not hesitate to contact this office.

Thank you very much for your cooperation and assistance.

Very Truly Yours,

Lamb McErlane, PC

By: /s/ Guy A. Donatelli
Guy A. Donatelli
Solicitor for Downingtown Area School
District

GAD/ajb
Enclosures
cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re: Meghan Flynn, Rosemary Fuller	:
Michael Walsh, Nancy Harkins, Gerald	: Docket No. C-2018-3006116
McMullen, Caroline Hughes and	:
Melissa Haines	: Docket No. P-2018-3006117
Petitioner,	:
	:
v.	:
	:
Sunoco Pipeline, L.P.,	:
	:
Respondent.	:

**PETITION TO INTERVENE OF THE DOWNINGTOWN AREA SCHOOL DISTRICT,
CHESTER COUNTY, PENNSYLVANIA**

Pursuant to 52 Pa. Code §§ 5.71-5.75 the Downingtown Area School District, Chester County, Pennsylvania (“the School District”) hereby petitions to intervene in the above-captioned proceeding. In support thereof, the School District submits as follows:

A. THE SCHOOL DISTRICT

1. The School District is a school district of the second class with an address of 540 Trestle Place, Downingtown, PA 19335 and a telephone number of (610)-269-8460.
2. The School District and the municipalities it serves are located entirely within Chester County, Pennsylvania.
3. The School District currently operates two high schools, a Science, Technology, Engineering and Math Academy, three middle schools and ten elementary schools, (“the District Schools”). The School District is one of the largest geographically diverse school districts in Chester County.
4. The School District Schools service the attendance areas of the Borough of Downingtown,

East Brandywine Township, East Caln Township, West Bradford Township, Uwchlan Township, Upper Uwchlan Township, Wallace Township and West Pikeland Township, and as of January, 2018, had a student enrollment of 12,956.

5. The School District, as a school district of the second class, is governed, *inter alia*, by the Pennsylvania Public School Code of 1949, 24 P.S. § 1-101 *et seq.*
6. The School District's attorneys in this matter are:

Guy A. Donatelli, Esquire
PA I.D. # 44205
Lamb McErlane PC
24 East Market Street, Box 565
West Chester, PA 19382-0565
(610) 430-8000
gdonatelli@lambmcerlane.com

Alex J. Baumler, Esquire
PA I.D. # 315760
Lamb McErlane, PC
24 East Market Street, Box 565
West Chester, PA 19382-0565
(610) 430-8000
abaumler@lambmcerlane.com

7. The School District petitions to intervene in the above-captioned proceeding.
8. The School District requests to receive all documents electronically to the above listed email addresses as allowed by 52 Pa. Code § 1.54(b)(3).

B. THE ABOVE-CAPTIONED PROCEEDING.

9. On November 19, 2018, Petitioners/Complainants Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes and Melissa Haines (collectively the "Flynn Complainants") filed a Complaint against Respondent Sunoco Pipeline, L.P. ("Sunoco") at Docket No. C-2018-3006116, and concurrently therewith, a

Petition for Interim Emergency Relief against Sunoco at Docket No. P-2018-3006117, which have been consolidated.¹

10. The Flynn Complainants averred that their properties in Chester and Delaware Counties were in close proximity to the Mariner East 1 (“ME1”) pipeline and/or a work-around 12-inch diameter pipeline that circumvents stopped construction on the Mariner East 2 (“ME2”) and Mariner East 2X (ME2X).² At times, these Sunoco pipelines are referred to collectively as “the ME Pipelines”.
11. The Flynn Complainants also averred that ME1, ME2, ME2X and the work-around pipelines carrying or intended to carry HVLs are inherently dangerous and due to their location in Chester and Delaware Counties (high consequence areas), a pipeline rupture there would be catastrophic.
12. The Flynn Complainants further contend that ME1 is being operated and the work-around pipeline is about to be operated without an adequate public awareness program, emergency notification system, or credible emergency management plan in violation of 49 CFR § 195.440. The Flynn Complainants contend that Sunoco is violating 49 CFR § 195.248 in that ME1 and the work-around pipeline are located within 50 feet of private dwellings or industrial buildings or places of public assembly without at least 4 feet of cover.
13. The Flynn Complainants’ three-count Complaint requested that the Commission enter an Order directing Sunoco permanently to (a) cease operation of the 8-inch ME1 pipeline; (b)

¹ On December 11, 2018, Administrative Law Judge Elizabeth Barnes issued Order denying relief to the Flynn Complainants that would affect the temporary cessation of operations of ME1 and construction of the ME2 work-around pipeline and certified that Order to the Commission.

² ME1 is currently operational. ME2 and ME2X are not currently operational. The work-around 12 inch pipeline is a 1930s era pipeline that had been carrying petroleum products such as gasoline until Sunoco repurposed it to connect to ME2 in order to carry highly volatile liquids (HVLs).

cease operation of the workaround pipeline, ME2, and ME2X; and (c) grant such other and further relief as may be appropriate.

C. THE SCHOOL DISTRICT'S INTEREST IN INTERVENTION

14. The School District has at least five schools located in close proximity to the various pipelines identified above, all within the "blast zone," which might extend to more than 2,000 feet from the ME Pipelines. In addition to buildings and classrooms, these schools have playing fields, play grounds and other facilities which are places of public assembly and which are used and enjoyed by the community in general.
15. Attached as Exhibit "A" is a diagram of all HVL pipelines within the School District.
16. ME1 pipeline is shown as number 13 on Exhibit "A".
17. The temporary workaround pipeline is shown as number 12 (the dashed line) on Exhibit "A".
18. Attached as Exhibit "B" is a Google map image representing the approximate proximity of the ME Pipelines to the Shamona Creek Elementary School and the Marsh Creek 6th Grade Center.
19. Attached as Exhibit "C" is a Google map image representing the proximity of the ME Pipelines to Lionville Elementary School, the Lionville Middle School and the Downingtown East High School.
20. The right-of-way containing the 12" non-HVL pipeline which is temporarily transporting HVL's as part of the Mariner East work around is approximately:
 - i. 1,175 feet away from Downingtown East High School;
 - ii. 1,425 feet away from Lionville Elementary School;

- iii. 600 feet away from Lionville Middle School;
- iv. 1,000 feet from the Marsh Creek Sixth Grade Center, and;
- v. 300 feet from Shamona Creek Elementary School.

21. Shamona Creek Elementary School and the March Creek 6th Grade Center are subjected to an additional risk. In addition to the pipelines, there exists a Sunoco valve station along Dorlan Mill Road, in Upper Uwchlan Township, which is directly across the street from the Shamona Creek Elementary School and the Marsh Creek 6th Grade Center, and which increases the risk of harm to the students, staff and visitors resulting from an automobile collision, leak or other failure of the valve station.
22. The School District has a direct, substantial and immediate interest in this matter related to its obligation to educate its students and to protect the health, safety and welfare of its students, staff and users of the School District facilities, that is unique, and not represented by any other party in the proceeding in which the ME Pipelines are physically located. 52. Pa. Code §69.1101.
23. The School District has a direct, substantial and immediate interest in this proceeding as a municipal entity obligated under the Pennsylvania Public School Code of 1949, 24 P.S. § 1-101 *et seq.* to promote the education, health, safety and welfare of the School District's children and to assure the proper operation of the schools, including disaster prevention and response.
24. Participation by the School District in this proceeding is in the public interest.
25. No other party to this proceeding possesses an interest identical to that of the School District.

26. The School District possesses a sufficient legal interest in this matter so as to permit the filing of this intervention.

27. The School District's Intervention is timely pursuant to the prescripts of 52 Pa. Code. § 5.53.

D. REQUESTED RELIEF

28. The School District seeks intervention to request the following relief:

- a. That the Commission order Sunoco to perform continued and ongoing line inspection and geophysical testing and analysis in the areas of School District's schools where the ME Pipelines are operating and/or are in the process of construction;
- b. That the Commission order Sunoco to provide to the School District on a timely basis the results of that continued and ongoing line inspection and geophysical testing;
- c. That the Commission order that in the absence of either the above testing or inspection, or the delivery of the result of same, or in the absence of testing or inspection results that establish that the ME Pipelines or the valve station are determined by the Bureau of Inspection and Enforcement ("BI & E") and the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") to not pose any risk to the School District's properties, that the ME Pipelines shall immediately cease operations until such time as Sunoco performs all necessary corrective actions and acquires approval of BI & E and PHMSA prior to receiving Commission approval to resume operation and/or construction;
- d. That the Commission order Sunoco to develop and submit testing and inspection protocols appropriate to ensure the safe operation and maintenance of ME Pipelines in close proximity to School District's schools, to be approved by BI & E and PHMSA on a regular basis;
- e. That the Commission order Sunoco to develop and install a mass early warning notification system at all potentially affected School District Schools which would provide immediately notice of a leak, potential explosion or other failure in the pipeline system;
- f. That the Commission order Sunoco provide a School District-specific public education or awareness plan designed to inform and education the students, families and School District Staff on proper and effective disaster prevention and response
- g. That the Commission Order Sunoco to relocate the valve station currently on Dorlan Mill Road, and;
- h. Such further relief as may become available during the proceedings on this Application.

WHEREFORE, the Downtown Area School District respectfully requests that this Honorable Commission grant this petition to intervene, providing the School District with full-party status in this proceeding.

Respectfully submitted,

LAMB MCERLANE PC

By: /s/ Guy A. Donatelli

Guy A. Donatelli

Attorney I.D. # 44205

gdonatelli@lambmcerlane.com

Alex J. Baumler

Attorney I.D. # 315760

abaumler@lambmcerlane.com

Attorneys for Intervenor

Downtown Area School District

Dated January 16, 2019

VERIFICATION

I, Emilie M. Lonardi, Ph.D., hereby state that I am the Superintendent of Schools for the Downingtown Area School District, Chester County, Pennsylvania and am duly authorized to make this verification on its behalf. The facts set forth in the foregoing Petition to Intervene are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: 1/16/19

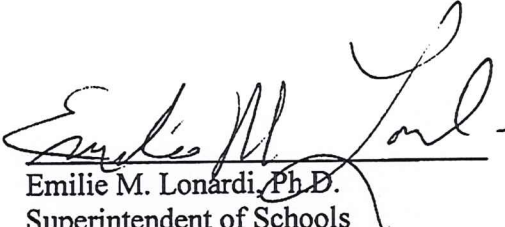
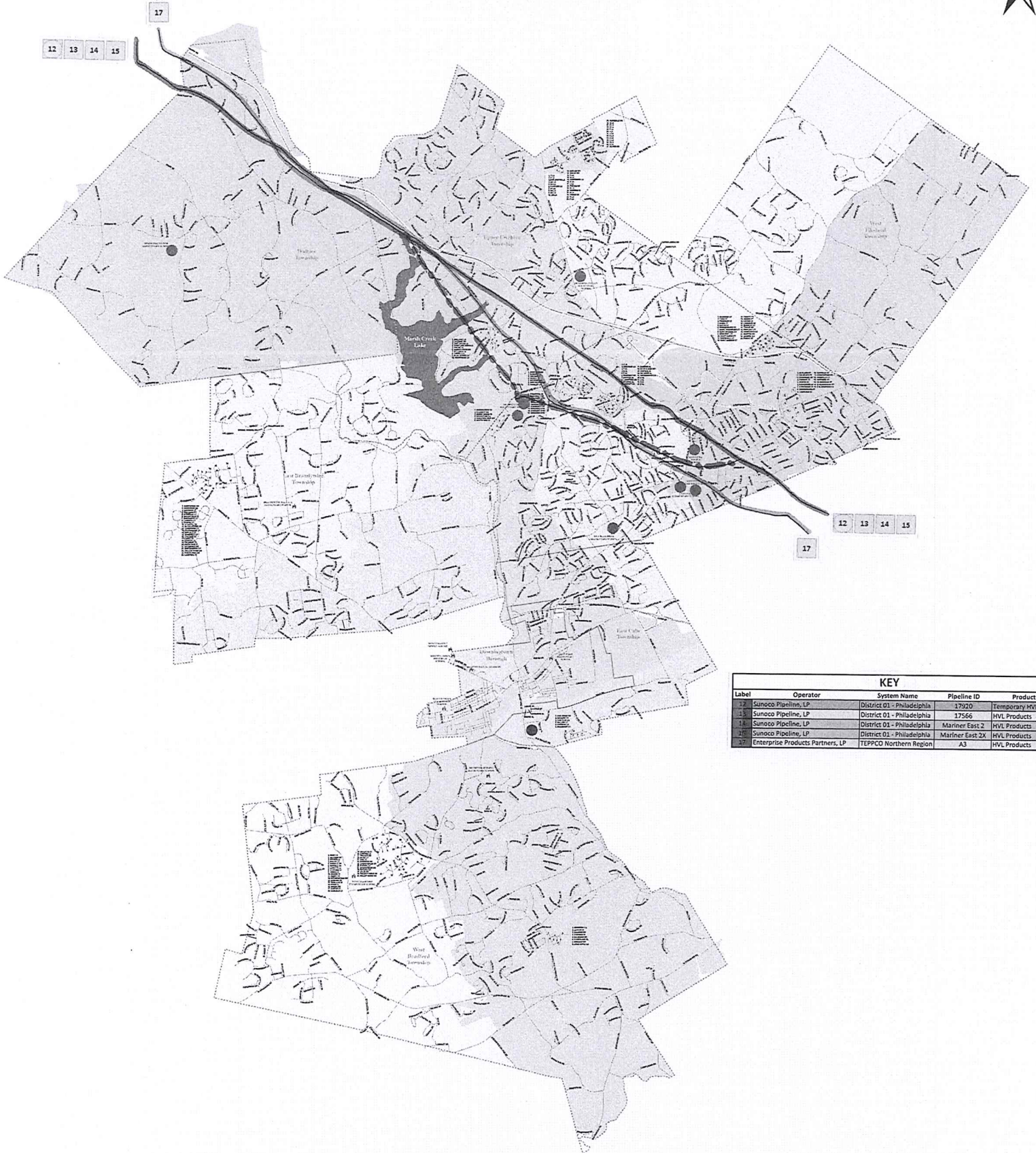

Emilie M. Lonardi, Ph.D.
Superintendent of Schools
Downingtown Area School District

EXHIBIT A

Downingtown Area School District

Transmission Pipelines



KEY				
Label	Operator	System Name	Pipeline ID	Product
12	Sunoco Pipeline, LP	District 01 - Philadelphia	17920	Temporary HVLs
13	Sunoco Pipeline, LP	District 01 - Philadelphia	17566	HVL Products
14	Sunoco Pipeline, LP	District 01 - Philadelphia	Mariner East 2	HVL Products
15	Sunoco Pipeline, LP	District 01 - Philadelphia	Mariner East 2X	HVL Products
17	Enterprise Products Partners, LP	TEPPCO Northern Region	A3	HVL Products

EXHIBIT B

**Shamona Creek
Elementary
School**



Hickory
Park

Upper Uwchlan Twp
Uwchlan Twp

Shamona Creek

Dorlan

Uwchlan Twp

andywine Twp
an Twp

Dowlin

EXHIBIT C



**Uwchlan Hills
Elementary
School**



Lionville

Rosal Golf
And Sport
Center

Lionville
Park

Lionville
Park

Uwchlan Twp

West Whiteland Twp

Whitford
Country
Club

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McMullen, Caroline Hughes and	:	
Melissa Haines	:	Docket No. P-2018-3006117
Petitioner,	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the Downingtown Area School District's Petition for Intervention upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

Via First Class Mail

Thomas J. Sniscak, Esq.
Kevin J. McKeon, Esq.
Whitney E. Snyder, Esq.
Hawk McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101

Robert D. Fox, Esq.
Neil S. Witkes, Esq.
Diana A. Silva, Esq.
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004

Michael S. Bomstein, Esq.
Pinnola & Bomstein
Suite 2126 Land Title Building
100 South Broad Street
Philadelphia, PA 19110

Rich Raiders, Esq.
Raiders Law, PC
606 North 5th Street
Reading, PA 19601

Anthony D. Kanagy, Esq.
Garrett P. Lent, Esq.
Post & Schell PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Dated: January 16, 2019

/s/ Guy A. Donatelli
Guy A. Donatelli, Esq.