

EX. "A"

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3001451
CAROLINE HUGHES and	:	:
MELISSA HAINES	:	
Complainants	:	
v.	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

NOTICE TO DEFEND

Pursuant to 52 Pa. Code §§5.63(a) and (b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Second Formal Amended Complaint within twenty (20) days from service of this notice, a decision may be rendered against you. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on counsel for Complainants, and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

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

Date: March 21, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES	:	
Complainants	:	
v.	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

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SECOND FORMAL AMENDED COMPLAINT

COME NOW, Complainants Meghan Flynn, Rosemary Fuller, Michael Walsh, Nancy Harkins, Gerald McMullen, Caroline Hughes, and Melissa Haines, by and through their attorney, Michael S. Bomstein, Esquire, and respectfully file this Second Formal Amended Complaint pursuant to 52 Pa. Code § 5.21, and in support hereof aver the following:

INTRODUCTION

Sunoco Pipeline LP (“Sunoco”) has repurposed a 1930s-era hazardous liquids pipeline which it now markets as Mariner East 1 (“ME1”) to transport *hazardous, highly volatile liquids* (“HVLs”) across the Commonwealth for shipment to locales outside the state. Sunoco has also proposed to construct new HVL pipelines: the 20-inch “Mariner East 2” or “ME2” and 16-inch “Mariner East 2X” or “ME2X.”

Finding itself unable to complete either ME2 or ME2X, Sunoco has now created a workaround to cobble together another existing 1930s-era 12-inch pipeline with various sections of 20-inch ME2 and 16-inch ME2X pipeline segments that has begun additional transport of HVLs across the Commonwealth for shipment to locales outside the state. In an abrupt but

unannounced change of terminology, Sunoco has begun referring to this cobbled-together hybrid pipeline as “ME2.” In this Complaint, the term “workaround pipeline” is used to distinguish this pipeline and any future reconfigurations of its component segments from ME2 as originally proposed by Sunoco. In both cases—ME1 and the workaround pipeline—the risk of injury, death, and property damage is significantly greater than in the case of non-HVL pipelines.

Applicable federal regulations, enforceable by the Public Utility Commission (“PUC”) require that Sunoco give the public adequate notice of procedures to follow in the event of a leak from its HVL pipelines. The notice that Sunoco has given the public, however, does not provide adequate notice of procedures sufficient to ensure the safety of the public in the event of a leak or rupture of an HVL transmission pipeline.

Heretofore, it appears that the PUC has simply accepted Sunoco’s “public awareness program.” This Complaint seeks PUC review of (a) Sunoco’s public awareness program, and (b) in the event the Commission determines that Sunoco is unable to comply with applicable law, a final Order directing respondent to cease operations of the ME 1 and workaround pipelines.

In addition, HVL pipeline mishaps together with data collected by the PUC’s own Bureau of Investigation and Enforcement strongly suggest that Sunoco’s integrity management program is not functioning in compliance with the law. Complainants now seek an independent review of both the design and implementation of Sunoco’s integrity management program and, if appropriate, the complete shutdown of the Mariner Pipeline Project.

PARTIES

1. Complainants are:
 - (a) Meghan Flynn, 212 Lundgren Road, Lenni, PA 19052 (Middletown Township, Delaware County).

- (b) Rosemary Fuller, 226 Valley Road, Media PA 19063 (Middletown Township, Delaware County).
- (c) Michael Walsh, 12 Hadley Lane, Glen Mills PA 19342 (Thornbury Township, Delaware County).
- (d) Nancy Harkins, 1521 Woodland Road, West Chester PA 19382 (Westtown Township, Chester County).
- (e) Gerald McMullen, 200 Hillside Drive, Exton PA 19341 (West Whiteland Township, Chester County).
- (f) Caroline Hughes, 1101 Amalfi Drive, West Chester PA19380 (East Goshen Township, Chester County).
- (g) Melissa Haines, 176 Ronald Road, Aston PA 19014 (Aston Township, Delaware County).

2. Respondent Sunoco is a foreign, publicly traded partnership and wholly owned subsidiary of the Texas company Energy Transfer Partners with a place of business in the Commonwealth at 4041 Market Street, Aston, Pennsylvania 19014. For purposes of this petition, Complainants allege that respondent is a “public utility” with respect to the operation of the Mariner East pipelines, as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102.

3. Complainants are represented in this action by Michael S. Bomstein, PA Attorney ID No. 21328, Pinnola & Bomstein, Attorneys at Law, with offices at Suite 2126, Land Title Building, 100 South Broad Street, Philadelphia, PA 19110, telephone number (215) 592-8383, and an electronic mail address of mbomstein@gmail.com. Complainants request service via electronic mail delivered to counsel at the said email address.

JURISDICTION

4. Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, provides in pertinent part:

the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

5. Section 1505(a) of the Public Utility Code, 66 Pa.C.S. § 1505(a), provides:

(a) General rule.--Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public. Issues related to the hazardous nature of the petroleum products involved in the pipeline transportation services; protection of public natural resources generally; damage to drinking water supplies in particular; and detrimental impacts on health, safety, welfare and property values implicate “the reasonableness and safety of the pipeline transportation services or facilities, matters committed to the expertise of the PUC by express statutory language.” *Delaware Riverkeeper Network v. Sunoco Pipeline L.P.*, 179 A. 3d 670, 682 (Pa. Cmwlth. 2018) (citing 66 Pa. C.S. § 1505).

6. “Sunoco's decisions are subject to review by the PUC to determine whether Sunoco's service and facilities ‘are unreasonable, unsafe, inadequate, insufficient, or unreasonable, discriminatory, or otherwise in violation of the Public Utility Code’”*Id.* at 693 (citing 66 Pa. C.S. § 1505(a)).

7. Moreover, 52 Pa. Code § 59.33 reads in pertinent part:

(a) *Responsibility.* Each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.

(b) *Safety code.* The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. §§60101—60503 **and as implemented at 49 CFR Parts 191—193, 195 and 199, including all subsequent amendments thereto.** Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect. [Emphasis added].

(c) *Definition.* For the purposes of this section, “hazardous liquid public utility” means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.

8. Thus, the Commission has the authority and responsibility to enforce the provisions of 49 CFR part 195 (specifically, § 195.440) on Sunoco’s current and proposed transport of hazardous liquids, including the hazardous, highly volatile liquids it is transporting and proposing to transport in the Commonwealth on its Mariner East system.

9. Respondent, in providing the transportation of hazardous liquids to the public for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission’s regulations and orders.

10. Pursuant to the provisions of the applicable Commonwealth and Federal statutes and regulations, the Commission has jurisdiction over the subject matter of this Complaint and the actions of Respondent related thereto.

STANDING

11. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, provides *inter alia* that: “... any person... having an interest in the subject may...complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.”

12. Within the meaning of § 701, Complainants are persons who have an interest in acts done or omitted to be done, or about to be done or omitted to be done, by respondent Sunoco in violation of laws and regulations which the PUC has jurisdiction to administer and enforce. As set forth more in detail below, Complainants are Pennsylvania residents who believe they are at risk from (a) the existing operation of the 8-inch ME1 HVL pipeline; (b) the HVL workaround pipeline whose operation has now commenced; and (c) the additional Sunoco HVL pipelines which Sunoco may yet attempt to construct.

13. Specifically, Complainants contend that ME1 is being operated and the workaround pipeline is being operated without an adequate emergency notification system or legally adequate emergency management plan or proper pipeline integrity managements program and that, as a result, they are at imminent risk of catastrophic and irreparable loss, including loss of life, serious injury to life, and damage to their homes and property. Complainants, therefore, have a substantial, direct, and immediate interest in this matter.

14. Complainants Gerald McMullen, Michael Walsh, and Rosemary Fuller all reside within a few hundred feet of the ME1 pipeline that Sunoco already uses to transport HVLs or the workarround pipeline, or both.

15. Complainants Meghan Flynn and Caroline Hughes have children who attend schools that are within a few hundred feet of the ME1 pipeline, the workarround pipeline, or both.

16. Complainant Caroline Hughes has a place of work that is within a few hundred feet of the ME1 pipeline, the workarround pipeline, or both.

17. Complainants Meghan Flynn, Nancy Harkins, Melissa Haines, Caroline Hughes and Gerald McMullen reside close enough to the ME1 pipeline, the workarround pipeline, or both that they might reasonably have to be evacuated in the event of a leak.

18. All Complainants herein regularly travel on roadways along or immediately adjacent to ME1, the workarround pipeline, or both.

FACTUAL AVERMENTS

The Mariner East Project

19. According to its own website, respondent owns pipelines, terminals, and other assets used in the purchase, transfer and sale of: crude oil; refined products such as gasoline, diesel, and jet fuel; and so-called natural gas liquids (“NGLs”) including propane, ethane and butane.

20. According to respondent, Mariner East is a pipeline project in Pennsylvania, Delaware, Ohio, and West Virginia to transport NGLs such as propane, ethane, and butane to the Marcus Hook Industrial Complex in southeastern Pennsylvania and Delaware and other access points for distribution to destinations in Pennsylvania and other domestic and international markets.

21. Also according to respondent, ME1 is part of the Mariner East project currently being used to transport up to 70,000 barrels a day of natural gas liquids

22. If it becomes operational, the workaround pipeline would increase the volume of hazardous, highly volatile liquids being transported near homes, schools, businesses, senior living facilities, and other densely populated areas by some unknown amount.

Highly Volatile Liquids (HVLs)

23. HVLs are gases (primarily ethane, propane and butane) that have been compressed into liquid form for transportation. These gases emerge from wells along with methane (“natural gas”) and must be separated from the methane for the most part before the methane can be delivered to customers.

24. HVLs must be kept under high pressure for pumping through pipelines. If the pressure is relieved, the HVLs, being highly volatile, revert to a gaseous state. In that state, when mixed with air at a wide range of concentrations, they are extremely flammable or explosive.

25. Because they are also heavier than air, HVLs, in their gaseous state, tend to hug the ground and concentrate in low-lying areas. They do not dissipate as readily as methane, which is lighter than air. HVLs are odorless and colorless, making them difficult to detect without specialized equipment. They can move downwind or downhill for long distances while remaining in combustible concentrations. Many ordinary devices ranging from vehicles to garage door openers to light switches to doorbells can provide an ignition source.

Mariner East 1 and the Workaround Pipeline: The hazard of a pipeline leak or rupture

26. ME1 and the workaround pipeline run through densely populated parts of Chester and Delaware Counties. The majority of the route is in areas that Sunoco itself acknowledges to be “high-consequence,” meaning that an accident could affect many people. The HVLs Sunoco

proposes to transport, with limited exceptions, are intended for use by the petrochemical industry, not the public, and a route that favors high-consequence areas represents an unnecessary and unacceptable risk to public safety.

27. Complainants believe and therefore aver that valve sites for HVL pipelines are particularly high-risk areas.

28. One of the valve sites for ME1 and the workaround pipeline is adjacent to Duffers, a restaurant and bar with an active kitchen, outdoor smoking space and parking lot within 50 feet of the valve site. State Route 352 is approximately 100 feet from this valve site. Any of these could provide an ignition source in the event of a leak. An accident involving that valve site would endanger large numbers of restaurant patrons and workers and potentially hundreds of neighboring residences.

29. One of the valve sites for the workaround pipeline is located just a few hundred feet from the Glenwood Elementary School that serves 450 students and staff in Middletown Township, Delaware County. Likewise, the Marsh Creek Sixth Grade Center (“MC6GC”) and Shamona Creek Elementary school in Uwchlan Township are both situated just a few hundred feet from a valve station that will now be used for the workaround pipeline. Approximately 1,800 staff and students are present at these two schools each school day.

30. There are many other locations, including some others with valve stations, where dense populations are within the impact zone of an HVL leak. In fact, a large leak at *any* location along ME1 or the workaround pipeline has the potential for fatalities, and there are many locations where dozens or hundreds of fatalities could occur.

Sunoco's Obligation to Provide a Legally Adequate Public Awareness Program

31. 49 CFR § 195.440 provides in pertinent part that “[e]ach pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute’s (API) Recommended Practice (RP) 1162...”

32. The same regulation provides further that the program must “assess the unique attributes and characteristics of the operator's pipeline and facilities.” In addition, subsection (d) states that the program “must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on...[s]teps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release...”

33. The above regulation has been adopted specifically at 52 Pennsylvania Code §59.33(b). Further, the section mandates that, “[e]ach public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.”

34. Section 1501 of the Public Utility Code also states that “every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities...”

35. “Service” as defined in 66 Pa.C.S. §102 includes “any and all acts done...in the performance of their duties under this part to the...the public.”

36. 66 Pa.C.S. §501 also provides that “[i]t is the duty of the Commission **shall be its duty to enforce**, execute and carry out, by its regulations, orders, or otherwise, **all and singular, the provisions of this part, and the full intent thereof...**” (Emphasis added).

37. In light of the foregoing, it is clear that the Commission has the authority and the duty to require Sunoco to maintain adequate and safe service and facilities by (a) using every reasonable effort to properly warn and protect the public from danger, and (b) exercising reasonable care to reduce the hazards to which the public may be subjected to by reason of a release of hazardous, highly volatile liquids during operations of ME1 and the workaround pipeline; and (c) evaluating the public awareness program required by 14 CFR section 195.440 for credibility, suitability and workability.

Lack of adequate emergency planning and public awareness

38. Sunoco's current plan for the public in the event of an HVL pipeline leak is contained in a color leaflet mailed to some Pennsylvania residents. (Copy attached hereto as Exhibit "A.") The material provisions of respondent's sole, one-size-fits-all emergency response plan for the public consists of warning everyone to (a) "leave the area immediately on foot," (b) abandon equipment being used in or near the area, (c) avoid open flame or other sources of ignition, and (d) call 911 from a safe location.

39. Another, earlier version of Sunoco's public awareness program document tells evacuees to flee the area upwind and not to operate cell phones. (Copy attached as Exhibit "B.")

40. In neither document does Sunoco provide any legally adequate information about, *inter alia*:

- a. How the public would be informed of a leak and the need to self-evacuate;
- b. How vulnerable populations such as young children, residents of senior living communities, and persons with disabilities would become aware of a leak;
- c. How the public is supposed to determine in a dangerous leak situation which way the wind is blowing;

- d. How vulnerable populations such as young children, residents of senior living communities, and persons with disabilities would be able to proceed on foot;
- e. How the public would know when it has reached a “safe area;”
- f. How the public could call 911 if it is warned not to operate telephones or cell phones; or
- g. Whether it might be better in some cases to remain indoors than to leave the shelter of a building, and how to make that determination.

41. Complainants believe and aver that Sunoco has failed to provide a credible and workable plan for the self-evacuation of vulnerable individuals including children, adults with disabilities, and elderly. This danger is compounded where there are dense populations of vulnerable individuals such as at schools, facilities for individuals with physical and developmental disabilities, and senior care and nursing facilities.

42. Sunoco has failed to provide any legally adequate guidance about how the public can determine the correct direction in which to self-evacuate, or any information about how the public can tell when a “safe area” has been reached. Sunoco has failed to explain how the recommended self-evacuation can be carried out by people who are very young, elderly, or of limited mobility, especially at night or during inclement weather. For many people, this suggested guidance is simply implausible and unworkable.

43. In the event of a highly volatile liquids leak without ignition, the safety of those in the probable impact zone relies heavily on anyone near the vapor cloud knowing exactly what to do to avoid ignition. In the case of the recent fatal methane explosions in Lawrence and Andover, MA, emergency responders tried in vain to tell people to avoid even turning their lights on or off to avoid ignition. Sunoco has not presented a legally adequate plan for informing the public of

the appropriate action in the event of a leak, given that the most routine of actions, such as turning on a light switch or a flashlight to illuminate the way to an exit, might provide an ignition source.

44. Sunoco's public awareness notice is inadequate in that:

- (a) it fails to advise the public to proceed in the direction away from the source of the leak;
- (b) it fails to inform disabled persons what to do;
- (c) it suggests calling 911 when the public does not know when to do so; and
- (d) it fails to inform the public of the high probability of death or serious injury in the event of an HVL leak, puncture or rupture.

45. Three school district superintendents representing thousands of Pennsylvania students, many municipalities, numerous state legislators, and several thousand Pennsylvania residents have written to the state clearly outlining that there was not enough information for public awareness and emergency response planning. They have received incomplete and inadequate responses or none at all.

46. Complainants believe and therefore aver that respondent is not only failing to provide proper public awareness, but that it has been intentionally withholding crucial information from the public. Sunoco has repeatedly refused to release its internal hazards analysis or integrity management plan.

47. In light of the foregoing, Complainants believe and aver that Sunoco has failed to provide a legally adequate public awareness program that complies with 49 CFR § 195.440.

Risk of Catastrophe to Persons and Property Close to Mariner East Pipelines

48. On November 1, 2007, a 12-inch-diameter pipeline transporting liquid propane ruptured in a rural area near Carmichael, Mississippi. The resulting gas cloud, formed from the 430,626 gallons of liquid propane that were released, expanded over nearby homes, forming a low-lying cloud of flammable gas. The gas found an ignition source about 7 1/2 minutes later. Witnesses miles away reported seeing and hearing a large fireball and heavy black smoke over the area. In the ensuing fire, two people were killed and seven people sustained minor injuries. Four houses were destroyed, and several others were damaged. About 71.4 acres of grassland and woodland were burned. This accident occurred in a sparsely populated area, with only about 200 people living within a 1-mile radius (about 3 square miles) of the location of the pipeline failure. A similarly sized area in Chester or Delaware Counties (about 3 square miles) might contain thousands of people. The National Transportation Safety Board identified the inadequacy of the pipeline operator's public education program as a factor that contributed to the severity of the accident.

49. On Saturday, August 24, 1996, at about 3:26 p.m. near Lively, Texas, an 8-inch pipeline transporting butane ruptured. The material volatilized into colorless, odorless, extremely flammable gas that stayed close to the ground as it drifted across the surrounding residential area. Danielle Smalley and Jason Stone, both 17 years old, ran to a pickup truck intending to warn neighbors. As they sped away, their truck ignited the vapor. Both suffered fatal thermal injuries. The fire continued to burn until about 6 p.m. the next day, which was how long it took the operator to isolate the failed section.

50. On December 9, 1970, in Franklin County, Missouri, an 8-inch pipeline transporting propane ruptured. Twenty-four minutes later, "the propane-air mixture exploded,

destroyed all buildings at the blast origin, extensively damaged 13 homes within a 2-mile radius [approximately 12 and a half square miles], sheared telephone poles, snapped tree trunks, smashed windows 12 miles away, and registered its impact on a seismograph in St. Louis, 55 miles distant. An expert from the United States Department of the Interior, Bureau of Mines, determined that the “detonation and initial fire consumed [only] 756 barrels of propane, giving rise to an estimated explosive force of 100,000 pounds of TNT.” There were no fatalities due to the fact that accident occurred in a sparsely populated area while people were awake, and the few people in the area used the twenty-four minutes between the release and the explosion to self-evacuate themselves with expedition.

51. The three foregoing cases are only representative examples of the hazard associated with HVL transmission pipelines. Many other serious accidents could be cited.

52. In the event of a leak that it manages to detect, Sunoco intends to notify county emergency response agencies. In Chester and Delaware Counties, these agencies intend to activate their “reverse 911” capabilities. These services allow an operator to trigger hundreds or thousands of phones in the area of a problem.

53. Both Sunoco and PHMSA, however, advise that phones should not be used. PHMSA’s warning is explicit: “DO NOT! Use a telephone or cell phone (these can ignite airborne gases).” <https://primis.phmsa.dot.gov/comm/emergencyresponse.htm>.

54. Thus, Chester and Delaware Counties’ plans involve taking steps that both respondent and the government warn could result in explosions. On information and belief, neither Chester nor Delaware County has evaluated whether the use of their reverse 911 systems might itself provide an ignition source.

55. In addition, in the event of an HVL leak, first responders are instructed not to enter the vicinity due to the possibility of an explosion, therefore any individuals within this perimeter are expected to self-evacuate.

56. All of the Complainants in this matter reside within the probable blast zone and/or evacuation zone of Mariner East. Complainants believe that their residences are located in unsafe proximity to Mariner East.

57. Upon information and belief, if a leak of NGLs from Mariner East were to occur in close proximity to any of the schools that are within a few hundred feet of Mariner East, there could be a fire or explosion that would place the occupants of the school at risk of death or permanent harm.

58. Complainants believe that no emergency response plan can be deemed safe or legally adequate where, in the event of a leak that results in a combustible vapor cloud, first responders will not be able to evacuate children or other occupants of the area because they are unable to safely enter the vicinity and may, in fact, increase risk of ignition by doing so.

59. Complainants' homes all were constructed prior to the conversion of ME1 and the workaround pipeline for HVL transportation. Complainants believe that the risk from leak or rupture of these converted pipelines is significantly higher than it was before they were used for or about to be used to transport HVL.

60. Sunoco was aware that the repurposing of ME1 and the workaround pipeline would create an immediate impact zone in the area of any leak or rupture.

61. Sunoco was aware that that this zone could be one-half mile or more from the point of leak or rupture. Despite its knowledge, Sunoco commenced HVL operations and knowingly placed Complainants in that danger zone.

62. Complainants believe and therefore aver that respondent has exposed them to an immediate risk of permanent injury, death, or property damage from the operation of ME1 and intends to shortly be doing the same from the operation of the workaround pipeline.

Sunoco's Integrity Management Program

Introduction

63. Sunoco's pipeline safety expert, John Zurcher, testified in the Dinniman hearing on May 10, 2018 (N.T. 545-546) that Sunoco's Integrity Management program is adequate and conforms to industry standards as well as regulations.

64. In the present case Mr. Zurcher also testified on November 29, 2018 that:

The Sunoco pipeline that goes through this part of the country is a high consequence area, is in high consequence areas. They are required by regulation, therefore, to have integrity management programs, which includes the running of smart pigs and other activities to determine the condition of the pipeline to be able to predict when and where and why a pipeline event may occur and then to remediate that pipeline before the event occurred.

(N.T. 11-29-18 at 430-431).

65. The scope of the program has been discussed in part through public testimony of Sunoco representatives. Thus, on June 13, 2017 at a Zoning Hearing Board hearing in West Cornwall Township, Lebanon, PA, Sunoco representative Mark Martin, Supervisor of Operations for the Montello District, testified under oath that the program includes the use of "smart pigs," mechanical, in-line inspection tools "that can detect if there's any cracks in the pipe, dents in the pipe, if there's any corrosion, anything that would be detrimental to the pipe. It can pick those things up, and then based on that report that's generated from that, we would go out, and we would look at any issues that are out there." (Martin, N.T. 6-13-18 at 261).

66. Mr. Martin on behalf of Sunoco also explained that Sunoco's policy is to x-ray 100 percent of the welds in the pipeline system. Federal code, he explained, required 100 percent x-ray if it is old pipe and any work is done on it. New construction requires only 10% but Sunoco does 100 percent on both old and new. (Martin, N.T. at 268).

The Morgantown Accident

67. The pipeline has multiple line identification numbers,¹ which, running from west to east, are as follows: 12120, 12124, 11190, 11045 and 11192. In addition, Sunoco has assigned station numbers across ME 1 to delineate specific locations on the pipeline. The pipeline has seventeen (17) pumping stations state-wide.

68. In the late 1908s, Sunoco acquired the pipeline from Atlantic Richfield and at the time of acquisition, the line had a cathodic protection system.²

69. In 2013, Sunoco made preparations to convert ME 1 from being a pipeline transporting refined petroleum products to a pipeline transporting highly volatile liquids ("HVL"). ME 1 currently transports HVLs.

The April 1, 2017 Leak

70. Complainants believe and therefore aver that the problems described below with respect to the Morgantown accident of April 1, 2017 are characteristic of ME 1 as a whole, including the portions of the pipeline in Chester and Delaware Counties.

71. While the data from the Morgantown accident reviewed by I&E was largely specific to the site of the leak, Sunoco's procedures and overall application of corrosion

¹ The Company identifies specific segments of ME1 by using line identification numbers.

² Cathodic protection is a method of controlling corrosion on the surface of a metal pipeline by making the pipeline a cathode.

control and its cathodic protection practices, as implicated in the Morgantown incident, are relevant to all of ME 1. Thus, Complainants believe and aver that the corrosion control program and Sunoco's engineering and cathodic protection practices already have adversely affected or will adversely affect the residents of Chester and Delaware Counties.

72. Complainants do not seek relief with respect to the location of the Morgantown incident. Rather, they seek only such relief as may be needed to protect their interests in Chester and Delaware Counties, which relief may require repairs of the subject pipelines or even the complete cessation of pipeline operations in Chester and Delaware Counties.

73. On April 1, 2017, at 3:57 p.m., the ME 1 pipeline segment identified as Twin Oaks to Montello with an identification number of 11190 experienced a leak at station 2449+12 near 5530 Morgantown Road, Morgantown, Berks County, Pennsylvania. ME 1 was carrying ethane and propane at the time of the leak.

74. A resident first noticed the leak by observing product "bubbling" out of the ground. The resident informed SUNOCO.

75. At the time of the accident, ME 1 was operating in excess of 1,000 Pounds per Square Inch ("PSI") and, therefore, was considered to be high pressure. Pursuant to Section 195.50(b) of the Federal pipeline safety regulations, 49 CFR § 95.50(b) (relating to reporting accidents in which there is a release of five (5) gallons or more of hazardous liquids), SUNOCO filed an accident report with PHMSA and reported a total product loss of twenty (20) barrels from the leak.³

³ One barrel is approximately forty-two (42) gallons. The total product loss was 840 gallons.

76. The leak occurred between the Beckersville pumping station and the Elverson block valve and was isolated by shutting down the pumping station and block valve.

77. On April 1, 2017 at approximately 6:30 PM, Sunoco notified I&E's Safety Division of the leak by making a telephone call to the manager of the Safety Division.

78. Sunoco crews excavated and exposed the pipeline, which was then cleaned. Visual examination of the pipe demonstrated localized corrosion at the bottom of the pipe in the six (6) o'clock position. Complainants believe and aver that Sunoco at all relevant times was aware of corrosion on the ME1 pipeline throughout the state, including Chester and Delaware Counties, both prior and subsequent to the Morgantown incident.

79. Sunoco cut out a portion of the pipe and an eight (8) foot section of this portion was sent to a laboratory for analysis. Laboratory analysis of this section of the pipeline attributed the failure to corrosion. Complainants believe and aver that the portions of ME 1 that pass through Chester and Delaware counties are or could be vulnerable to the same corrosion related failure.

I&E's Investigation Following the Leak

80. Following the I&E's preliminary investigation at the site of the leak, the I&E Safety Division conducted an in-depth investigation of SUNOCO's corrosion control practices. The I&E Safety Division's investigation took place between April 2017 and May 2018, and consisted of data requests and review of data request responses, and numerous meetings and inspections. Complainants believe and aver that Sunoco furnished written responses to I&E's requests. The investigation included a review of Sunoco's operations and maintenance procedures, corrosion control procedures, maintenance records, corrosion control records and integrity management program, which were in existence at the time of

the April 2017 leak. I&E reports that said procedures have since been revised but, whether or not that is true is presently unknown.

81. In the area of the leak, Sunoco operates a twelve (12) inch HVL pipeline in the same common right-of-way as the above-described eight (8) inch pipeline. The eight (8) inch pipeline and twelve (12) inch pipeline are electrically bonded in the same impressed current system. Current flows from multiple rectifiers ground beds to the surface area of both pipelines. Thus, any testing related to the adequacy of cathodic protection must consider the eight (8) inch and twelve (12) inch pipelines because they are located in the same right-of-way.

82. At station 2459+00, which is approximately 1,030 feet from the leak, SUNOCO's records indicated cathodic protection readings of -628 millivolts ("mV") in 2016 and -739 mV in 2015. Adequate cathodic protection is achieved at a negative cathodic potential of *at least* -850 mV.⁴ Complainants believe and aver that Sunoco has to achieve a standard *greater* than a negative cathodic potential of -850 mV in Chester and Delaware Counties and has knowingly failed to do so.

83. The laboratory analysis of the leak concluded that microbiologic induced corrosion may have contributed to the corrosion that was observed. *See* NACESP0169- 2007 at § 6.2.2.2.2 (providing that the presence of sulfides, bacteria, elevated temperatures, acid environments and dissimilar metals may render a negative cathodic potential reading of at least -850 mV to be insufficient). Complainants believe and aver that Sunoco at all relevant

⁴ *See* 49 CFR § 195.3, citing the standard of the National Association of Corrosion Engineers ("NACE") SP0169-2007 at § 6.2.2.1.1. NACE SP0169-2007 is incorporated, by reference, in the Federal pipeline safety regulations. *See* 49 CFR § 195.3.

times has been aware that microbiologic induced corrosion has been contributing to corrosion in Chester and Delaware Counties and that the company has knowingly failed to remediate the condition.

84. In addition to the cathodic protection readings, Sunoco performed side drain measurements at station 2459+00. The side drain measurements involved taking cell-to-cell readings ten (10) feet left and right of the pipeline for a distance of one hundred (100) feet upstream and downstream of the station, with the measurements spaced five (5) feet apart on each side of the station, parallel to the pipeline.

85. While the magnitude of the side drain measurements varied, several of the measurements between the eight (8) inch pipeline and twelve (12) inch pipeline indicated that current was flowing *away* from the pipeline, which is a sign of corrosion. Complainants believe and aver that Sunoco at all relevant times has been aware that current has been flowing away from the pipeline in Chester and Delaware Counties and that the company has knowingly ignored such measurements.

86. Sunoco inappropriately relied on these side drain measurements to ensure the accuracy of cathodic protection. But, pursuant to NACE standards, side drain measurements should not be used in a multiple pipe right-of-way due to interference of the current magnitudes and direction of flow for each pipe.⁵ Side drain measurements are also ineffective for locating localized corrosion cells due to the spacing of the measurements. At all relevant times, Sunoco has been aware of the foregoing but in Chester and Delaware Counties has

⁵ See the precautionary note in NACE SP0169-2007 at § 6.2.2.3.1, which provides that an earth current technique is often meaningless in multiple pipe rights of way.

ignored said NACE standards and paid no heed to the ineffectiveness of side drain measurements as aforesaid.

87. Sunoco's records concerning close interval potential surveys ("CIPS") of ME 1, which were performed in 2009, 2013 and 2017, demonstrate that only "on" potentials were measured.⁶ Complainants believe and aver that Sunoco knew or should have known that CIPS based only on "on" potentials are incomplete; that the data acquired would necessarily be tainted; and that residents of Delaware and Chester Counties could be or already have been adversely affected.

88. In addition, the said CIPS do not contain accurate and reliable data needed to assess cathodic protection on the pipeline in that the CIPS do not align with footages and test station points. Complainants believe and aver that Sunoco knew or should have known that the CIPS were misaligned; that the data acquired would necessarily be tainted; and that residents of Delaware and Chester Counties could be or already have been adversely affected.

89. Furthermore, Sunoco has deliberately failed to identify certain features, such as rectifiers, areas with parallel pipelines and overhead power lines, despite the fact that such information is critical in the determination of the validity and accuracy of the test results. Complainants believe and aver that such a failure was critical; that the lack of identification would affect the test results; and that residents of Delaware and Chester Counties could be or already have been adversely affected by this failure.

⁶ An "on" potential is a measurement taken at a position on the ground surface of a pipeline where the rectifier or current source remains "on" as opposed to being interrupted.

90. Sunoco's records also indicate that in 2016, Sunoco conducted an inspection using an In-Line Inspection ("ILI") tool to detect anomalies in the pipeline and measure corrosion. This ILI inspection was performed between the Twin Oaks and Montello segment of ME 1, which includes Morgantown. However, the ILI tool failed and no data was available from the 2016 inspection. Sunoco was aware of that failure but improperly waited another year to conduct another ILI inspection. Complainants believe and aver that said failure adversely affected or will adversely affect the residents of Delaware and Chester Counties.

91. Sunoco finally conducted another ILI inspection for the Twin Oaks to Montello segment in July 2017. The results of the 2017 ILI inspection indicated metal loss on maintenance reports. However, corrosion is not noted or mentioned anywhere in Sunoco's reports regarding the 2017 ILI inspection. Thus, Sunoco made no record of the existence of corrosion on ME 1 even though Sunoco knew that the presence of metal loss on ME 1 also signifies the presence of corrosion. Sunoco's said failure was knowing and willful and said failure adversely affected or will adversely affect the residents of Delaware and Chester Counties.

92. The I&E Safety Division examined Sunoco's procedures pertaining to corrosion control that were effective in April 2017, at the time of the leak in Morgantown. Sunoco's procedure at § 195.573,⁷ regarding Monitoring External corrosion Control, was identical to NACE NACE SP0169-2007 at § 10.1.1.3 in that it listed the five CIPS metrics,

⁷ Sunoco's procedures were numbered to mirror the numbering of the applicable Federal pipeline safety regulation.

which set forth the reasons for performing CIPS.⁸ However, Sunoco's procedure did not explain explain *how* the metrics would be obtained, evaluated and accomplished despite the fact such an explanation was legally required. Sunoco's said failure was knowing and willful and said failure adversely affected or will adversely affect the residents of Delaware and Chester Counties.

93. Sunoco's procedure at § 195.571, which related to the criteria used to determine the adequacy of cathodic protection, did not state any applications of or limitations on the criteria listed, nor did it incorporate the precautionary notes of NACE SP0169-2007 at § 6.2.2.3 regarding the use of earth current techniques in multiple pipe rights-of-way. Sunoco's procedure at § 195.571 also did not require documentation. Complainants believe

⁸ NACE SP0169-2007 at § 10.1.1.3 provides that a detailed CIPS should be conducted to: (1) assess the effectiveness of the cathodic protection system; (2) provide base-line operating data; (3) locate areas of inadequate protection levels; (4) identify locations likely to be adversely affected by construction, stray currents or other unusual environmental conditions; or (5) select areas to be monitored periodically.

and aver that both failures had or will have an adverse effect on residents of Chester and Delaware Counties.⁹

Beaver County Incident

94. Only four months after Zurcher's May 10, 2018 pipeline integrity testimony in the Dinniman case and fifteen months after Martin's pipeline integrity testimony in the Lebanon County case, an explosion rocked residents of Center Township in Beaver County. A 24 inch HVL pipeline owned by ETP had ruptured around 5 a.m., destroying one home about 500 feet from the pipe as well as two garages, a barn, and several vehicles. Three people escaped from the house before the fire destroyed the property. The fire shot up 150 feet in the air and destroyed electrical transmission lines and the steel towers that carried them. *See*, Phillips, Susan, "Natural gas pipeline blast in Beaver County prompts evacuation", State Impact Pennsylvania, September 10, 2018, available at: <https://stateimpact.npr.org/pennsylvania/2018/09/10/natural-gas-pipeline-blast-in-beaver-county-prompts-evacuation/>.

95. Sunoco had placed the Beaver County pipeline in service immediately prior to its explosion.

96. This was only the latest in a string of ETP pipeline failures. *See*, Chapa, Sergio, "Pipeline explosion in Cuero has residents rattled, clean-up underway", San Antonio Business Journal, June 15, 2015, available at: www.bizjournals.com/sanantonio/blog/eagle-ford-shale-

⁹ The criteria, which have been shortened for brevity, are as follows: (1) a negative cathodic potential of -850mV with the cathodic protection applied (-850 mV); (2) a negative polarized potential of at least -850 mV (-850 mV polarization); (3) a minimum 100 mV of cathodic polarization (100 mV polarization); (4) on bare or ineffectively coated pipelines where long-line corrosion activity is a concern, the measurement of a net protective current at predetermined current discharge points from the electrolyte to the pipe surface, as measured by an earth current technique (net protective current); and (5) alternative analysis techniques such as ILI, corrosion coupons, historical corrosion rates, measured corrosion rates, net protective current measurements, soil resistivity, historical performance of corrosion control measures and other techniques based on sound engineering practices may be used in conjunction with or in lieu of the other criteria.

[insight/2015/06/pipeline-explosion-in-cuero-has-residents-rattled.html](https://www.expressnews.com/news/local/article/Pipeline-rupture-shatters-couple-s-dreams-12368272.php); Gibon, Brendan, “*Pipeline rupture shatters couple’s dreams*”, San Antonio Express-News, November 18, 2017, available at: www.expressnews.com/news/local/article/Pipeline-rupture-shatters-couple-s-dreams-12368272.php; and KVUE, “Burleson Co. pipeline explosion, fire seen for miles”, KVUE abc, December 13, 2017, available at: www.kvue.com/article/news/local/burleson-co-pipeline-explosion-fire-seen-for-miles/269-499109308.

97. Preliminary investigations suggested that a landslide may have been the cause of the Beaver County accident. And yet, Sunoco’s own pipeline safety witness seems to be ignorant of the geological underpinnings of key pipeline failures. At the Dinniman hearing, Mr. Zurcher stated he knew of “no incidents that any one of those pipeline companies have had with subsidence... There’s never been a failure of a pipeline in one of these areas caused by geology or a sinkhole or even mining subsidence.” Litvak, Anya; “*Unstable ground: Pipeline ruptures and drilling problems bring new scrutiny to Pennsylvania’s pockmarked geology*”, Interactive News, Pittsburgh Post-Gazette, available at: <https://newsinteractive.post-gazette.com/mariner-east-2-pipeline-subsidence>. PHMSA records show more than a dozen such incidents across the country, including in Pennsylvania.

98. Mr. Zurcher in the present case, after testifying as to the strength of Sunoco’s integrity management program and its ability to prevent accidents, amazingly was not familiar with the Beaver County or Berks County incidents and admitted he was not aware that PHMSA records show that Sunoco had 305 leak incidents involving \$72 million in property damage from 2006-2018. (N.T. 432-433).

99. Despite Sunoco’s claim that through its integrity management program it is able to find cracks and corrosion in the pipeline, its actual detection rate is only 5%. In order for a

leak to be detected by their monitoring technique (drop in pressure), a leak must be greater than than 1.5-2% of the total daily flow in the pipeline. For these reasons, the public becomes a primary detection source for leaks.

Delaware County Risk Assessment

100. Released on November 13, 2018, a risk assessment completed for Delaware County Council modeled the blast and thermal impact zones that could result from a rupture with ignition of a 20-inch highly volatile liquids transmission pipeline. The modeled thermal impact zone from a delayed ignition accident would kill 100% of the people outdoors within 6,800 feet. See Table 5: Flash Fire Thermal Radiation Vulnerability and the diagram labeled “Late Flammable Cloud Footprint.”

101. Delaware County’s risk assessment modeled a shock wave from a large release of highly volatile liquids, with delayed ignition, that could extend to a radius of about one mile. Within this radius, the overpressure or shock wave will be sufficient to kill 100% of the people exposed to it, regardless of whether they are indoors or outside. This overpressure event (.3 bar) is also sufficient to demolish wood-frame structures and to seriously damage even steel-framed structures.

102. Chester County Department of Emergency Services calculated the number of people within one-half mile of the proposed Mariner East 2 route through Chester County:

- East Nantmeal Township: 146 people
- West Nantmeal Township: 413 people
- Wallace Township: 789 people
- Elverson Township: 1032 people
- Upper Uwchlan Township: 2153 people

- West Goshen Township: 2410 people
- Westtown Township: 3157 people
- Uwchlan Township: 8139
- East Goshen Township: 8955 people
- West Whiteland Township: 11282 people

See, e-mail dated March 10, 2018 from William H. Turner, Deputy Director for Emergency Management, Chester County Department of Emergency Services, attached as Ex. “E” hereto. Based on their figures, it is clear that many hundreds or even thousands of people are within the probable fatality zone of Mariner East.

103. “The value of a statistical life is a critical factor in evaluating the benefits of transportation infrastructure investment and rulemaking initiatives...it is essential to have appropriate, well-reasoned guidance for valuing safety benefits.” U.S Department of Transportation, “*Revised Departmental Guidance on Valuation of a Statistical Life in Economic Analysis*”, August 8, 2016, available at: <https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-on-valuation-of-a-statistical-life-in-economic-analysis>.

104. In 2016, the federal Department of Transportation’s guidance indicated that its figure for a value of a statistical life was approximately \$10 million. *Id.*

105. Delaware County’s risk assessment shows that it is reasonable to expect accidents to occur on transmission pipelines on a regular basis and that, in a densely populated area, that these accidents have the potential to kill hundreds or even thousands of people. Such loss of life can be valued in economic terms using the value of a statistical life (“VSL”).

106. For example, a potential accident that could kill 200 people can be valued at \$2 billion. Such a valuation represents the loss of life costs only; the actual costs of such a catastrophe would certainly be far higher.

107. Since filing the Amended Complaint, and after the issuance of the Second Interim Order, Complainants learned for the first time that Sunoco may be operating or planning to operate segments of the workaround pipeline at a higher pressure than has been tested and approved.

108. The workaround pipeline as it currently exists is pieced together from components of three other pipelines, including segments of what Sunoco at one point planned as the 16-inch Mariner East 2X pipeline.

109. The maximum operating pressure for the 16-inch pipeline segments, as documented in various filings Sunoco has submitted to government agencies, has been 1480 psig.

110. Per 49 CFR § 195.304, hydrostatic testing of the pipeline segments is based on the maximum operating pressure.

111. In drawings just submitted to the Department of Environmental Protection in reevaluation of horizontal directional drilling plans, Sunoco has changed the maximum operating pressure of 16-inch pipeline segments to 2100 psig, a more than 40% increase in pressure that has not been permitted nor, upon information and belief, tested.

112. Complainants believe and therefore aver that because the workaround pipeline includes segments of 16-inch pipe, including in Chester and Delaware Counties, there may be segments of the workaround pipeline that are being operated or will be operated at a higher pressure than they have tested for or previously reported.

113. Complainants believe and therefore aver that operating the workaround pipeline or segments thereof at a pressure that is higher than has been reported to the public and government agencies or a pressure that is not supported by required testing puts Complainants' lives and property at risk.

114. Complainants believe that this new information regarding increases in operating pressures is an additional ground for relief and they have added these averments to their proposed Second Amended Formal Complaint.

Count I: Violation of 49 CFR § 195.440.

115. ¶¶ 1 - 114 above are hereby incorporated by reference thereto.

116. As set forth more in detail above, the route of ME 1 and the workaround pipeline through and near Complainants' lands poses dangers to them, their families and their communities.

117. Complainants believe that ME1 and the workaround pipeline, and in particular, segments of the 12 inch Point Breeze to Montello pipeline, have leaked multiple times in the past and are likely to leak again.

118. Sunoco's failure to create a legally compliant public awareness program only increases those dangers.

119. Complainants all are persons who have standing to enforce applicable law and who are endangered by Sunoco's acts and omissions.

120. While no one can predict exactly where and when a leak or rupture might take place, the consequences of future leaks and ruptures include the risk of death, permanent injury and/or extensive damage to property.

121. Failure to shut down the Mariner pipelines pending review of Sunoco's Public Awareness Program could result in such losses.

122. Sunoco's failure to create a legally compliant public awareness program violates 49 CFR § 195.440.

WHEREFORE, Complainants respectfully request that the Commission enter an Order directing Sunoco permanently to (a) cease operation of the 8-inch ME1 pipeline; (b) cease operation of the workaround pipeline, ME 2, and ME 2X; and (c) grant such other and further relief as may be appropriate.

Count II: Violation of 66 Pa.C.S. § 1501 and 52 Pa. Code § 59.33

123. ¶¶ 1 - 114 above are hereby incorporated by reference thereto.

124. Section 1501 of the Public Utility Code also states that "every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities..."

125. Further, 52 Pennsylvania Code §59.33(b) provides in pertinent part that "[e]ach public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities."

126. Sunoco's failure to create a legally compliant public awareness program violates 66 Pa.C.S. § 1501 as well as 52 Pennsylvania Code § 59.33(b).

WHEREFORE, Complainants respectfully request that the Commission enter an Order directing Sunoco permanently to (a) cease operation of the 8-inch ME1 pipeline; (b) cease operation of the workaround pipeline, ME 2, and ME 2X; and (c) grant such other and further relief as may be appropriate.

Count III: Failure to Consider the Value of Lost Human Life

127. ¶¶1-114 above are hereby incorporated by reference thereto.

128. 52 Pennsylvania Code §§59.33(a) and (b) impose an obligation on Sunoco to protect the public from danger, and require the company to exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.

129. Under those provisions, Sunoco must abide by codified minimum safety standards.

130. Sunoco has failed to comply with those minimum safety standards in its integrity management program, as confirmed by BIE, in various PHMSA documents including notices of probable violations, and through additional incidents.

131. Sunoco's reckless integrity management practices demonstrate a marked pattern of non-compliance with 52 Pennsylvania Code §59.33.

132. Given the public health and economic risk a Mariner East accident presents, compliance with 52 Pennsylvania Code §59.33 is particularly vital.

133. So many Pennsylvanians live, work, congregate, or attend school close enough to the Mariner East pipelines that an accident similar to those in Lively, Texas, Franklin County, Missouri, or Carmichael, Mississippi could kill thousands.

134. The federal Department of Transportation's guidance measures loss of a life economically at \$10 million. An accident killing thousands would thus be measured in tens of billions of dollars.

135. The risk of such an accident is unacceptable.

136. The continued operation of ME1 and the impending operation of the workarround pipeline, ME2 and ME2X pose a catastrophic threat to life and property that must be considered by the Commission in determining whether Sunoco is meeting its obligations under §§59.33(a) and (b).

WHEREFORE, Complainants respectfully request that the Commission enter an Order directing Sunoco to cease operation of the 8-inch ME1 pipeline and cease operation of the workarround pipeline, ME 2, and ME 2X, until such time as the Commission has evaluated the potential loss of human life, property, and public infrastructure, and has ensured the risk is reduced to a tolerable level.

Count IV: Failure of Integrity Management Program

137. ¶¶1-114 above are hereby incorporated by reference thereto.

138. 49 CFR § 59.33(a) of the PUC regulations, 52 Pa. Code §59.33(a), requires that Sunoco “at all times use every reasonable effort to properly warn *and protect* the public from danger and shall take reasonable care to reduce the hazards to which employees, customers and others may be subjected by reason of its equipment and facilities.” (Italics added).

139. 49 CFR § 195.452(b) of the PHMSA regulations, incorporated by reference into the PUC regulations, provides that the operator of a hazardous liquid pipeline located in a “high consequence area” must develop a written integrity management program that addresses the risks on each segment of pipeline. Such a program must include a baseline assessment plan. 49 CFR § 195.452(c).

140. In addition, the operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include:

conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

49 C.F.R. § 195.452(i)

141. After completing the baseline integrity assessment, an operator must continue to assess the pipeline at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area. 49 CFR § 195.452(j).

142. Complainants all reside in high consequence areas as defined by 49 CFR § 195.450. Sunoco claims to have an integrity management program and to have prepared a risk analysis. Despite numerous requests from the public, Sunoco has refused to share its written integrity management program or risk analysis, or relevant portions thereof, with the public.

143. Respondent has failed and continues to fail (a) to use every reasonable effort to properly protect the public from danger and take reasonable care to reduce the hazards to which employees, customers and others may be subjected by reason of its equipment and facilities; (b) to develop a written integrity management program that addresses the risks on each segment of pipeline, and which includes a baseline assessment plan (49 CFR § 195.452(c)); and (c) to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area, such as the area where all Complainants reside.

144. In light of the foregoing history, ME 1 as well as the 12 inch segment of the ME 2 and ME 2X workaround pipeline must be evaluated more closely but do not believe that the company can be entrusted with the responsibility to evaluate its own pipelines. Only an

independent contractor can possibly be expected to conduct a remaining life study of this 1930s pipeline.

WHEREFORE, Complainants seek an order directing that an *independent contractor* (a) conduct a “remaining life study” of ME 1 and the 12 inch sections of the workaround pipeline in Chester and Delaware Counties to determine the forecasted retirement age of ME 1, which study should consider the forecasted retirement age by coating type and age of the pipeline; (b) evaluate whether the frequency of leak incidents involving the ME 1 and the 12 inch sections of the workaround pipeline is causally connected either to the design or implementation of Sunoco’s Integrity Management Program; and (c) be compensated by Sunoco directly for all fees and costs associated with compliance with said order. Complainants also seek such other and further relief as may be appropriate.

Respectfully submitted,

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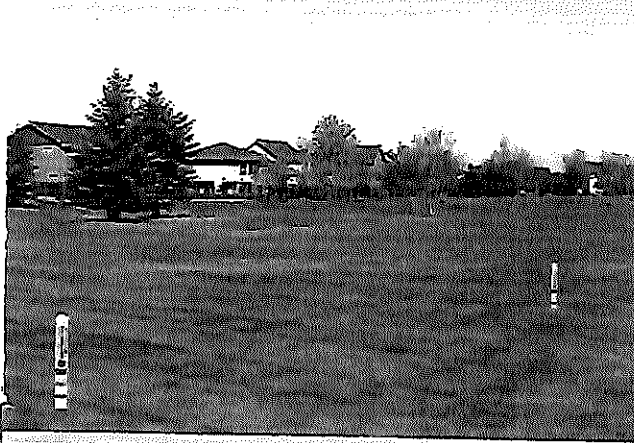
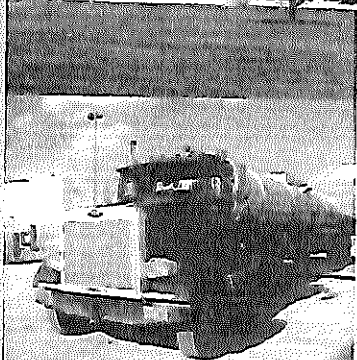
Attorney for Complainants

Dated: March 21, 2019

EX. "A"

Important Safety Message

for your neighborhood



Sunoco Logistics

Sunoco Pipeline L.P.

Operator of the Inland and Harbor pipeline systems

24-Hour Emergency Number: 800-786-7440

Non-Emergency Number: 877-795-7271

Website: www.sunoco.logistics.com

You are receiving this brochure because Sunoco Pipeline L.P. operates a pipeline in your community. Our underground pipelines provide a safe and efficient method of transporting a variety of products, including crude oil, gasoline, diesel fuel, kerosene, heating oil, jet fuel, butane, ethane, propane, and natural gas.

Petroleum Pipelines In Your Community

There are almost 200,000 miles of petroleum pipelines in the United States. According to the U.S. Department of Transportation, pipelines are the most reliable and safest way to transport the large volume of natural gas and petroleum used in the United States. Pipelines transport two-thirds of all the crude oil and refined products in the United States. Pipelines are made of steel, covered with a protective coating and buried underground. They are tested and maintained through the use of cleaning devices, diagnostic tools, and cathodic protection. Since Americans consume over 700 million gallons of petroleum products per day, pipelines are an essential component of our nation's infrastructure.

Keeping you safe

Maintaining safe pipeline operations is critical in all areas where we operate. In high population and environmentally sensitive areas known as High Consequence Areas, we perform additional inspections and analyses as part of our Integrity Management Program (IMP). Additional information on our IMP efforts is available on our website: www.sunocologistics.com.



More than a number.
Call before you dig.

Always call 811 before you dig

One easy phone call to 811 starts the process to have your underground pipelines and utility lines marked. When you call 811 from anywhere in the country, your call will be routed to your state One Call Center, who will contact underground facility owners in the area. So you can dig safely, Sunoco pipeline personnel will contact you if one of our pipelines are in the area of the planned excavation. More information about 811 is at www.call811.com.

How to know where pipelines are located

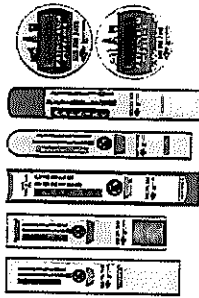
Most pipelines are underground, where they are more protected from the elements and minimize interference with surface uses. Even so, pipeline rights-of-way are clearly identified by pipeline markers along pipeline routes that identify the approximate—NOT EXACT—location of the pipeline. Every pipeline marker contains information identifying the company that operates the pipeline, the product transported, and a phone number that should be called in the event of an emergency.

Markers do not indicate pipeline burial depth, which will vary. Markers are typically seen where a pipeline intersects a street, highway or railway. For any person to willfully deface, damage, remove, or destroy any pipeline marker is a federal crime.

Pipeline Marker — This marker is the most common. It contains Sunoco Pipeline information, type of product, and our emergency contact number. Size, shape and color may vary.

Aerial Marker — These skyward facing markers are used by patrol planes that monitor pipeline routes.

Casing Vent Marker — This marker indicates that a pipeline (protected by a steel outer casing) crosses beneath a nearby roadway, rail line or other crossing.



How would you recognize a pipeline leak?

While pipelines are the safest method of transporting the fuel and products we use every day, knowing how to recognize a pipeline leak is important. The following may indicate a pipeline leak:

- **Sight:** Liquid pools, discolored or abnormally dry soil/vegetation, continuous bubbling in wet or flooded areas, an oily sheen on water surfaces, and vaporous fogs or blowing dirt around a pipeline area can all be indicative of a pipeline leak. Dead or discolored plants in an otherwise healthy area of vegetation or frozen ground in warm weather are other possible signs.
- **Sound:** Volume can range from a quiet hissing to a loud roar depending on the size of the leak and pipeline system.
- **Smell:** An unusual smell, petroleum odor, or gaseous odor will sometimes accompany pipeline leaks.

What to do in the event a leak were to occur:

- Public safety and protecting the environment are the top priorities.
- **Turn off** any equipment and eliminate any ignition sources without risking injury.
- **Leave the area** by foot immediately. Try to direct any other bystanders to leave the area. Attempt to stay upwind.
- From a safe location, **call 911** or your local emergency response number and call the 24-hour emergency number for the pipeline operator. Provide your name, phone number, a brief description and location of the incident so a proper response can be initiated.

What not to do in the event a leak were to occur:

- **DO NOT** cause any open flame or other potential source of ignition such as an electrical switch, vehicle ignition, light a match, etc. Do not start motor vehicles or electrical equipment. Do not ring doorbells to notify others of the leak. Knock with your hand to avoid potential sparks from knockers.
- **DO NOT** come into direct contact with any escaping liquids or gas.
- **DO NOT** drive into a leak or vapor cloud while leaving the area.
- **DO NOT** attempt to operate any pipeline valves yourself. You may inadvertently route more product to the leak or cause a secondary incident.
- **DO NOT** attempt to extinguish a petroleum product fire. Wait for local firemen and other professionals trained to deal with such emergencies.

What to do in case of damaging/disturbing a pipeline

If you cause or witness even minor damage to a pipeline or its protective coating, please immediately notify the pipeline company. Even a small disturbance to a pipeline may cause a future leak. A gouge, scrape, dent or crease is cause enough for the company to inspect the damage and make repairs. All damages to underground gas or hazardous liquid pipeline facilities are required by law to be reported to the operator. Excavators must notify the pipeline company immediately upon damaging a pipeline.

EX. "B"



ENERGY TRANSFER

FACTS ABOUT PIPELINE SAFETY IN YOUR COMMUNITY

HECHOS ACERCA DE LAS TUBERIAS SEGURAS EN SU COMUNIDAD

Know

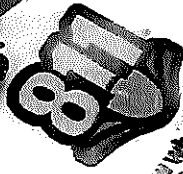
Informese

Recognize

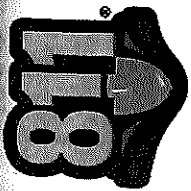
Reconozca

Respond

Responda



Know what's below.
Call before you dig.



**Know what's below.
Call before you dig.**

Don't ever assume you know where the underground utilities are located.

One of the greatest single challenges to safe pipeline operations is the accidental damage caused by excavation. In accordance with state and federal guidelines, a damage prevention program has been established to prevent damage to our pipelines from excavation activities, using non-mechanical or mechanical equipment or explosives to move earth, rock or other material below existing grade. Laws vary by state, but most require a call to 811 between 48 to 72 hours before you plan to dig. Your local One-Call Center will let you know if there are any buried utilities in the area, and the utility companies will be notified to identify and clearly mark the location of their lines at no cost to you.



ALWAYS CALL 811 BEFORE YOU DIG.



WAIT THE REQUIRED AMOUNT OF TIME.



RESPECT THE MARKS.



DIG WITH CARE.

If you should happen to strike the pipeline while working in the area, it is important that you phone us immediately. Even seemingly minor damage, such as a dent or chipped pipeline coating, could result in a future leak if not promptly repaired.

What should I do if I suspect a leak?

- Leave the area immediately on foot and warn others to stay away.
- Abandon any equipment being used in or near the area.
- Avoid any open flame or other sources of ignition.
- Call 911 or local law enforcement from a safe location.
- Notify the pipeline company immediately.
- Do not attempt to extinguish a pipeline fire.
- Do not attempt to operate pipeline valves.

Wait for the site to be marked. Marking could be either by paint, flags or stakes.

APWA Color Code

- Proposed excavation
- Temporary survey markings
- Electric power lines, cables, conduit and lighting cables
- Gas, oil, steam, petroleum or gaseous materials
- Communication, alarm or signal lines, cables or conduit
- Potable water
- Reclaimed water, irrigation and slurry lines
- Sewers and drain lines

Verification and Signature

I Michael D. Walsh, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Michael D. Walsh
Signature of Complainant/Petitioner

3/20/19
Date

Verification and Signature

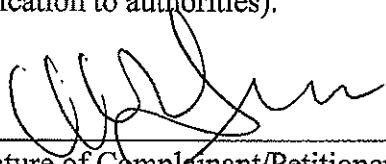
I James F. Ellis, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

James F. Ellis
Signature of Complainant/Petitioner

5-20-2022
Date

Verification and Signature

I Melissa Haines, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Signature of Complainant/Petitioner

3/20/19

Date

Verification and Signature

I Meghan Flynn, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Signature of Complainant/Petitioner

3/21/19

Date

Verification and Signature

I Gerald Mc Mullen, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Gerald Mc Mullen

Signature of Complainant/Petitioner

3-20-2019

Date

Verification and Signature

I ROSEMARY FULLER, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Signature of Complainant/Petitioner

3/20/2019

Date

Verification and Signature

I Caroline C. Hughes, hereby state that the facts set forth above are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Caroline C. Hughes
Signature of Complainant/Petitioner

8/21/19
Date

EX. "B"

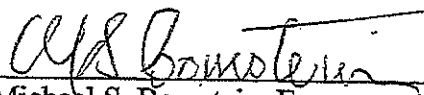
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES	:	DOCKET NO. P-2018-3006117
	:	
Complainants	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

NOTICE OF RIGHT TO RESPOND OR OBJECT

To: Bohdan Pankiw, Esq., Law Bureau, Public Utility Commission

Pursuant to 52 Pa. Code §5.421(b)(3), you are hereby notified that if you wish to respond or object to Complainants' Amended Application for Issuance of Subpoena, you must do so by filing your response or objection with the Commission and presiding officer within 10 days of service of the Application.


Michael S. Bomstein, Esq.
Pinnola & Bomstein
PA ID No. 21328
Email: mbomstein@gmail.com
Suite 2126 Land Title Building
100 South Broad Street
Philadelphia, PA 19110
Tel.: (215) 592-8383

Dated: March 21, 2019


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES	:	DOCKET NO. P-2018-3006117
	:	
Complainants	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

NOTICE OF RIGHT TO RESPOND OR OBJECT

To: Director Richard Kanaskie, Bureau of Investigation and Enforcement

Pursuant to 52 Pa. Code §5.421(b)(3), you are hereby notified that if you wish to respond or object to Complainants' Amended Application for Issuance of Subpoena, you must do so by filing your response or objection with the Commission and presiding officer within 10 days of service of the Application.


Michael S. Bomstein, Esq.
Pinnola & Bomstein
PA ID No. 21328
Email: mbomstein@gmail.com
Suite 2126 Land Title Building
100 South Broad Street
Philadelphia, PA 19110
Tel.: (215) 592-8383

Dated: March 21, 2019


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C-2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES	:	DOCKET NO. P-2018-3006117
	:	
Complainants	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

NOTICE OF RIGHT TO RESPOND OR OBJECT

To: Sunoco Pipeline L.P.

Pursuant to 52 Pa. Code §5.421(b)(3), you are hereby notified that if you wish to respond or object to Complainants' Amended Application for Issuance of Subpoena, you must do so by filing your response or objection with the Commission and presiding officer within 10 days of service of the Application.


Michael S. Bomstein, Esq.
Pinnola & Bomstein
PA ID No. 21328
Email: mbomstein@gmail.com
Suite 2126 Land Title Building
100 South Broad Street
Philadelphia, PA 19110
Tel.: (215) 592-8383

Dated: March 21, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C- 2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES,	:	DOCKET NO. P-2018-3006117
Complainants	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

**COMPLAINANTS' AMENDED APPLICATION
FOR ISSUANCE OF A SUBPOENA**

TO THE HONORABLE ELIZABETH BARNES, ADMINISTRATIVE LAW JUDGE:

Pursuant to 52 Pa. Code §5.421, the Flynn Complainants, by their attorney, Michael S. Bomstein, Esquire, hereby apply for the issuance of a subpoena to be served upon the custodian of records of the PUC's Bureau of Investigation and Enforcement, and in support hereof aver as follows:

Relevance, materiality and scope of documentary evidence sought by Complainants

1. The PUC Bureau of Investigation and Enforcement ("BIE") filed a formal complaint against Sunoco in a proceeding docketed at C-2018-3006534.
2. In general, the BIE Complaint concerned BIE's investigation of a Mariner East I ("ME1") pipeline leak of hazardous volatile liquids ("HVLs") that occurred in the vicinity of Morgantown, Pennsylvania on or about April 1, 2017 ("the Morgantown Incident").
3. Complainants believe that BIE and Sunoco have reached an agreement regarding the Complaint, the terms of which settlement are unknown and have not been made public.

4. Complainants allege, in general, that (a) the existing 8 inch and 12 inch Mariner pipeline infrastructure are incapable of transporting HVLs safely across the Commonwealth, and (b) Sunoco is incapable of repairing, maintaining and monitoring the said 8 inch and 12 inch pipelines safely.

5. More specifically, Complainants' Second Amended Formal Complaint in the instant proceeding alleges the following failures by Sunoco: Sunoco's failure to maintain a negative cathodic potential greater than -850 mV (¶ 82), failure to address microbiologic induce corrosions (¶ 83), ignoring unfavorable side drain measurements that showed current was dangerously flowing away from the pipeline (¶ 84), ignoring side drain measurements suggestive of corrosion (¶ 85), performing CIPS improperly (¶ 87), failing to maintain proper records (¶¶ 88 and 89), delaying an In-Line Inspection (¶ 90), paying no heed to obvious metal loss (¶ 91), failure to document how it would comply with the requirements of 49 C.F.R. § 195.573 (¶ 92), and failure to comply with § 195.571 (¶ 93).

6. Records and documents furnished by Sunoco to BIE in connection with the said BIE investigation are relevant because they make Complainants' allegations more or less likely. Likewise, records and documents created by BIE in its investigation are relevant because they make Complainants' allegations more or less likely.

7. Complainants believe and aver, as alleged in ¶ 71 of their Complaint, that while the data from the Morgantown accident reviewed by I&E was largely specific to the site of the leak, Sunoco's procedures and overall application of corrosion control and its cathodic protection practices, as implicated in the Morgantown incident, are relevant to all of ME 1. Thus, Complainants believe and aver that the corrosion control program and Sunoco's

engineering and cathodic protection practices already have adversely affected or will adversely affect the residents of Chester and Delaware Counties.

8. Complainants do not seek records of Sunoco or BIE that are protected by legitimate claims of privilege and the new, amended subpoena makes that clear.

Facts to be proved by the documents indicating necessity of the documents

9. BIE and Sunoco together are presently believed to be the sole repository of information regarding (a) the causes of the Morgantown Incident, (b) the condition of the 8 and 12 inch pipelines throughout the Commonwealth, and (c) Sunoco's historic construction and maintenance of the said pipelines.

10. Complainants believe that an examination of the requested records and documents will demonstrate that (a) the 8 inch and 12 inch pipelines are too old and otherwise unsuited to transport HVLs safely, and (b) Sunoco is incapable of transporting HVLs safely through these pipelines.

Notice of right to respond or object.

11. See attached copy of notice.

Proof of Service

12. See attached copy of Certificate of Service.

Proposed Subpoena

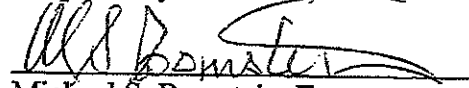
13. See attached.

Party to be Subpoenaed

14. BIE Custodian of Records

WHEREFORE, Complainants pray the Administrative Law Judge grant this application and approve issuance of the proposed subpoena.

Respectfully submitted,



Michael S. Bomstein, Esq.

Pinnola & Bomstein

PA ID No. 21328

Email: mbomstein@gmail.com

Suite 2126 Land Title Building

100 South Broad Street

Philadelphia, PA 19110

Tel.: (215) 592-8383

Attorney for Complainants

Dated: March 21, 2019



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

C-2018-3006116

In the Matter of:
MEGHAN FLYNN, et al

Docket No. P-2018-3006117

v.

SUNOCO PIPELINE L.P.

SUBPOENA

Custodian of Records, PUC Bureau of Investigation & Enforcement
To: Commonwealth Keystone Bldg., 2nd Floor, F West, Harrisburg, PA 17120
(Name and Address)

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to 100 S. Broad Street
Suite 2126, Philadelphia, PA 19110, at _____ (place)

Pennsylvania, on April 15, 2019, at 10 A.M. o'clock, in the above case, to testify
(date)
on behalf of the Complainants and to remain until excused;

2. And bring with you and produce the following: SEE ATTACHED EX. "A"
IN LIEU OF PRODUCTION OF HARD COPIES OF DOCUMENTS, BIE MAY
PRODUCE DIGITAL COPIES VIA ELECTRONIC MAIL.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date _____

Administrative Law Judge

Commonwealth of Pennsylvania

)

Count of

) SS:

)

AFFIDAVIT OF SERVICE

Before me, the undersigned authority, personally appeared _____
who, being duly sworn according to law, deposes and says that he/she served a true and correct
copy of the within SUBPOENA upon _____
by handing the same to him/her at _____ on the
_____ day of _____, 20____ at _____ a.m./p.m.

(Signature)

Sworn to and subscribed before me
this _____ day of _____, 20____

Notary Public

Subpoena Ex. "A"

ALL DOCUMENTS PRODUCED SHALL BE BATES STAMPED OR OTHERWISE STAMPED USING SEQUENTIAL NUMBERING FOR EASE OF REFERENCE.

IF ANY RECORD OR DOCUMENT IN YOUR POSSESSION, CUSTODY OR CONTROL HAS BEEN MARKED BY RESPONDENT SUNOCO AS "CONFIDENTIAL" OR "CONFIDENTIAL SECURITY INFORMATION" (CSI), PLEASE IDENTIFY EACH SUCH RECORD OR DOCUMENT.

IF YOU BELIEVE THAT ANY RECORD OR DOCUMENT IN YOUR POSSESSION, CUSTODY OR CONTROL NOT PRODUCED BY SUNOCO IS PROTECTED FROM DISCOVERY BY DELIBERATIVE PROCESS OR ANY OTHER PRIVILEGE, PLEASE IDENTIFY EACH SUCH RECORD OR DOCUMENT, DESCRIBE GENERALLY THE SUBSTANCE OR SUBJECT MATTER OF THE RECORD OR DOCUMENT, THE BASIS FOR YOUR CLAIM, AND IDENTIFY ALL PERSONS OR ENTITIES WHO HAVE HAD ACCESS TO SUCH RECORD OR DOCUMENT.

Definitions

For purposes of these interrogatories, the terms "records" and "documents" are used interchangeably and shall include without limitation (1) books of account, spreadsheets, ledgers, computerized data bases and other records; (2) checkbooks, canceled checks, check stubs and checking account statements; (3) personnel files in which records are segregated for individual employees; (4) all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made in such copies or otherwise, including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, releases, agendas, opinions, reports, studies, test results,

records of measurements, surveys, maps of any sort, written protocols, summaries, statements, consultations speeches, summaries, pamphlets, books, inter-office and infra-office communications, manuals, notations of any sort of conversation, bulletins, computer print-outs, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments or any of the foregoing; (5) graphic or manual records or representations of any kind, including without limitations, photographs, charts, graphs, microphone, microfilm, videotape, records, motion pictures; and (6) electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, discs and recording.

Documents Requested

(1) Records and documents turned over to BIE at any time by Sunoco that contain information related in whole or in part to the following failures as alleged in Complainants' Second Amended Formal Complaint: Sunoco's failure to maintain a negative cathodic potential greater than -850 mV (¶ 82), failure to address microbiologic induce corrosions (¶ 83), ignoring unfavorable side drain measurements that showed current was dangerously flowing away from the pipeline (¶ 84), ignoring side drain measurements suggestive of corrosion (¶ 85), performing CIPS improperly (¶ 87), failing to maintain proper records (¶¶ 88 and 89), delaying an In-Line Inspection (¶ 90), paying no heed to obvious metal loss (¶ 91), failure to document how it would comply with the requirements of 49 C.F.R. § 195.573 (¶ 92), and failure to comply with § 195.571 (¶ 93).

2. Records and documents created by BIE itself in its investigation of the Morgantown Incident, other than those protected by privilege as set forth above.