

PUC LATE-FILED EXHIBITS

Docket No. P-2018-3001453

Hearing Date May 7, 2018

Judge Barnes

Hearing held in Harrisburg

Exhibit No. Petitioner's Exhibit 1

Reporter Jana Kelly

1. Above exhibit to be supplied to reporter by:

\_\_\_\_\_

2. Above exhibit to be filed directly with PUC by:

\_\_\_\_\_

Additional Comments:

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COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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:
  
Pennsylvania State Senator Andrew E. :
  
Dinniman v. Sunoco Pipeline, L.P. : Docket No.
  
Petition for Interim Emergency Relief : P-2018-3001453
  
:
  
Initial Hearing :
  
:
  
----- x

Pages 1 through 325                      Hearing Room 4  
   Commonwealth Keystone Building  
   Harrisburg, Pennsylvania

Monday, May 7, 2018

Met, pursuant to adjournment, at 9:01 a.m.

BEFORE:

ELIZABETH H. BARNES, Administrative Law Judge

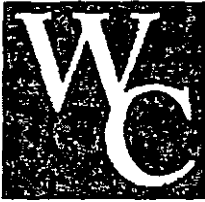
APPEARANCES:

MARK L. FREED, Esquire  
JOANNA WALDRON, Esquire  
Curtin & Heefner LLP  
2005 S. Easton Road, Suite 100  
Doylestown, Pennsylvania 18901  
(For Senator Dinniman)

THOMAS J. SNISCAK, Esquire  
WHITNEY E. SNYDER, Esquire  
Hawke, McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, Pennsylvania 17101  
(For Sunoco Pipeline L.P.)

**Commonwealth Reporting Company, Inc.**

700 Lisburn Road  
Camp Hill, Pennsylvania 17011



# WEST CHESTER AREA SCHOOL DISTRICT

*Educating and inspiring students to achieve their personal best*

P-1  
5/7/13 itbg vax  
P. 2018-300145

Dr. James R. Scanlon, Superintendent of Schools

March 29, 2018

The Honorable Tom Wolf  
Governor of Pennsylvania  
508 Main Capital Building  
Harrisburg PA 17120

Dear Governor Wolf,

I write to ask you to conduct a comprehensive independent risk assessment study regarding the construction of the Sunoco Mariner II East Pipeline. While I'm not an expert in these studies, the studies should include viable worst case evacuation routes, enhanced safety and safety training for first responders; and separation of pipelines from existing residences, schools, and businesses by a distance deemed safe.

The WCASD has four (4) buildings within 3000 feet of the pipeline and more than 25,000 residences living on or near the pipeline. For the past 18 months our school district administration and staff have been working with Chester County Emergency Management First Responders and have developed safety protocol in the event of a pipeline breach. Attached is a copy of our hazardous materials emergency protocol. Without a comprehensive risk assessment, it is difficult to measure our plan against potential risks if we don't know what they are.

Please consider conducting a comprehensive independent risk assessment. I would be happy to provide more detail about the concerns the pipeline construction has caused in our community. I can be reached in the office at 484.266.1018 or on my cell at 484.883.0648.

Sincerely,

Jim Scanlon, EdD  
Superintendent of Schools

cc: WCASD Board of School Directors  
WCASD Principals  
WCASD Cabinet  
Senator Andy Dinniman  
Senator Tom Killion  
Senator Tom McGarrigle

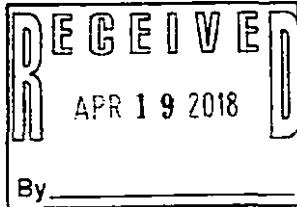
Representative Stephen Barrar  
Representative Carolyn Comitta  
Representative Duane Milne  
Representative Chris Quinn  
Representative Eric Roe  
Gladys Brown, Chair PA Utility Commission



**DOWNINGTOWN AREA SCHOOL DISTRICT**

540 Trestle Place, Downingtown, PA 19335, phone 610.269.8460, fax 855.329.3273, www.dasd.org

EMILIE M. LONARDI, Ph.D. SUPERINTENDENT



*- HED COPY  
- DV assigned*

*P-2  
5/7/18 Hly dx*

April 16, 2018

The Honorable Tom Wolf  
Office of the Governor  
508 Main Capitol Building  
Harrisburg, PA 17120

Dear Governor Wolf:

I write to you today as the superintendent of the Downingtown Area School District in Chester County. You may remember that I had been the long time superintendent in the West York Area School District in York County until I accepted the new position in Downingtown, July 1.

Shortly after my arrival in Downingtown, I began getting complaints from our parents regarding the Mariner II East pipeline which is scheduled to be constructed approximately 500 ft from one of our middle schools. Lionville Middle School (986 students) is located in a campus-like setting, next to Downingtown East High School (1788 students), and nearby Lionville Elementary School (674 students). The pipeline is also reasonably close to two (2) other Downingtown schools.

The safety of our students is of utmost concern to our Board, Parents, and me. I ask, as part of the Integrity Management Plan, that you conduct a comprehensive independent risk assessment study regarding the construction of the new pipeline. The study should include evacuation routes, evacuation procedures, detection equipment, safety training for first responders, as well as, an analysis and recommendation for the appropriate distance of the pipeline from schools to ensure safe evacuation, if needed.

Once we fully understand the risks, we will update our school safety protocols to create the safest environment possible for our students and staff.

I respectfully ask that you act expeditiously on this request.

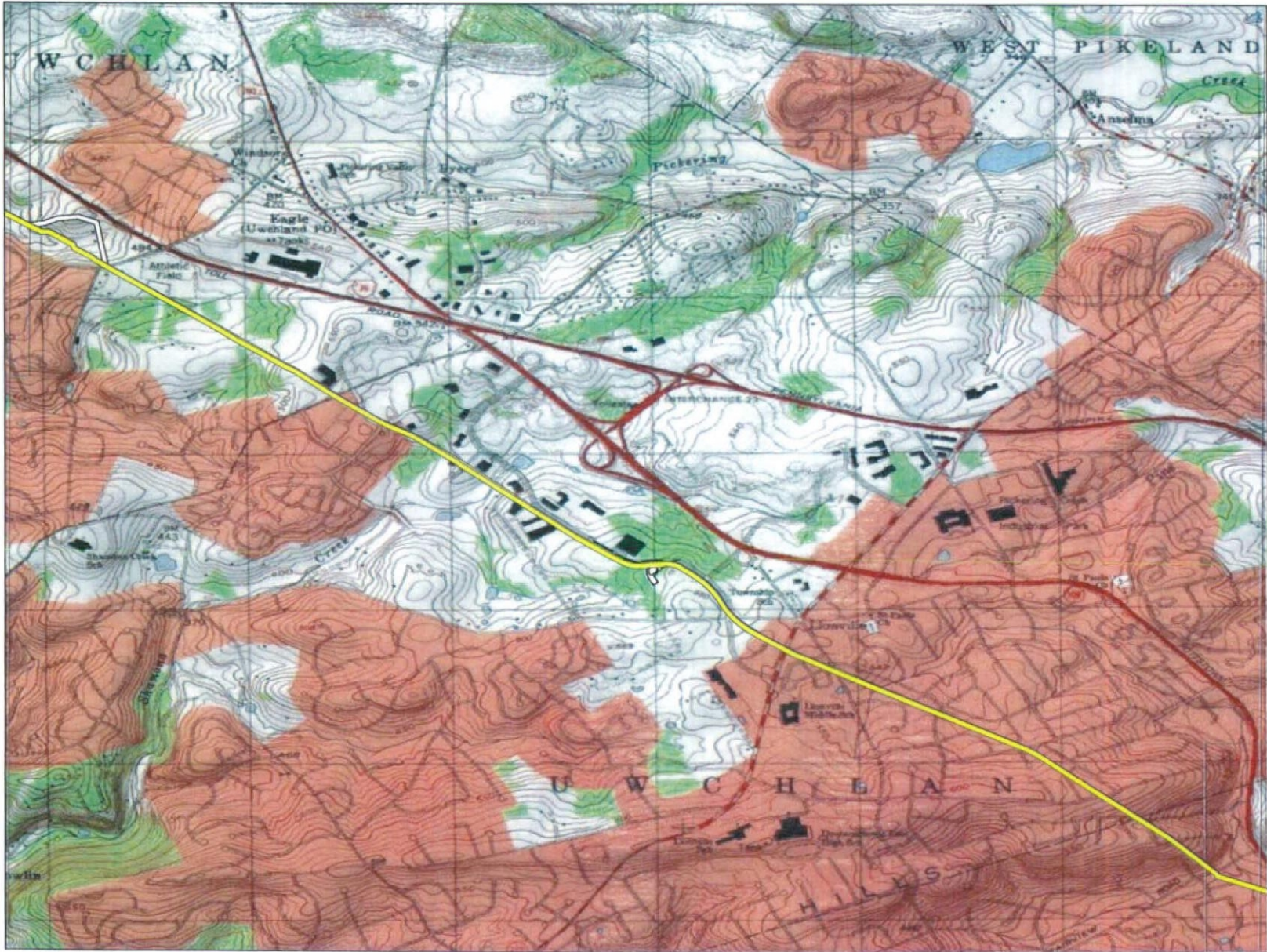
Sincerely,

DOWNINGTOWN AREA SCHOOL DISTRICT

Emilie M. Lonardi, Ph.D.  
Superintendent

- CC: DASD Board of School Directors
- Senator Andrew E. Dinniman
- Senator John C. Rafferty, Jr.
- Representative Harry Lewis, Jr.
- Representative Eric Roe
- Representative Becky Corbin
- Representative Duane D. Milne
- Representative Tim Hennessey

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**Legend**

- Proposed 20-inch and 16-inch Pipeline Corridor
- Permanent Access Road
- Temporary Access Road
- Pump Station LOD
- County Boundary
- State Boundary

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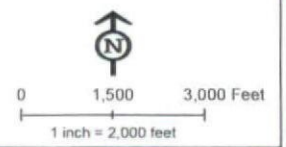


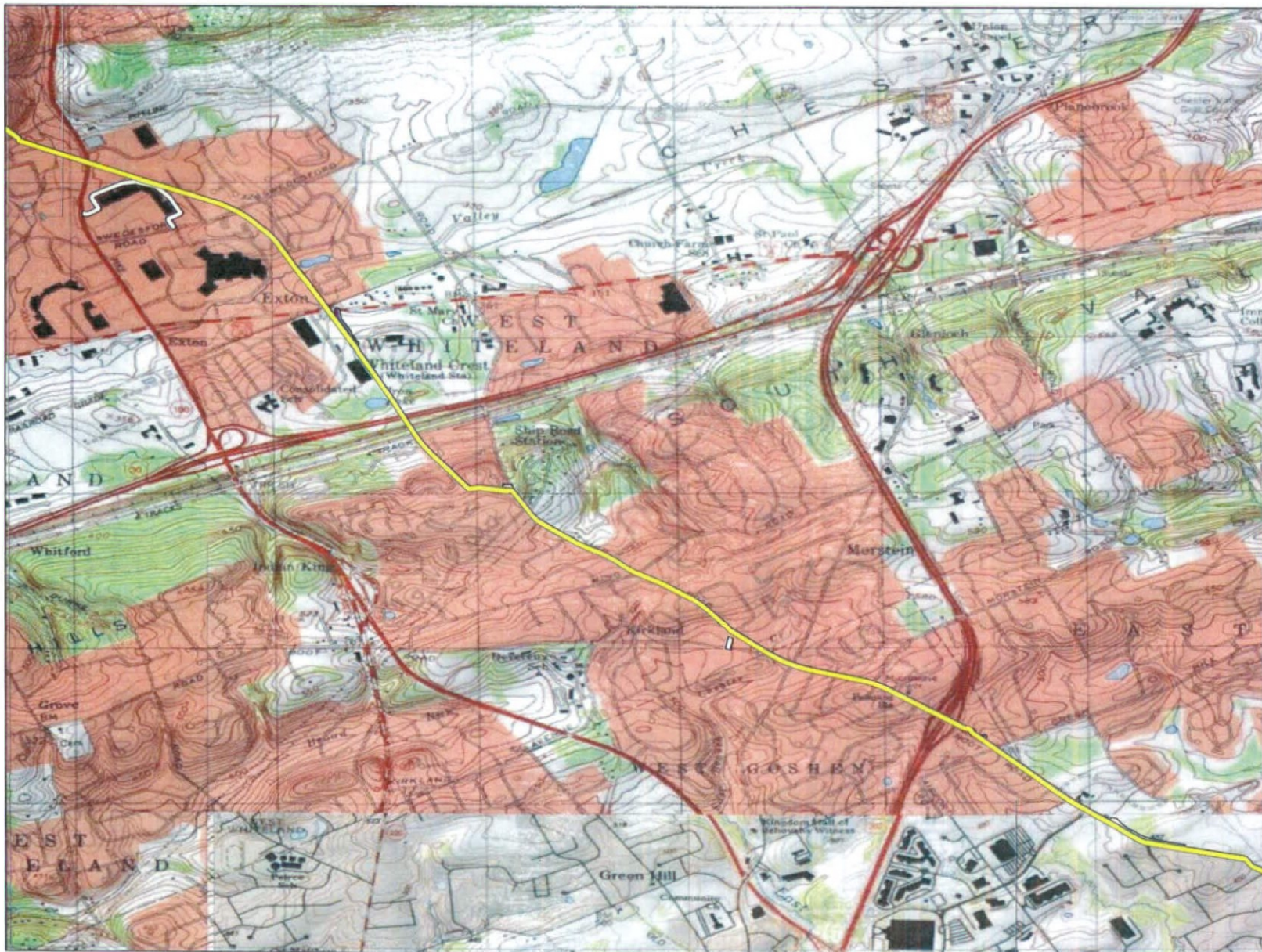
Figure 1. Project Location for the Sunoco Pennsylvania Pipeline Project, Chester County, PA. Sheet 3 of 5

Prepared By: TETRA TECH

Prepared for: Sunoco Logistics

Base Map, ESRI ArcGIS Online  
 Coordinate System NAD 83 UTM 17N  
 Date: 10/2016

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- Legend**
-  Proposed 20-inch and 16-inch Pipeline Corridor
  -  Permanent Access Road
  -  Temporary Access Road
  -  Pump Station LOD
  -  County Boundary
  -  State Boundary

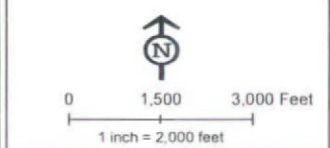


Figure 1. Project Location for the Sunoco Pennsylvania Pipeline Project, Chester County, PA. Sheet 4 of 5

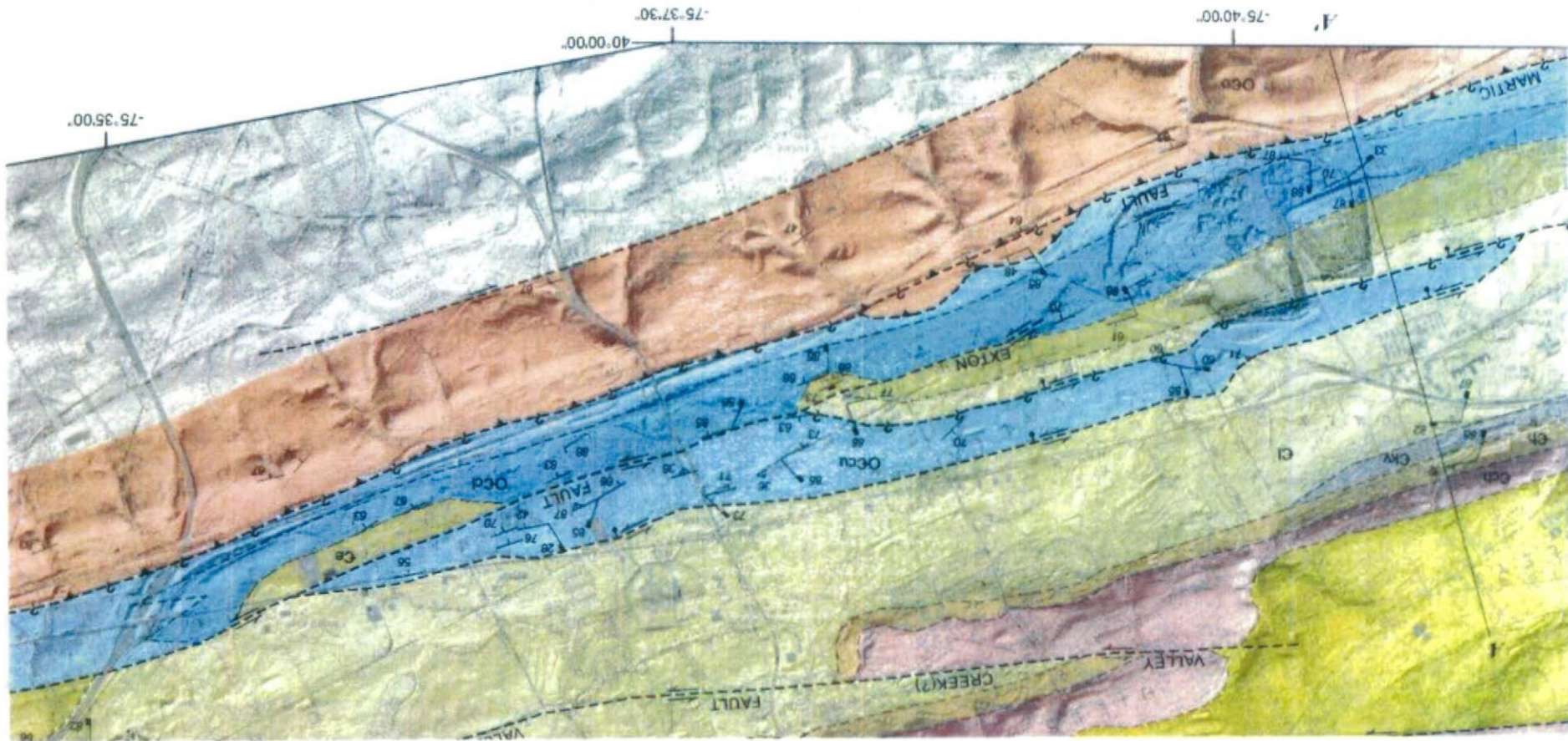
Prepared By:  TETRA TECH

Prepared for:  Sunoco Logistics

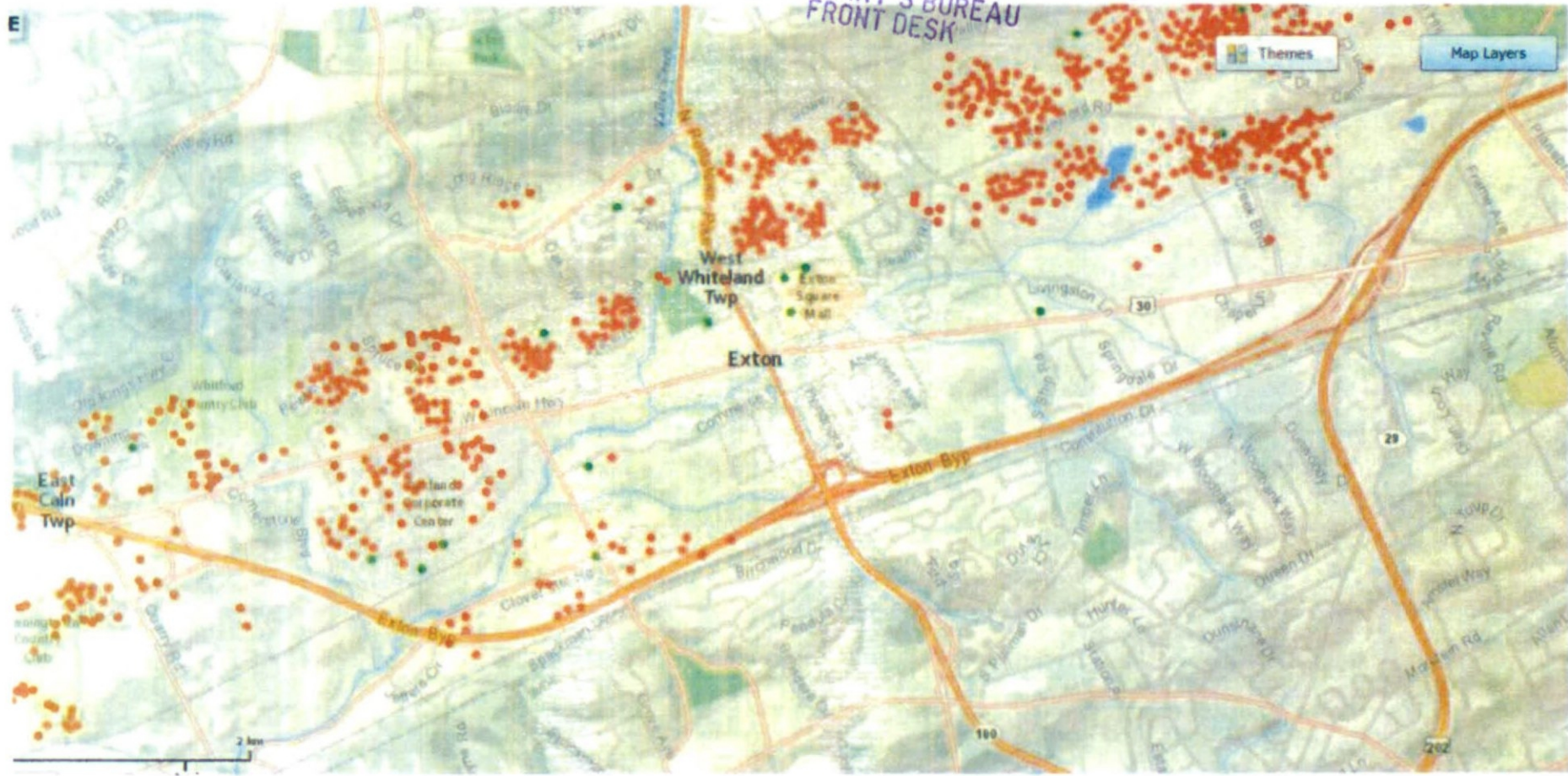
Base Map: ESRI ArcGIS Online  
 Coordinate System: NAD 83 UTM 17N  
 Date: 10/2016

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**Roda, Ann**

**From:** Roda, Ann  
**Sent:** Friday, January 27, 2017 5:59 PM  
**To:** STYLES, MONICA L  
**Cc:** Ziadeh, Ramez; Aneca Atkinson (aneatkinso@pa.gov); Rocco, Domenic; Murphy, Margaret O; Kenneth Murin (kmurin@pa.gov); Freyermuth, Sidney  
**Subject:** Phone Call Follow-up: PPP/ME2 Application Review Items

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Monica-

Following our phone call this morning please find below the items that we discussed. The items include some examples of specific locations but as indicated during the call the applicant should do full QA/QC of the applications to ensure the revision is carried out in all applications.

During the call I had indicated that this would be the only list that you would receive however upon further discussion with staff, DEP will be providing full lists of all requests for additional information to you on Monday. The information provided on Monday will be a combination of the items listed below and all other items identified from the review of the December application resubmission.

As noted on the call this afternoon, DEP requesting a response to the request for additional items by January 30, 2017, so that we can continue to conduct our technical review. Additionally, as noted DEP is requesting from you a summary table that outlines each technical deficiency that has been noted through the review process as well as those noted over the last several weeks and a reference guide to where in the application material or addendum material the applicant has provided the appropriate response and justification etc. If you cannot compile this table, please let us know this as soon as possible, as it would be helpful both for our review, but also to track responses submitted to DEP over time. Lastly, DEP will not have staff available over the weekend to answer questions. You may package up questions that you have and send them to this email grouping and we can work to address early next week.

### Chapter 105 Applications

1. The Comprehensive Environmental Evaluation was presented as a broad, overarching discussion of the project and its potential direct, indirect and cumulative effects on waters of the Commonwealth. However, the details of the application do not support the broad points in some instances.

In an effort to demonstrate the overall project consistency with State antidegradation requirements, the applicant provided an antidegradation analysis. Each County-specific application (Enclosures C&D) does not specifically discuss the secondary impacts to watercourses from the riparian loss related to antidegradation.

One focus of this analysis is the reduction in temporary construction ROW at stream crossings from 75 feet to 50 feet, which the DEP recognizes as a good protective measure, and avoidance and minimization effort on waters of the Commonwealth. However, there are instances, without justification (mainly in Berks and Cumberland Counties), where temporary construction ROWs are up to 100 feet within 10 feet of the stream in HQ/EV/CWF watersheds. Please further reduce the temporary construction ROW in HQ/EV/CWF watersheds. Additionally, reforesting these areas would

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reduce the potential impacts to streams from riparian forest loss. Thermal impacts from the forest riparian buffer loss in these instances should be discussed and addressed to satisfy the requirements of both Chapter 105 and 102.

2. Mitigation Plan: The following comments pertain to the Compensatory Wetland mitigation plan. Note that these comments apply to all applications which require compensatory mitigation for forested to emergent wetland conversion.
  - Confirm that a bog turtle habitat screening was performed and that a US Fish and Wildlife Service clearance is provided for the proposed wetland plantings.
  - Confirm that PNDI clearances provided by the resource agencies account for the proposed work at the mitigation site.
  - The mitigation plan states that PFO wetlands improve sediment/toxicant retention and nutrient removal. However, the Environmental Assessment within the application states that PEM wetlands improve sediment/toxicant retention and nutrient removal. Clarify the discrepancy and ensure uniform functional assessment across the application.
  - The selected mitigation site is identified as currently having several functions and values. Provide an explanation for why this site was chosen as opposed to wetlands which are in need of functional uplift and explain how this adequately compensates for the lost functions and values from the proposed impacts.
  - The Compensatory Wetland Mitigation should be constructed prior to or concurrent with impacts, not after. Revise the Compensatory Mitigation Plan accordingly.
  - Provide justification for why this site was selected, why compensatory mitigation cannot be completed in the watersheds where impacts are proposed, and how it compensates for impacts outside of the watersheds.
  - Provide a demonstration to show that the proposed plantings will not negatively affect the current functions and values of the wetlands.

Given the numerous functions provided by the existing wetland, provide an evaluation of potential functional loss expected from the proposed plantings.

The plans for both the ESCGP-2 and Chapter 105 applications need to be consistent with the data and information provided on the correct classification of wetlands. Example: 1. York County E&S plans- Sheet ES-4.19 and sheets S-H58A & B differ in location of temp crossing and BMPs at the same crossing location. Also Sheets ES-4.20 and S-H56 A&B have the same issue. In this same plan sheet area, please provide stream diversion BMP's to be used associated with the HDD laydown area. Any additional resource impacts from the laydown area shall be tabulated and added to the impact table. Also provide details of how this area of stream will be restored in the detail plans for S-H58.

3. All public water supplies and their contacts should be identified along the corridor as previously requested.
4. Additional justification for the avoidance and minimization of wetland impacts as required by §105.18a regarding the selection of the 200-foot survey width, and identified opportunities outside of and along the corridor should be provided. Other pipeline projects had survey widths of up to 600 feet. Please address the environmental impact in the justification and describe the avoidance and minimization of wetland impacts within the 200-foot corridor.

5. 8.b.v – SPLP’s primary reason regarding avoidance/minimization is co-locating within the existing ROW. In the Trenchless Feasibility Assessment, they define alternative routing for each wetland crossing, but then dismiss the alternative due to costs and logistics under one of the criteria of 105.18.a. Your alternatives analysis [Item 11, Enclosure E, Part 4 provides route alternatives to avoid wetland crossings but does not meet the requirements of 105.14(b)(7) justifying why route, or design alternatives cannot be used to avoid or minimize the adverse environmental impact. Your alternatives analysis does not demonstrate with reliable or convincing evidence that other less impacting alternatives are practicable in accordance with 105.18a(b)(3). You should further assess which wetland crossings of EV wetlands, can be avoided through trenchless technologies, and/or re-routing around the wetland. Include in this assessment the impacts of adjacent wetlands and waters and identify PNDI issues within the potential re-route. Provide an expanded alternative analysis which addresses these issues. [105.13(d)(1)(viii)]. Refer also to 105.18a(a)(3) or 105.18a(b)(3) for a definition of “practicable alternatives.”

6. 3.g – Need additional data on pullback areas that impact wetlands –Chester HDD PA-CH-0100.0000-RD. Investigate and describe pull back alternatives that will avoid and/or minimize impacts to WLC-42 and C-47, while avoiding impacts to WL C-43.  
Chester Aerial 39 of 98

17.a & 17.b – All – Alternatives exist to avoid direct impacts to EV Wetlands (see comment 8.b.v.).

7. The PE certification language provided in Chapter 105.13(j) should be provided in all Chapter 105 permit applications. This language cannot be modified.
8. Revise the impacts table(s) to provide an accurate linear footage of stream impact associated with your project.
9. A footnote should be added to your impacts table(s) that categorizes potential de minimis and temporary impacts for temporary water withdrawals, such as temporary intake structures and appurtenant works, including portable pumps, which are associated with various construction or testing activities that are proposed as part of this project.
10. Regarding HDD crossing *HDD PA-WA-0103.0000-RD (S16, S250)*, your Inadvertent Return Assessment states, “The drill will cross 56 feet below Linden Creek Road, 41 feet below Linden Creek, and 25 feet below S250. The 20” drill will closely follow the existing ME1 12” pipeline drill, which had an inadvertent return.” Regarding this statement: 25 Pa. Code §§105.301(10)
- The narrative refers to S16 as Linden Creek, when all other documents refer to S16 as Little Chartiers Creek. Please clarify which is correct and revise your application as necessary.
  - Discuss the inadvertent return that occurred at this location during the installation of ME1. At a minimum, this discussion should include:
    - Why the inadvertent return occurred.
    - The depth of the ME1 pipeline at the resource crossings.
    - What impacts to aquatic resources occurred as a result of the IR.
    - How the previous occurrence of an IR at this location was accounted for in the design of the proposed crossing.
    - Lower risk alternatives that were evaluated before the HDD crossing was chosen as the preferred alternative, and why those alternatives were not chosen.

11. Karst area near Exton and the East Whiteland compressor branch present additional risks of IRs during HDD. Provide a detailed assessment of measures to reduce the risk of drilling in these area.

There are two areas are the most concerning, especially Exton. There are carbonate rocks, karst surface depressions; and identification of other public water supplies (groundwater or surface water) within one mile. The "water supply areas" geography used in the report is irrelevant to well locations. Locations assessed as medium risk to water wells should have more monitoring and response during the HDD process and for an extended time period after. Also risk categorization should include the distance from the HDD to the wells and the available categories indicating the amount of water and people supplied from the well. Groundwater impacts from an inadvertent return cannot be directly visually observed from the surface. Any loss of circulation is the only indicator of drilling fluid migrating out of the borehole into the groundwater.

12. Misidentified wetlands. There is at least one example in which the wetlands have been misidentified. For example in Perry County the identification provided does not match the data sheets and arials.

### ESCGP2 Applications

1. Act 167 and Stormwater Verification- For the ESCGP-2--In any applicable County or Municipality where a current and approved Act 167 Plan exists and Sunoco has not obtained an Act 167 Stormwater Consistency Letter from the County or Municipality, they need to submit the Act 167 Stormwater verification report required by the ESCGP-2 for each county. In addition to providing the verification reports, Sunoco needs to confirm which Ch. 102 design standard they used—Option 1- the regulatory standards in 102.8(g)(2) and 102.8(g)(3) or the Act 167 design standards or an alternate standard. The ESCGPs are not clear on which standard they did the design to.
2. Antidegradation Analysis
  - Provide a separate Section G for each site that is not part of this linear analysis (i.e. block valve sites, stations, etc.)
  - Provide a separate Section G for sites that discharge to receiving surface waters that are impaired for siltation.
  - Amend the PCSM report to include documentation and justification to support that the proposed pipeline (mainline) restoration adequately addresses 102.8(n). This should-specifically address: 102.8(b), (c), (e), (f), (h), (i), (l), and (m) for the entire pipeline (mainline) restoration.
3. Infiltration/Calculations
  - Provide additional discussion as to why the single-ring falling head infiltration test is an appropriate testing methodology
  - Incorrect infiltration rate was used in the PCSM calculations.
    - I.e. at the Fairview Road Valve Site an infiltration rate of 0.3 inches/hour was incorrectly used in the PCSM calculations. According to the submitted Table 1 in Section 5 of Volume IV, the recommended infiltration rate is 0.2 inches per hour
  - Middletown Road Valve Site (Vegetated Cover) [102.8(f)(2)], [102.8(f)(4)]
    - No PCSM calculations were provided for this Valve Site. Please justify accordingly.
4. Chapter 105 consistency
  - Reference to the Chapter 105 permit applications is not sufficient

- I.e. The response provided for TD No. 40 from Southcentral Region identifies that the Alternatives Analysis provided with the Chapter 105 permit applications includes the requested information.
  - Ensure that the floodway has been revised per the deficiency from the 25 Pa. Code § 105 permit applications
    - I.e. ensure that the floodway has been revised per the deficiency from the 25 Pa Code § 105 permit applications; the floodway is 50-ft. from the top of bank, not the centerline of the stream.
5. Impairments/Designated and Existing uses
- Identify the source and cause of an impairment for any stream which is impaired and not just for the siltation impaired streams
    - I.e. In all 5 Valve Sites (including the Vegetated Valve Site at Middletown Road) in the Southeast Region the applicant did not provide the Impairments/TMDLs for the project
  - Verify that the Receiving Waters Table clearly identifies the receiving surface waters and their Designated and Existing Uses
    - I.e. It appears that there are sections of Hay Creek which have different Designated Uses and some sections which have an Existing Use
    - I.e. The Receiving Water Table and the Receiving Wetlands Table are both identified for the Southwest Region, not the Southcentral Region in the Southcentral Region submission
6. E&S
- There are numerous areas throughout the project where a wetland/portion of a wetland is identified as within the limit of disturbance but that the E&S BMPs are not shown at the edge of the limit of disturbance. These BMP details need to be provided.
  - For temporary upslope Diversion Berms, in Chester County, calculations must be provided.
  - The E&S Manual was revised per the Corrections For Erosion And Sediment Pollution Control Program Manual TGN 363-2134-008 Mach 2012, revise the Standard Construction Detail accordingly
    - I.e. the Standard Construction Detail #13-4 in Attachment 4 of the E&S Plan narrative and the Trench Plug Installation detail (e.g. Sheet ES-0.10 for Blair County) are not correct. The Standard Construction Detail #13-4 from the E&S Manual was revised per the Corrections For Erosion And Sediment Pollution Control Program Manual TGN 363-2134-008 Mach 2012, to identify the trench plugs extending to the trench bottom (as opposed to the bottom of the pipe)
  - Southwest Region did not receive a hard copy of the E&S Control Plan for Washington County. Please submit these.
7. Areas of Temporary Stabilization and/or Access – Compaction
- There is concern that by using tracked equipment for multiple passes may compact areas more instead of de-compacting.
    - I.e. the Construction Sequence in the E&S Plan drawings (sheet ES-0.03); provide detail as to how applicant will de-compact soils to allow for infiltration and post construction restoration and stormwater planning.
8. In at least York county there are inconsistencies between E&S Plan drawings. In other areas of the application other portions of the application, the stream under boulder field is not visible, but needs appropriate BMP and some flow paths appear to be going to existing structures.

9. E&S Calculations – there are deviations from the recommended approaches, or the calculations are missing. Where missing the calculations must be provided; where they deviate from the recommended approaches, an explanation should be provided that explains how the alternate approach will adequately protect waters of the Commonwealth.

**Ann Roda | Director**  
Department of Environmental Protection | Program Integration  
Rachel Carson State Office Building  
400 Market St. | Hbg PA 17101  
Phone: 717.772.1839 | Fax: 717.705.4980  
[www.dep.state.pa.us](http://www.dep.state.pa.us)

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In The Matter Of:

Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 19608

: Violations of The Clean Streams Law  
: and DEP Chapters 102 of Title 25 of  
: the Pennsylvania Code, the Dam Safety  
: and Encroachments Act and DEP Chapter  
: 105 of Title 25 of the Pennsylvania Code,  
: the Administrative Code, and the 2012 Oil  
: and Gas Act  
:  
: Pennsylvania Pipeline Project—Mariner East II  
: E&S Permit No. ESCG0100015001  
: WO&E Permit No. E15-862  
:  
: West Whiteland Township, Uwchlan  
: Township, Chester County

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**CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement is entered into this 24<sup>th</sup> day of July 2017, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Sunoco Pipeline, L.P. ("Sunoco").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 ("Clean Streams Law"); the Dam Safety and Encroachment Act, the Act of November 26, 1978, P.L. 1375, *as amended*, 32 P.S. §§ 693.1 et seq. ("Dam Safety and Encroachment Act"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); the Oil and Gas Act of 2012, the Act of February 14, 2012, P.L. 87, *as amended*, 58 Pa. C.S. §§ 3201 – 3274 ("2012 Oil and Gas Act"); and the rules and regulations ("rules and regulations") promulgated thereunder.

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B. Sunoco Pipeline, L.P. ("Sunoco") is a foreign limited partnership doing business in Pennsylvania and maintains a mailing address of 535 Fritztown Road, Sinking Springs, PA 19608. Sunoco Logistics Partners Operations GP LLC is the general partner of Sunoco Pipeline L.P. Joseph Colella is the Executive Vice President for Sunoco Logistics Partners Operations GP LLC. Mr. Colella has been granted authority by Sunoco Logistics Partners Operations GP LLC to sign documents for Sunoco Pipeline L.P. on behalf of the General Partner.

C. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco has undertaken an effort to expand certain existing transportation systems for natural gas liquids in Pennsylvania, collectively referred to as the Pennsylvania Pipeline Project—Mariner East II ("PPP-ME2"). As part of PPP-ME2, Sunoco is conducting pipeline installation activities in Chester County, Pennsylvania.

D. To construct PPP-ME2 through Chester County, Sunoco obtained the following permits from the Department:

1. an Erosion and Sediment Control Permit, Permit Number ESCG0100015001, under 25 Pa. Code Chapter 102 and;
2. a Water Obstructions and Encroachment Permit, Permit Number E15-862, under 25 Pa. Code Chapter 105.

E. The work area for PPP-ME2 in Chester County, Pennsylvania includes, but is not limited to, approximately 23 miles of pipeline construction. Sunoco has been working to install a portion of the pipeline in West Whiteland Township and Uwchlan Township (collectively, "the Townships") utilizing a horizontal directional drill ("HDD"). The HDD is identified by Sunoco as HDD 360, also known as the Shoen Road Drill Area ("Shoen Road Drill Area" or "Drill Area").

F. On June 14, 2017, Sunoco commenced HDD activities on the Shoen Road Drill Area. The Drill Area extends for approximately 2841 feet. Sunoco suspended HDD activities at the Drill Area on July 4, 2017. From July 5, 2017 to July 7, 2017, Sunoco installed grouting in the pilot hole of the Drill Area. On July 8, 2017, Sunoco resumed HDD drilling activities at the Drill Area. On July 13, 2017, Sunoco again halted activities at the Drill Area and has not resumed HDD activities in the Drill Area since that time. To date, Sunoco has completed approximately 1574 feet of the Drill.



G. From July 6, 2017 through July 10, 2017, the Department received 14 water supply complaints through its Oil and Gas Reporting Electronic (“OGRE”) system, reported to the Department by Sunoco pursuant to 25 Pa. Code § 78a.68a(j)(Horizontal Directional Drilling for Oil and Gas pipelines), for 14 homeowners in the vicinity of the Shoen Road Drill Area, specifically on Township Line Road and Valley View Drive in West Whiteland Township. The homeowners had complained of adverse impacts to their private water supplies including, *inter alia*, cloudy water, turbid water, discolored water, loss of water pressure, and diminution of water from July 2, 2017 through July 9, 2017. The 14 OGRE Reports are attached as “Exhibit A”.

H. The homeowners identified in Exhibit A have water wells that draw water from groundwater. Groundwater is a “Water of the Commonwealth” within the meaning of Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

I. In response to the water supply complaints, Sunoco collected water samples at 35 homes in the Valley View Drive and Township Line Road area on various days between July 5, 2017 through July 17, 2017, for various parameters. The 35 wells that were sampled by Sunoco included the wells of the 14 homeowners identified through OGRE that are identified in Exhibit A. The results of the water samples are attached as “Exhibit B”.

J. Special Condition B (Water Supply) of Permit E15-862 provides as follows:

B. In the event the permittee’s work causes adverse impacts to a public or private water supply source, the permittee shall also immediately notify the Department and implement a contingency plan, to the satisfaction of the public and private water supply owners that addresses all adverse impacts imposed on the public and private water supply as a result of the pollution event, including the restoration or replacement of the impacted water supply.

K. Section 1917-A of the Administrative Code (Abatement of Nuisances), 71 P.S. § 510-17, provides, in relevant part, that:

The Department of Environmental Resources shall have the power and its duty shall be:

(1) To protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the department;

(2) To cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality, and, for that purpose, without fee or

hinderance,<sup>1</sup> to enter, examine and survey all grounds, vehicles, apartments, buildings, and places, within the Commonwealth, and all persons, authorized by the department to enter, examine and survey such grounds, vehicles, apartments, buildings and places, shall have the powers and authority conferred by law upon constables;

(3) To order such nuisances including those detrimental to the public health to be abated and removed;

L. Section 610 of the Clean Streams Law, 35 P.S. § 691.610 (Enforcement Orders), provides that:

The department may issue such orders as are necessary to aid in the enforcement of the provisions of this act. Such orders shall include, but shall not be limited to, orders modifying, suspending or revoking permits and orders requiring persons or municipalities to cease operations of an establishment which, in the course of its operation, has a discharge which is in violation of any provision of this act. Such an order may be issued if the department finds that a condition existing in or on the operation involved is causing or is creating a danger of pollution of the waters of the Commonwealth, or if it finds that the permittee, or any person or municipality is in violation of any relevant provision of this act, or of any relevant rule, regulation or order of the board or relevant order of the department: Provided, however, That an order affecting an operation not directly related to the condition or violation in question, may be issued only if the department finds that the other enforcement procedures, penalties and remedies available under this act would probably not be adequate to effect prompt or effective correction of the condition or violation. The department may, in its order, require compliance with such conditions as are necessary to prevent or abate pollution or effect the purposes of this act. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal to the Environmental Hearing Board of the department's order shall not act as a supersedeas: Provided, however, That, upon application and for cause shown, the Environmental Hearing Board may issue such a supersedeas. The right of the department to issue an order under this section is in addition to any penalty which may be imposed pursuant to this act. The failure to comply with any such order is hereby declared to be a nuisance.

M. Section 20(a) of the Dam Safety and Enforcement Act (Enforcement Orders), 32 P.S. § 693.20(a), specifies that:

(a) The department may issue such orders as are necessary to aid in the enforcement of the provisions of this act. Such orders shall include, but shall not be limited to, orders modifying, suspending or revoking permits and orders requiring persons to cease any activity which is in violation of the provisions of this act. Such an order may be issued if the

department finds that a person is in violation of any provision of this act, or of any rule or regulation issued hereunder. The department may, in its order, require compliance with such terms and conditions as are necessary to effect the purposes of this act.

N. The term "Pollution" is defined in Section 1 of the Clean Streams Law (Definitions), 35 P.S. § 691.1, as:

"Pollution" shall be construed to mean contamination of any waters of the Commonwealth such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, including but not limited to such contamination by alteration of the physical, chemical or biological properties of such waters, or change in temperature, taste, color or odor thereof, or the discharge of any liquid, gaseous, radioactive, solid or other substances into such waters. The department shall determine when a discharge constitutes pollution, as herein defined, and shall establish standards whereby and wherefrom it can be ascertained and determined whether any such discharge does or does not constitute pollution as herein defined.

O. The Department has determined that Sunoco's activities adversely impacted the well water of the 14 homeowners identified in Exhibit A by its drilling activities at the Shoen Road Drill Area, including causing cloudy water, turbid water, and discolored water. Sunoco's activities at the Shoen Road Drill Area caused pollution and potential pollution to Waters of the Commonwealth.

P. The Department has determined that the adverse impacts to the water supplies of the homeowners identified in Exhibit A, including cloudy water, turbid water, and discolored water, diminution of domestic water supply, and loss of water pressure in domestic water supply, constitute a "nuisance" under Section 1917-A of the Administrative Code (Abatement of Nuisances), 71 P.S. § 510-17.

Q. The Department has determined that Sunoco failed to immediately notify the Department of adverse impacts to private water supplies in the Shoen Road Drill Area as required by Special Condition B of Permit E15- 862. Sunoco intends to, through this Consent Order and Agreement, to the extent it has not already done so, implement a contingency plan, to the satisfaction of the private water supply

owners, that addresses all adverse impacts imposed on the private water supply as a result of the pollution event, as required by Special Condition B of Permit E15-862.

R. The violations described in Paragraphs O and P constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18; a statutory nuisance under Section 601 of the Clean Streams Law, 35 P.S. § 691.601; and subject Sunoco to civil penalty liability under Section 605 of the Clean Streams Law, § 691.605 and Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

S. The violations described in Paragraph Q constitute unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18; and subject Sunoco to civil penalty liability under Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

T. The violations described in Paragraphs O, P and Q constitute unlawful conduct under Section 3259 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3259; a public nuisance under Section 3252 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3252; and violations of the regulations thereunder.

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Sunoco as follows:

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 5 of the Clean Streams Law, 35 P.S. § 691.5; Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. Sunoco agrees that the findings in Paragraph A through Q are true and correct and, in any matter or proceeding involving Sunoco and the Department, Sunoco shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. Corrective Action.

a. Sunoco shall not resume HDD at the Shoen Road Drill Area until the Department provides written authorization to Sunoco to resume such activity.

b. Within 5 days from the date of this Order, Sunoco shall identify all homeowners with private water supplies within 150 feet of the Shoen Road Drill Area and provide such list to the Department.

c. Sunoco shall inform the Department, West Whiteland Township, Uwchlan Township, and all homeowners with private water wells within 150 feet of the Shoen Road Drill Area, at least 24 hours prior to resuming any HDD activities at the Drill Area.

d. As a temporary response, Sunoco shall continue to provide alternate potable water supplies adequate in quantity and quality for the purposes served, to each of the 14 homeowners identified in Exhibit A, as well as any other homeowners that Sunoco and/or the Department become aware have experienced cloudy, discolored or turbid water, or water loss or diminution from the Shoen Road Drill Area. Such measures may include Sunoco's provision of bottled water, water buffalos, or other similar units or supplies to affected homeowners, or water filtration units, utilizing .45 micron filters or better, as soon as practicable, but no later than August 15, 2017. Such measures shall continue to be implemented by Sunoco until a long term potable water solution is implemented in accordance with Paragraph 3.e.

e. As a long term response, within 10 days of the date of this Consent Order and Agreement, Sunoco shall submit to the Department a Water Supply Restoration Plan ("Plan") that, at a minimum, provides each of the homeowners that Sunoco and/or the Department have become aware have been impacted by Sunoco's activities in the Shoen Road Drill Area, including the 14 homeowners identified in Exhibit A that have experienced cloudy, discolored or turbid water, or water pressure loss or water diminution, with an alternative source of potable water supply. Such Plan shall include specific deadlines for completion of activities, including interim activities, and shall include bi-weekly reporting requirements. Upon approval or modification of the Plan by the Department, Sunoco shall immediately commence implementation of the Plan, as approved or modified. Upon approval of said Plan, the

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Department may authorize resumption of HDD in the Shoen Road Drill Area.

f. Sunoco shall conduct a hydrogeological investigation of the impacted aquifer(s) in the Shoen Road Drill Area to determine the cause(s) of why the private water supplies that draw from the aquifer(s) were impacted by Sunoco's HDD activities. On or before September 1, 2017, Sunoco shall submit a report to the Department detailing the results of its investigation and its recommendations for recommencement of pipeline installation. Sunoco's recommendations shall include all steps it will undertake to prevent further impacts to the groundwater, or mitigate any such impacts, to the satisfaction of the Department.

g. Sunoco shall immediately notify the Department and the Chester County Conservation District by phone, followed up by an email as soon as practicable, to contacts identified in Sunoco's HDD Inadvertent Return, Assessment, Preparedness, Prevention and Contingency Plan for the Mariner East II Pipeline in Chester County, whenever it receives a complaint of an impacted water supply or otherwise becomes aware that it has adversely impacted a water supply by its HDD activities in the Shoen Road Drill Area. Notification regarding the events that were the subject of Sunoco's telephonic notice shall also be provided to the Department electronically within 24 hours through OGRE.

h. At such time as the Department permits Sunoco to resume drilling activities in the Shoen Road Drill Area, Sunoco shall immediately cease drilling upon (i) the occurrence of an inadvertent return; or (ii) groundwater infiltration into the borehole which is likely to have impact a water supply well(s). Drilling shall not recommence until the Department approves recommencement, in writing, upon a demonstration by Sunoco, to the satisfaction of the Department, that all adverse impacts have been adequately addressed.

4. Intent of Agreement. Sunoco and the Department agree that this Consent Order and Agreement is intended to provide for Sunoco's immediate response to the homeowner wells identified in Paragraph G above. The parties further recognize that the Department is currently conducting an investigation into these impacts and others that might be attributable to Sunoco's activities in the Drill Area, and that the Department specifically reserves the right, and this Consent Order and Agreement is without prejudice to, any further enforcement action that the Department may take, including the assessment of civil penalties.

5. Additional Remedies.

a. In the event Sunoco fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy.

6. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. Sunoco reserves the right to challenge any action which the Department may take to require those measures.

7. Liability of Operator. Sunoco shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers agents, employees, or contractors. Except as provided in Paragraph 8(c), Sunoco also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

8. Transfer of Shoen Road Drill Area.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Shoen Road Drill Area or any part thereof.

b. If Sunoco intends to transfer any legal or equitable interest in the Shoen Road Drill Area which is affected by this Consent Order and Agreement, Sunoco shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Regional Office of the Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate Sunoco's duties and obligations under this Consent Order and Agreement upon transfer of the Shoen Road Drill Area. Sunoco waives any right that it may have to challenge the Department's decision in this regard.

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9. Correspondence with Department. All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Frank DeFrancesco  
DEP, Waterways and Wetlands Program  
2 East Main Street  
Norristown, PA 19401  
(484) 250-5161  
[fdefrances@pa.gov](mailto:fdefrances@pa.gov)

10. Correspondence with Sunoco. All correspondence with Sunoco concerning this Consent Order and Agreement shall be addressed to:

Mr. Matthew Gordon  
Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 16908  
[Matthew.gordon@energytransfer.com](mailto:Matthew.gordon@energytransfer.com)

Sunoco shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

11. Severability. The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

12. Entire Agreement. This Consent Order and Agreement shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

13. Attorney Fees. The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

14. Modifications. No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.



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15. Titles. A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling


16. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this Consent Order and Agreement is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which Sunoco may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

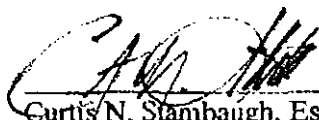
17. Termination. The obligations of Paragraph 3 shall terminate when the Department determines that Sunoco has complied with the requirements of Paragraph 3.

18. Execution of Agreement. This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Sunoco certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of Sunoco; that Sunoco consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Sunoco hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. (Signature by Sunoco's attorney certifies only that the agreement has been signed after consulting with counsel.)

FOR SUNOCO PIPELINE, L.P.:

 7-24-17  
Joseph Colella Date  
Senior Vice President

 7/24/17  
Curtis N. Stambaugh, Esq. Date  
Attorney for Sunoco Pipeline, L.P.

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:

\_\_\_\_\_  
Domenic Rocco, P.E. Date  
Environmental Program Manager

\_\_\_\_\_  
William J. Gerlach, Jr. Date  
Assistant Counsel

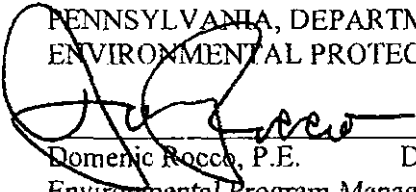
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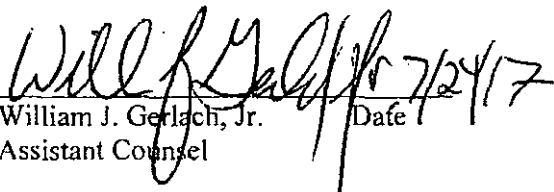
FOR SUNOCO PIPELINE, L.P.:

\_\_\_\_\_  
Joseph Colella                      Date  
Senior Vice President

\_\_\_\_\_  
Curtis N. Stambaugh, Esq.      Date  
Attorney for Sunoco Pipeline, L.P.

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

 7/24/17  
Domenic Rocco, P.E.              Date  
Environmental Program Manager

 7/24/17  
William J. Gerlach, Jr.          Date  
Assistant Counsel

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**In the matter of:**

Sunoco Pipeline, L.P.  
535 Fritztown Road  
Sinking Springs, PA 19608

: Violations of The Clean Streams Law  
: and DEP Chapter 93, 102, and 105 of  
: Title 25 of the Pennsylvania Code.

: PA Pipeline Project—Mariner East II  
: E&S Permit Nos. ESG0300015002;  
: ESG0500015001; ESG0100015001

: WO&E Permit Nos.; E02-1718; E06-  
: 701; E07-459; E11-352; E15-862; E21-  
: 449; E22-619; E23-524; E31-234; E32-  
: 508; E34-136; E36-945; E38-194; E50-  
: 258; E63-674; E65-973; E67-920

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**ADMINISTRATIVE ORDER**

Now this 3<sup>rd</sup> day of January, 2018, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), has found and determined the following facts and findings and by this Administrative Order imposes the specified performance obligations upon Sunoco Pipeline, L.P. (“Sunoco”).

**Findings**

**Parties**

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”); the Dam Safety and Encroachment Act, the Act of November 26, 1978 P.L. 1375, *as amended*, 32 P.S. §§ 693.1 et seq. (“Dam Safety and Encroachment Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S.

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§ 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“rules and regulations”).

B. Sunoco Pipeline, L.P. (“Sunoco”) is a foreign limited partnership doing business in Pennsylvania and maintains a mailing address of 535 Fritztown Road, Sinking Springs, PA 19608. Sunoco Logistics Partners Operations GP LLC is the general partner of Sunoco Pipeline, L.P. Joseph Colella is Executive Vice President for Sunoco Logistics Partners Operations GP LLC. Mr. Colella has been granted authority by Sunoco Logistics Partners Operations GP LLC to sign documents for Sunoco on behalf of the General Partner.

C. Sunoco owns and operates numerous pipelines in Pennsylvania used to transport petroleum and natural gas products. Sunoco has undertaken an effort to expand existing transportation systems for natural gas liquids in Pennsylvania, which is collectively referred to as the Pennsylvania Pipeline Project – Mariner East II (“PPP-ME2”). As part of PPP-ME2, Sunoco is conducting pipeline installation activities in seventeen counties in Pennsylvania, including Berks, Blair, Cumberland, Dauphin, Huntingdon, Perry, and Washington Counties.

### **Permits**

D. To construct PPP-ME2 through Pennsylvania, Sunoco obtained the following permits from the Department:

- a. Three (3) Erosion and Sediment Control Permits under 25 Pa. Code Chapter 102, Permit Numbers ESG0300015002, ESG0500015001, and ESG0100015001 (Chapter 102 Permits) and;
- b. Seventeen (17) Water Obstructions and Encroachment (“WOE”) Permits under 25 Pa. Code Chapter 105, Permit Numbers E02-1718, E06-701, E07-459, E11-352, E15-862, E21-449, E22-619, E23-524, E31-234, E32-508, E34-136, E36-

945, E38-194, E50-258, E63-674, E65-973, and E67-920 (Chapter 105 Permits). Sunoco obtained one Chapter 105 Permit for each of the seventeen (17) counties where the Department permitted PPP-ME2 activities to occur.

E. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstructions and Encroachment Permit, Permit Number E06-701 to construct PPP-ME2 through Berks County.

F. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E07-459 to construct PPP-ME2 through Blair County.

G. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E21-449 to construct PPP-ME2 through Cumberland County.

H. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E22-619 to construct PPP-ME2 through Dauphin County.

I. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E31-234 to construct PPP-ME2 through Huntingdon County.

J. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0300015002, and Water Obstruction and Encroachment Permit, Permit Number E50-258 to construct PPP-ME2 through Perry County.

K. Sunoco obtained Erosion and Sediment Control Permit, Permit Number ESG0500015001, and Water Obstruction and Encroachment Permit, Permit Number E63-674 to construct PPP-ME2 through Washington County.

L. Horizontal Directional Drilling (“HDD”) shall be defined within, as any steerable trenchless technology that controls the direction and deviation to a predetermined underground target or location.

**Sites**

M. The work area for PPP-ME2 in Berks County, Pennsylvania includes the crossing of an unnamed tributary (“UNT”) to Hay Creek (S-Q90) in New Morgan Borough, Berks County (“Berks HDD Site 1”), the crossing of an unnamed tributary (“UNT”) to Cacoosing Creek (S-C33) in Spring Township, Berks County (“Berks HDD Site 2”), the crossing of an UNT to Allegheny Creek (S-B30) in Brecknock Township, Berks County (“Berks HDD Site 3”), and a crossing of Wetland W35 in New Morgan Borough and Caernarvon Township, Berks County (“Berks HDD Site 4”). Berks HDD Site 1, Berks HDD Site 2, Berks HDD Site 3, and Berks HDD Site 4 are collectively referred to herein as (“Berks HDD Sites 1-4”).

N. The work area for PPP-ME2 in Blair County, Pennsylvania includes the crossing of Clover Creek (S-L58) and Wetland M23 in Woodbury Township, Blair County (“Blair HDD Site”).

O. The work area for PPP-ME2 in Cumberland County, Pennsylvania includes an upland area east of North Locust Point Road in Silver Spring Township, Cumberland County (“Cumberland HDD Site”).

P. The work area for PPP-ME2 in Dauphin County, Pennsylvania includes the crossing of Wetland C28 in Lower Swatara Township, Dauphin County (“Dauphin HDD Site”).

Q. The work area for PPP-ME2 in Huntingdon County, Pennsylvania includes HDD No. PA-HU-0110.0000-SR-16, located east of Shade Valley Road (State Route 35) in Tell Township, Huntingdon County (“Huntingdon HDD Site”).

R. The work area for PPP-ME2 in Perry County, Pennsylvania includes the crossing of Shaeffer Run in Toboyne Township, Perry County (“Perry Bridge Site”).

S. The work area for PPP-ME2 in Washington County, Pennsylvania includes the crossing of an UNT to Mingo Creek (S140) in Nottingham Township, Washington County (“Washington HDD Site”).

T. On November 11, 2017, the Department received notice of a release of sediment to the UNT to Hay Creek (S-Q90) at Berks HDD Site 1.

U. On November 13 and 14, 2017, the Berks County Conservation District (“BCCD”) conducted inspections of the Berks HDD Site 1 and documented that an inadvertent return (“IR”) of drilling fluids had occurred within an UNT to Hay Creek (S-Q90), a water of the Commonwealth, as a result of HDD activities at this location. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

V. The designated use for the segment of Hay Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as Exceptional Value Waters (“EV”), Migratory Fishes (“MF”).

W. Hay Creek is classified as a Class A wild trout water by the Fish and Boat Commission. 25 Pa. Code § 93.1. *See* <http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>

X. On November 15 and 16, 2017, the Department issued Sunoco a notice of violation (“NOV”), DEP file number NOV 06 17 102, for Berks HDD Site 1.



Y. On November 22, 2017, Sunoco submitted a response to the NOV referenced in Paragraph X., above, containing the following information associated with Berks HDD Site 1:

- a. Pipeline installation activities were in operation between November 4 and November 11, 2017;
- b. The pipeline installation activities experienced losses of circulation of drilling fluid on November 8, 9, and 10, 2017;
- c. A pollution event to an UNT Hay Creek, referenced in Paragraph R., above, had occurred on November 10, 2017;
- d. The cleanup of the pollution event within the UNT to Hay Creek was completed on November 18, 2017; and
- e. Sunoco provided landowner notification (titled Mariner East 2- Pennsylvania Pipeline Project Horizontal Directional Drilling Construction Notification and Private Water Supply/Well Sampling Offer) via certified mail dated August 24, 2017 to five (5) landowners within 450' of the HDD alignment.

Z. On November 17, 2017, the BCCD conducted an inspection of pipeline construction activities in the location of a UNT to Cacoosing Creek (S-C33) at Berks HDD Site 2.

AA. During the inspection referenced in Paragraph Z., BCCD documented that pipeline installation activities were underway at the Berks HDD Site 2 utilizing HDD construction methods. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

BB. The receiving waters for discharges from the Berks HDD Site 2 is a UNT to Cacoosing Creek (S-C33). The designated use for the segment of Cacoosing Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as Cold Water Fishes (“CWF”), Migratory Fishes (“MF”).

CC. Cacoosing Creek is classified as a Class A wild trout water by the Fish and Boat Commission. 25 Pa. Code § 93.1. *See* <http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>

DD. The Department subsequently learned that pipeline installation activities at the Berks HDD Site 2 were in operation between September 25, 2017 and November 14, 2017. Prior to initiating construction, Sunoco provided landowner notification (titled Mariner East 2- Pennsylvania Pipeline Project Horizontal Directional Drilling Construction Notification and Private Water Supply/Well Sampling Offer) via certified mail dated August 23, 2017, to ten (10) landowners within 450’ of the unauthorized HDD alignment.

EE. On November 21, 2017, the Department issued Sunoco a NOV, DEP file number NOV 06 17 103, for Berks HDD Site 2.

FF. On November 28, 2017, Sunoco submitted a written response to the DEP File No. NOV 06 17 103. Within this response, Sunoco identified seven locations where pipeline crossings of waters of the Commonwealth were permitted to be open cuts but were field changed to a trenchless construction method without first obtaining a permit modification or any other authorization from the Department. The seven locations Sunoco described in its response included the Berks HDD Sites 1-4, the Blair HDD Site, the Dauphin HDD Site, and the Washington HDD Site.

GG. The receiving waters for discharges from the Berks HDD Site 3 is an UNT to Allegheny Creek (S-B30). The designated use for the segment of Allegheny Creek referenced in this Order is listed in 25 Pa. Code § 93.9f as CWF. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

HH. Allegheny Creek is classified as a wild trout (natural reproduction) water by the Fish and Boat Commission. See

[http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/trout\\_repro.pdf](http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/trout_repro.pdf)

II. Sunoco conducted its unauthorized pipeline installation activities at Berks HDD Site 3 between September 20, 2017 and November 11, 2017.

JJ. The receiving water for discharges from the Berks HDD Site 4 is wetland W35 in New Morgan Borough and Caernarvon Township, Berks County. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstructions and Encroachment Permit, Permit Number E06-701 authorized Sunoco to conduct HDD activities at this site.

KK. Sunoco conducted its unauthorized pipeline installation activities at Berks HDD Site 4 between June 28, 2017 and July 8, 2017.

LL. The receiving waters for discharges from the Blair HDD Site is Clover Creek (S-L58). The designated use for the segment of Clover Creek referenced in this Order is listed in 25 Pa. Code § 93.9n as High-Quality Waters ("HQ"), MF. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E07-459 authorized Sunoco to conduct HDD activities at this site.

MM. Clover Creek is classified as a Class A wild trout water by the Fish and Boat Commission. See

<http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>.

NN. Sunoco conducted its unauthorized pipeline installation activities at the Blair HDD Site between June 4, 2017 and October 3, 2017.

OO. The receiving waters for discharges from the Washington HDD Site is an UNT to Mingo Creek. The designated use for the segment of Mingo Creek referenced in this Order is listed in 25 Pa. Code § 93.9v as HQ, Trout Stocking (“TSF”). Neither Erosion and Sediment Control Permit, Permit Number ESG0500015001, nor Water Obstruction and Encroachment Permit, Permit Number E63-674 authorized Sunoco to conduct HDD activities at this site.

PP. Sunoco conducted its unauthorized pipeline installation activities at the Washington HDD Site between July 7, 2017 and July 15, 2017.

QQ. The receiving water for discharges from the Dauphin HDD Site is wetland C28 in Lower Swatara Township, Dauphin County. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E22-619 authorized Sunoco to conduct HDD activities at this site.

RR. Sunoco conducted its unauthorized pipeline installation activities at the Dauphin HDD Site between November 8, 2017 and November 20, 2017.

SS. On December 5, 2017, the Department responded to a complaint that a stream crossing was installed at Perry Bridge Site in Toboyne Township, Perry County without a permit. During the inspection, the Department found that an “air bridge” was installed over an existing bridge that had previously been deemed unsafe by county inspectors. The Department later

identified that Sunoco's contractor (Michels Corporation) had installed the bridge on October 28, 2017 without first obtaining a Chapter 105 permit from the Department.

TT. The receiving waters for discharges from the Perry Bridge Site is Shaeffer Creek. The designated use for the segment of Shaeffer Creek referenced in this Order is listed in 25 Pa. Code § 93.9n as HQ, CWF.

UU. Shaeffer Creek is classified as a Class A wild trout water by the Fish and Boat Commission. See

<http://www.fishandboat.com/Fish/PennsylvaniaFishes/Trout/Documents/classa.pdf>.

VV. On December 6, 2017, Sunoco and the Department met to further discuss Sunoco's November 28, 2017 written response to the DEP File No. NOV 06 17 103. During this meeting Sunoco stated that they were unaware of any other pipeline crossings of a water of the Commonwealth along the entire Mariner East II Project where construction had been completed and/or initiated using a crossing methodology other than what was authorized by the initial permit approval or amendment thereto, outside of those described in their November 28, 2017 written response.

WW. On December 18, 2017, the Cumberland County Conservation District ("CCCD") conducted an inspection of pipeline construction activities in the location of an upland area east of North Locust Point Road at the Cumberland HDD Site. Pipeline installation activities at Cumberland HDD Site were permitted to occur using open-cut methodology. Neither Erosion and Sediment Control Permit, Permit Number ESG0300015002, nor Water Obstruction and Encroachment Permit, Permit Number E21-449 authorized Sunoco to conduct HDD activities at this site.

XX. On December 18, 2017, Sunoco notified the Department that it had received complaints from two separate private water supply owners in the vicinity of the Cumberland HDD Site that they were experiencing cloudy water—the first complaint was filed on December 15, 2017, and the second complaint was filed on December 18, 2017.

YY. During the inspection referenced in Paragraph WW., CCCD documented that pipeline installation activities were underway at the Cumberland HDD Site utilizing HDD construction methods. The Department later determined that Sunoco field changed pipeline installation activities at the Cumberland HDD Site from open-cut to a trenchless construction method without first obtaining a permit modification or any other authorization from the Department.

ZZ. On December 7, 2017, the Huntingdon County Conservation District (“HCCD”) conducted an inspection of pipeline construction activities at the Huntingdon HDD Site. During the inspection, HCCD documented an IR in an upland area near the exit pit of the 20-inch pipe. This IR was never reported to the Department, nor was an initial written report submitted to the Department as noted within Section 6.5 of the revised August 8, 2017 HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan (“HDD IR PPC Plan”).

AAA. On December 29, 2017, Sunoco submitted their December 2017 Monthly HDD Report to the Department. Within this report, it noted that the 20-inch pipe reference in Paragraph ZZ., above, had been completed and that the pilot hole for the 16-inch pipe was underway. Sunoco did not perform a re-evaluation of the 16-inch pipe HDD as a result of the IR that occurred during the installation of the 20-inch pipe, as required by Paragraph 3 of the August 10, 2017 Corrected Stipulated Order (“Stipulated Order”) entered into by Sunoco, the Department, and the Appellants at EHB Docket No. 2017-009-L.

BBB. Pursuant to Special Condition 20.xx., of Permit E06-701 (Berks County), no work shall be done in the stream channel of a Class A wild trout fishery, between October 1 and April 1 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

CCC. Pursuant to Special Condition 20.ww., of Permit E50-258 (Perry County), no work shall be done in the stream channel of a Class A wild trout fishery, between October 1 and April 1 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

DDD. Pursuant to Special Condition 20.yy., of Permit E06-701 (Berks County), no work shall be done in the stream channel of a wild trout fishery, between October 1 and December 31 without the prior written approval of the Pennsylvania Fish & Boat Commission's Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823-9620; telephone 814.359.5147.

EEE. Sunoco did not obtain prior written approval from the Pennsylvania Fish & Boat Commission's Division of Environmental Services to conduct any work in the stream channel of either the UNT to Hay Creek (S-Q90) or the UNT to Cacoosing Creek (S-C33) between October 1 and April 1.

FFF. Sunoco did not obtain prior written approval from the Pennsylvania Fish & Boat Commission's Division of Environmental Services to conduct any work in the stream channel of the UNT to Allegheny Creek (S-B30) between October 1 and December 31.

## Violations

GGG. The drilling fluids that comprised the IR at Berks HDD Site 1 constitute Industrial Waste. Sunoco's discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of 25 Pa. Code § 92a.1(b) and Section 301 of the Clean Streams Law, 35 P.S. § 691.301, a nuisance under Section 401 of the Clean Streams Law, 35 P.S. § 691.401, and unlawful conduct under Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

HHH. The Department did not authorize any HDDs, other trenchless technologies, or IRs at either Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site and Washington HDD Site by permit or other authorization.

III. Sunoco's failure to obtain permit authorization prior to conducting HDD activities at Berks HDD Sites 1-4, Blair HDD Site, Dauphin HDD Site and Washington HDD Site violates Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a) and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

JJJ. Sunoco's failure to obtain permit authorization prior to conducting HDD activities at the Cumberland HDD Site violates Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

KKK. The Chapter 105 Permits, Chapter 102 Permits, and Paragraph 15 of the Stipulated Order entered by the Environmental Hearing Board on August 10, 2017 in the matter of *Clean Air Council, Mountain Watershed Association, and Delaware Riverkeeper Network, Inc. v. Department of Environmental Protection and Sunoco Pipeline, L.P.*, (Docket No. 2017-009-L),



require permittee(s) to follow their HDD IR PPC Plan that is part of the approved plans in the aforementioned permits to reduce, minimize, or eliminate a pollution event.

LLL. The HDD IR PPC Plan in the Chapter 102 Permits and the Chapter 105 Permits, and referenced in the Stipulated Order, contains the following requirements:

- a. Immediately notify the pertinent Department Regional Office 24-hour Emergency Response Line of an IR. For the Southcentral Office, the number is 866.825.0208.
- b. Notify the Department at least 24 hours prior to the beginning of each HDD, including conventional boring under waters of the Commonwealth.
- c. Submit an initial report of the IR to the Department using Attachment B of the HDD IR PPC Plan.
- d. Obtain an amendment to the applicable Chapter 105 and/or Chapter 102 Permit prior to deviating from the construction methodology or project design that is shown on the approved drawings.

MMM. The approved method of pipeline installation at Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site, and Washington HDD Site was open cut. Sunoco did not obtain a permit amendment or any other authorization prior to altering the construction methodology to an HDD.

NNN. Sunoco did not immediately notify the Department to report the IR that occurred at the Huntingdon HDD Site.

OOO. Sunoco did not notify the Department at least 24 hours prior to beginning the HDD for Berks HDD Sites 1-4, Blair HDD Site, Cumberland HDD Site, Dauphin HDD Site, the Huntingdon HDD Site (16 inch line) and Washington HDD Site.

PPP. Sunoco did not submit an initial report of the IR at Berks HDD Site 1 and Huntingdon HDD Site to the Department using Attachment B of the HDD IR PPC Plan.

QQQ. Sunoco's failure to obtain permit authorization prior to installing an air bridge over Shaeffer Run at the Perry Bridge Site violates Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a) and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Sections 402 and 611 of the Clean Streams Law, 35 P.S. §§ 691.402 and 691.611.

RRR. With respect to Berks HDD Sites, 1-4, the Blair HDD Site, the Dauphin HDD Site, the Huntingdon HDD Site, and the Washington HDD Site, Sunoco's failure to comply with permit requirements listed in Paragraph NNN., OOO., and PPP., above, constitutes a violation of Section 6(a) of the Dam Safety and Encroachments Act, 32 P.S. § 693.6(a), and 25 Pa. Code § 105.11(a), and constitutes unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18 and Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

SSS. With respect to the Cumberland HDD Site, Sunoco's failure to comply with the requirements of Erosion and Sediment Control Permit, Permit Number ESG0300015002 constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611.

TTT. Sunoco's conduct allowing the unauthorized discharge of Industrial Waste to waters of the Commonwealth, failing to obtain a Chapter 105 permit, failing to acknowledge permit conditions, and failing to perform work according to permit specifications, constitutes a violation of Section 301 of the Clean Streams Law, 35 P.S. § 691.301 and constitutes unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611 and Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18.

UUU. Throughout the installation of the ME II pipeline, Sunoco has produced IRs in uplands which have created a potential for pollution to waters of the Commonwealth pursuant to Section 402 of the Clean Streams Law, 35 P.S. § 691.402.

VVV. The violations described in Paragraphs GGG. through UUU., above, constitute unlawful conduct under Sections 401, 402, and 611 of the Clean Streams Law, 35 P.S. §§ 691.401, 691.402, and 691.611; a statutory nuisance under Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§ 691.401 and 691.601; and subject Sunoco to civil penalty liability under Section 605 of the Clean Streams Law, § 691.605. The violations in Paragraphs III., KKK., LLL., MMM., QQQ., RRR., and TTT. constitute unlawful conduct under Section 18 of the Dam Safety and Encroachments Act, 32 P.S. § 693.18, subject Sunoco to an order under Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20, and subject Sunoco to a claim of civil penalty under Section 21 of the Dam Safety and Encroachments Act, 32 P.S. § 693.21.

WWW. Sunoco's unlawful conduct set forth in Paragraphs T. through FFF., above, demonstrates a lack of ability or intention on the part of Sunoco to comply with the Clean Streams Law, the Dam Safety and Encroachments Act, and the permits issued thereunder. Suspension of the permits described in Paragraph D, above, is necessary to correct the egregious and willful violations described herein. Other enforcement procedures, penalties and remedies available to the Department under the Clean Streams Law and the Dam Safety and Encroachments Act would not be adequate to effect prompt or effective correction of the conditions or violations demonstrated by Sunoco's lack of ability or intention to comply.

NOW, THEREFORE, pursuant to Section 20 of the Dam Safety and Encroachments Act, 32 P.S. § 693.20; Sections 5, 402, and 610 of The Clean Streams Law, 35 P.S. § 691.5, 691.402,

and 691.610; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17, the Department hereby ORDERS the following:

1. Except as specified herein, Sunoco shall immediately suspend all work authorized by the permits described in Paragraph D, above, until the Department provides written authorization to resume work. In no event shall Sunoco undertake any pipeline installation activities unless expressly authorized by the Department in writing.

2. Within 30 days of the effective date of this Order, Sunoco shall submit a detailed description of any method of trenchless pipeline construction techniques that have been used or will be proposed for use in the completion of PPP-ME2, other than (dry) conventional auger bore and HDD, as those methods are defined in the *'Trenchless Construction Feasibility Analysis'*, dated December 2016, that was approved as part of the Chapter 105 Permits.

3. Within 30 days of the effective date of this Order, Sunoco shall submit to the Department full documentation of each crossing of a wild trout stream, stocked and wild trout fishery, stocked trout fishery and Class A trout fishery. The documentation shall include the date(s) of the installation of the pipeline, which pipeline was installed (20 inch, 16 inch, or both), the municipality and county, the stream number, latitude and longitude, and photographic documentation of the crossing including all before, during and after photographs of the installation. Sunoco shall submit this documentation to the Department on the forms attached hereto as Exhibit 1.

4. Within 30 days of the effective date of this Order, Sunoco shall submit a report to the Department documenting any other unpermitted changes made to the method for installation of the pipeline. Permitted methods of pipeline construction are limited to open trench/open cut, and two trenchless installation methods, (dry) conventional auger bore and HDD, as those methods

are defined in the *'Trenchless Construction Feasibility Analysis'* dated December 2016 and approved as part of the Chapter 105 Permits. Such changes include, but are not limited to, a change from conventional auger bore to HDD (including, but not limited to, "flex bore"), a change from open cut to conventional auger bore or HDD (including, but not limited to, "flex bore")", and a change from HDD (including, but not limited to, "flex bore") or conventional auger bore to an open cut. The report shall document all steps taken by Sunoco to determine if unpermitted changes have occurred. The information regarding the altered crossing methodology shall be provided on the forms attached hereto as Exhibit 2.

5. Within 30 days of the effective date of this Order, Sunoco shall submit a list to the Department that documents the legal name of all drilling contractors and subcontractors who have worked, or will be working, on the PPP-ME2. The list shall include the contact information for each contractor and subcontractor including the name of the business contact person, contact telephone numbers and email addresses, the HDD number for each HDD that the contractor or subcontractor has worked on, or will be working on, the municipality and county for each HDD, and the latitudes and longitudes for each location.

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

7. The permittee shall address all alleged impacts to private water wells in Silver Spring Township, Cumberland County, as described in Paragraph XX. to the satisfaction of the private well owners, to include replacement or restoration of the water supply and reimbursement of any costs of displacement during the period when the water supply is adversely impacted.

8. In order to demonstrate the ability and intention to comply with the Chapter 102 Permits and Chapter 105 Permits, within 30 days of the date of this Order, the permittee shall submit a comprehensive list of all pending earth disturbance and water obstruction and encroachment related activities currently authorized by the Chapter 102 Permits and Chapter 105 Permits that have yet to be completed or commenced. This list shall include for each project activity identified:

- a. the specific Chapter 105 Permit and/or Chapter 102 Permit under which each of these activities are authorized;
- b. the location (county, municipality, latitude and longitude) where each activity will occur;
- c. the pipe installation methodology authorized by the Chapter 105 Permit and/or Chapter 102 Permit (i.e., HDD, open cut, conventional auger bore) at each location;
- d. if the activity is an HDD, the associated drill identification number;
- e. the specific name and contact information for the on-site contractor representative who is responsible for permit and regulatory compliance at each location;
- f. the specific name and contact information for the corporate representative from Sunoco who is responsible for permit and regulatory compliance at each location;
- g. the specific name and contact information for the corporate representative from Sunoco who is responsible for supervision and direction of contractors at each location;

h. the specific name and contact information for the corporate Executive Officer from Sunoco who is responsible for environmental compliance in the Commonwealth of Pennsylvania and for the installation of the Mariner II project, if such Executive Officers are different.

9. Within 30 days of the date of this Order, the permittee shall submit a detailed Operations Plan setting forth the additional measures and controls which the permittee and its contractors shall implement to ensure that all permit conditions will be followed at all times. The Department shall review the Operations Plan and will approve it only when it deems it to be sufficient and satisfactory. The Operations Plan shall also include the additional measures and controls which the permittee and its contractors shall implement to minimize inadvertent return incidents and water supply impacts to the maximum extent possible.

10. Within 10 days of the effective date of this Order, Sunoco shall backfill all areas of trench excavation, unless sufficient justification for an extension of time is provided to and approved by the Department in writing.

11. Within 10 days of the effective date of this Order, Sunoco shall remove the drill bits, reamers, and/or strings for any unpermitted HDD activities, unless Sunoco provides the Department with justification and receives Department approval in writing to leave the bit, reamer, and/or string in place for a specific PPP-ME2 HDD site.

12. Within 10 days of the effective date of this Order, Sunoco shall properly abandon all pilot holes created by the activities in Paragraph 11, unless Sunoco provides the Department with justification and receives Department approval in writing to leave a pilot hole open.

13. Within 10 days of the effective date of the Order, Sunoco shall pull the drill bit and string from the 16-inch line at the Huntingdon HDD Site and properly abandon the pilot hole.

14. Prior to conducting any further HDD activity at the Huntingdon HDD Site, Sunoco shall submit a reevaluation of the 16-inch line as required by Paragraph 3 Stipulated Order and receive Department approval of that reevaluation.

15. Within 30 days of the effective date of this Order, Sunoco shall submit as-built drawings, sealed by a Professional Engineer, and a Hydrologic and Hydraulic ("H&H") analysis using the Hydrologic Engineering Center's River Analysis System ("HEC-RAS"), sealed by the licensed Professional Engineer who prepared the analysis, for the air bridge at the Perry Bridge Site. The H&H analysis shall show the calculations performed to determine the design and 100-year frequency flood discharges at the Perry Bridge Site. The H&H analysis must clearly demonstrate the difference in hydraulic capacity, stability and flood water surface elevations prior to the placement of the air bridge and with the air bridge in place and include a backwater analysis of both conditions.

a. If the H&H analysis demonstrates that the air bridge fails to adequately protect the health, safety, welfare and property of the people, natural resources and the environment, then within ten (10) days of receipt of such a determination by the Department in writing, Sunoco shall either remove the air bridge, or submit an application to the Department for issuance of an Emergency Permit for modification of the obstruction/air bridge to immediately address the inadequacies determined through the Department's review of the H&H analysis.

b. If Sunoco elects to submit an application for issuance of an Emergency Permit, within 15 days of the Department's issuance of the Emergency Permit, Sunoco shall complete all modifications to the air bridge in a manner consistent with the proposal contained in its application for the Emergency Permit.



16. Within 60 days of the effective date of this Order, Sunoco shall submit a complete Water Obstruction and Encroachment Permit application that complies with the requirements of the Dam Safety and Encroachment Act, the Clean Streams Law, 25 Pa. Code, Chapter 105 and all other applicable statutory and regulatory requirements for the air bridge at the Perry Bridge Site.

a. Sunoco shall submit the complete Water Obstruction and Encroachment Permit application in the name of and on behalf of Toboyne Township, Perry County, who is the owner of the bridge

b. Sunoco shall provide the necessary information, including any bridge design changes determined to be necessary by the Department to meet the applicable requirements, on behalf of Toboyne Township.

c. If any design changes to the air bridge occur during the permitting process that result in required field work or other modifications including but not limited to the air bridge, approaches, or scour protection, Sunoco shall implement any work or other modifications required by the Water Obstruction and Encroachment Permit within thirty (30) days of the Department approving or acknowledging the use of a Water Obstruction and Encroachment permit for the air bridge at Perry Bridge Site.

17. In the event the Department determines that additional information, revisions, modifications or amendments are necessary to any permit, plan, any other submission, or restoration work required by this Order, then within ten (10) days after receipt of written notice from the Department, Sunoco shall submit to the Department such information, revisions, amendments or modifications, and/or complete the modified work, unless an alternative timeframe is approved by the Department in writing.

18. Upon the Department's written approval of all submissions required by Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, and 15a above, the suspension imposed by this Order shall be terminated and Sunoco may resume the work authorized by the permits described in Paragraph D, above, unless otherwise restricted due to other Department enforcement actions or the Stipulated Order.

19. Effective immediately, Sunoco shall temporarily stabilize all disturbed areas in accordance with the approved E&S Plans and in compliance with 25 Pa. Code § 102.22(b). During the period of the permit suspension, Sunoco shall continue to complete installation of permitted best management practices (BMPs) for PPP-ME2, including perimeter BMPs, in accordance with approved plans and the permit in areas where Sunoco or its contractors have commenced earth disturbance activities. Sunoco shall continue routine monitoring of the installed BMPs and shall perform all necessary ongoing operation and maintenance activities to ensure the BMPs continue to perform as designed, in accordance with the approved E&S Plans and permits.

20. With regard to any in-process and permitted HDD operation (as the HDD installation method is defined in the *'Trenchless Construction Feasibility Analysis'* dated December 2016 and approved as part of the Chapter 105 Permits), the permittee shall be permitted to periodically rotate the downhole drill bits or reamers and move them back and forth within the drill holes without advancing the drill hole or conducting additional drilling, to safeguard the integrity of the downhole equipment.

21. Sunoco shall immediately begin implementing the December 15, 2017 revisions to the *'HDD Inadvertent Return Assessment, Preparedness, Prevention and Contingency Plan'*, attached to this Order as Exhibit 3.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:



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Ramez Ziadéh, P.E.  
Acting Executive Deputy Secretary

RECEIVED

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SECRETARY'S BUREAU  
FRONT DESK

Condensed Vita  
**DR. IRA D. SASOWSKY**

Geologist & Principal  
Sasowsky Earth Science Consultants, Ltd.

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<b>Professional Expertise</b>	Karst hydrogeology & geomorphology Land subsidence & sinkholes Expert review and testimony Groundwater supply Groundwater hydrology Mine hydrology & flooding analysis Petroleum geology Natural water geochemistry Groundwater sampling Acid mine drainage Communication of science to the public Thirty-five years field experience in karst areas of 30 states, Caribbean, Brazil, and Europe
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<b>Education</b>	Ph.D., Geology, The Pennsylvania State University, 1992 M.S., Geology, The Pennsylvania State University, 1988 B.S., Geology, University of Delaware, 1983
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<b>Certifications</b>	Professional Geologist, PG-000417G, Pennsylvania Professional Geologist, PG-5504, Tennessee OSHA 40-Hour Hazardous Waste Site Operations OSHA 8 Hour Hazardous Waste Site Supervisor
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<b>Professional Experience &amp; Responsibilities</b>	<b>2000 - Present</b> <b>Geologist &amp; Principal</b> <b>Sasowsky Earth Science Consultants, Ltd., Akron, Ohio</b> Technical consultation to individuals, corporations, and legal firms on geologic and hydrogeologic concerns. Representative projects include groundwater availability & quality for developers, evaluating causes of land subsidence and foundation failure, resolving excess water problems, and characterizing petroleum reservoir properties. Work includes technical review, development of reports and exhibits, and provision of expert opinion.
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**1995 - Present**  
**Professor, Dept. of Geosciences**  
**Director, Center for Environmental Studies,**  
**University of Akron, Akron, Ohio**  
Asst. Prof. August 1995-2001; Assoc. Prof. 2001-2007.  
Responsible for teaching Environmental Geology, Petroleum Geology, Groundwater Hydrology, Advanced Groundwater Hydrology, Geoscience Information, Geomorphology. Activities include development and execution of research programs, grant writing, guidance of graduate students in their thesis work, presentation of research at professional meetings, publishing scholarly articles, and public service.



5/7/18 Hbg  
SX P-9

**1991 - 1995**

**Hydrogeologist, Nittany Geoscience, Inc.  
State College, Pennsylvania**

Hydrogeologic consultation to municipalities, private citizens, and corporations on environmental geology, and groundwater supply, contamination, and cleanup problems. RCRA & CERCLA sites were bulk of projects. Involved in all phases of work including: preparation of proposals, authoring of technical workplans, interpretation of regulations, supervision of field and office activities of both technical and non-technical staff, development of unique solutions to technical problems, interpretation of data (geochemical, hydrologic, and geologic), and authoring and review of reports.

**1983 - 1989**

**Research Assistant, Materials Research Lab,  
The Pennsylvania State University, University Park, Penna.**

Designed and conducted experiments to develop infrared window materials. Effected computer analysis of nuclear waste isolation materials. Maintained laboratory equipment including high-temperature ovens with hydrogen sulfide atmospheric systems. Presented results to contract sponsors and at national professional meetings.

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**Awards**

Edwards Aquifer Authority Distinguished Lecturer, 2014  
Distinguished Service Award, GSA Hydrogeology Division, 2009  
Karst Waters Institute Service Recognition Award (Droplet), 2009  
Certificate of Appreciation (GSA Committee on Accreditation), 2008  
Presidential Citation, Association of Environmental and Engineering Geologists, 2007, 2008, 2010  
Science Award, National Speleological Society, 2006  
Elected Fellow, Geological Society of America, 2003  
Distinguished Service Award, Association of Ohio Pedologists, 2002  
Certificate of Merit, National Speleological Society, 1998  
Graduate Fellowship, Cave Research Foundation, 1990  
RASS Graduate Research Fellowship, 1989  
Elected Fellow, National Speleological Society, 1989  
Jeff Jefferson Research Award, British Cave Research Association, 1989  
Ralph Stone Research Award, National Speleological Society, 1988

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**Professional  
Affiliations &  
Responsibilities**

Geological Society of America  
(Co-editor, *Environmental & Engineering Geoscience*, 2006-2015)  
(Editor of *Hydrogeologist* newsletter, 1997-2001)  
(Chairman Historical Comm., Hydrogeo. Div., 1997)  
(Nominating Comm., Hydrogeo. Div., 2003)  
(Long Range Planning-Publicat. Comm., 1998-2002)  
(Technical Prog. co-chair, North-Central Mtg., 2006)  
American Geophysical Union

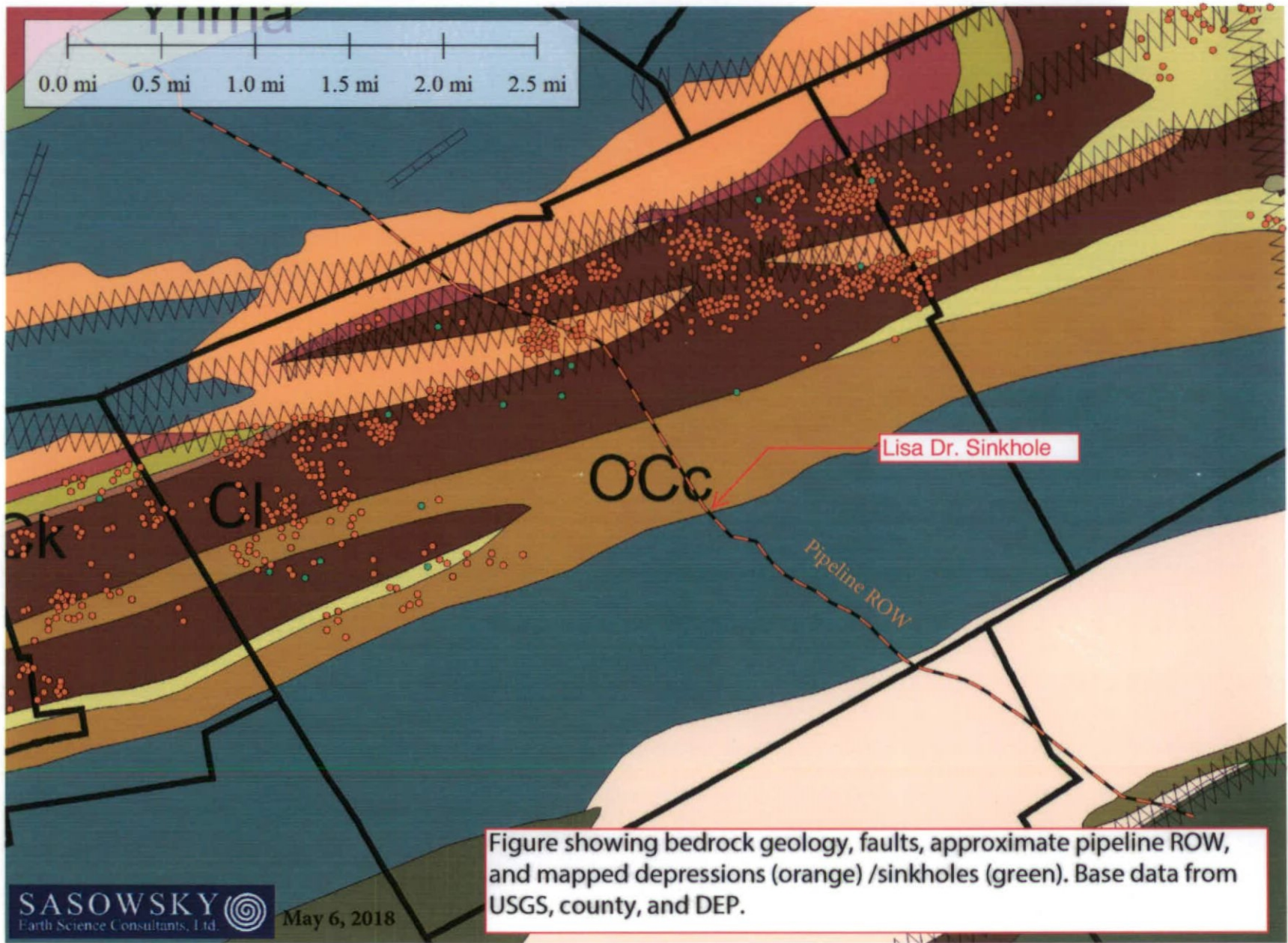
Association of Ground Water Scientists and Engineers, National Ground Water Association  
(Reviewer for the journal *Ground Water*, 1992-1997)  
(Associate Editor for journal *Ground Water*, 1997-2002)  
American Association of Petroleum Geologists  
(House of Delegates, 1996-2014)  
(Academic Liaison Committee, 1997-2000)  
(Faculty Sponsor, Akron Student Chapter, 1998-present)  
(Matson Award Judge, 1998)  
(Univ. Rep., East. Sect. Membership Comm., 1998-2001)  
(HOD Nominations Committee, 8/00)  
Cave Conservancy of the Virginias, Board Member (2005-present)  
National Speleological Society  
(Earth Sci. Editor for *Jour. of Cave & Karst Studies*, 1994-2009)  
Karst Waters Institute  
(Board of Directors; Vice-Pres., Communications, 1994-2009)  
British Cave Research Association  
National Association of Geology Teachers  
Sigma Xi, The Scientific Research Society (1997-present)  
Northern Ohio Geological Society  
(Delegate to AAPG, 1996-2014)  
(Member-at-large, 1998-1999)  
U.S. Environmental Protection Agency, Grant panel peer reviewer

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**Publications**

Dr. Sasowsky has edited 10 scientific books, and been an author of numerous technical reports, and over 40 scientific articles which have appeared in journals such as: *Earth & Planetary Science Letters*, *Environmental Geology*, *Geology*, *Geomorphology*, *Journal of Cave & Karst Studies*, *Journal of Hydrology*, *Quaternary Research*, *Science*, *Water Research*, and *Water Resources Research*. He has presented his scientific work and published more than 100 abstracts at national and international meetings, as well as giving invited lectures at many universities.

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