

# MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

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via Electronic Filing

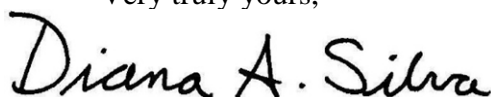
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P.,  
Consolidated Docket Nos. C-2018-3006116

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission (PUC) is Exhibit E and the Certificate of Service to Sunoco Pipeline, L.P.'s Motion in Limine to Limit Testimony of Rosemary Fuller which was filed with the PUC on Friday, August 14, 2020. Because Exhibit E was over 10MB, we were unable to file it with the Motion in Limine to Limit Testimony of Rosemary Fuller. Please accept this separate filing as part of Sunoco Pipeline, L.P.'s Motion in Limine to Limit Testimony of Rosemary Fuller. Thank you.

Very truly yours,



Diana A. Silva  
For MANKO, GOLD, KATCHER & FOX, LLP

DAS/bad/11842.019

Enclosure

cc: All Counsel and Pro Se Parties on attached Service List

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# **EXHIBIT E**

1  
2  
3 **BEFORE THE**  
4 **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

5  
6 MEGHAN FLYNN :  
7 ROSEMARY FULLER :  
8 MICHAEL WALSH :  
9 NANCY HARKINS :  
10 GERALD MCMULLEN : DOCKET NOS. C-2018-3006116  
11 CAROLINE HUGHES and : P-2018-3006117  
12 MELISSA HAINES, :  
13 Complainants :  
14 v. :  
15 :  
16 SUNOCO PIPELINE L.P., :  
17 Respondent :  
18

19 **SURREBUTTAL TESTIMONY OF**  
20 **ROSEMARY FULLER**  
21 **ON BEHALF OF**  
22 **FLYNN COMPLAINANTS**  
23

24  
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33

34 Attorney for Complainants  
35  
36

1 **Q. Have you had an opportunity to review the June 15, 2020 written Rebuttal**  
2 **Testimony of Richard King, P.G. on behalf of his client Sunoco Pipeline L.P.?**

3  
4 A. Yes, I have.

5  
6 **Q. What is the purpose of your testimony?**

7  
8 A. To correct Mr. King's incorrect and false conclusions about our well contamination  
9 related to the Mariner East 2/2X pipeline construction and to explain how our well, our  
10 water, our home and our health has been impacted by this contamination.

11  
12 **Q. Do you understand that you may not express scientific or technical opinions in your**  
13 **testimony?**

14  
15 A. Yes, I do. My testimony is limited to demonstrable facts that do not require a scientific  
16 or technical background to understand.

17  
18 **Q. I draw your attention to Page 3, line 18. Richard King refers to your "allegation" of**  
19 **contamination. Do you take issue with his use of the word "allegation" here?**

20  
21 A. Yes, I do. If your home has clean water and then after intense drilling activity in  
22 your yard it turns brown and smelly and it stays that way, you don't need to be a scientist  
23 to know that your water's been contaminated. Contamination has an ordinary meaning  
24 that everyone except Mr. King seems to understand. What the contents of the smelly  
25 brown solution are is a separate question. I'm told there are reported cases that support  
26 what I'm saying such as *Graham v. Harleysville Ins. Co.*, 429 Pa. Super. 444 , 632 A. 2d  
27 939 (1993)

28  
29 **Q. At some point did Sunoco engage a firm to perform tests on your water supply?**

30  
31 A. Yes, it did. Sunoco retained Pace Labs and they subcontracted the solids testing to R. J.  
32 Lee Group.

33  
34 **Q. How do you know that?**

35  
36 A. They sent people to our property who conducted tests while I was there. Later, I saw  
37 some of the reports. So that's how I know.

38  
39  
40 **~~Q. Page 4, line 1, King alleges that your July bentonite contamination was "minute"~~**  
41 **~~and Page 11, line 18, that it was "miniscule". Do you agree with those descriptions?~~**

42  
43 **~~A. No. First of all it is absolutely misleading. Mr. King makes it seem that in July, 2019,~~**  
44 **~~there was one set of tests and one report. In fact, there were samplings on two different~~**  
45 **~~dates and a report for each date. And each report found that there was a major~~**  
46 **~~concentration,~~**



1 defined as ~~greater than 20% of the water being sampled~~. So for July, the reports say the  
2 exact opposite of what Mr. King says in his testimony.  
3  
4

5 **Q** ~~Then let's start with the report itself. Please identify the report.~~

6  
7 A. ~~This is the report from Sunoco's sub-sub contractor, R.J. Lee Group. It's dated July 15,~~  
8 ~~2019 and I've marked it as Surrebuttal Exhibit Fuller 1.~~  
9

10  
11 **Q** ~~Is the excerpt below taken from the report?~~

12  
13 A. ~~Yes, it is:~~  
14  
15

Client Sample No.: 07012019-642-02  
RJ Lee Group Sample No.: 001

Phase*	Approximate Composition**	Estimated Concentration*
Quartz	SiO <sub>2</sub>	Trace
Montmorillonite/Bentonite	(Na,Ca) <sub>0.3</sub> (Al,Mg) <sub>2</sub> Si <sub>4</sub> O <sub>10</sub> (OH) <sub>2</sub> ·nH <sub>2</sub> O	Major
Mica/Illite	K(Al,Mg,Fe) <sub>2</sub> (AlSi <sub>3</sub> O <sub>10</sub> )(F,OH) <sub>2</sub>	Trace
Feldspar	NaAlSi <sub>3</sub> O <sub>8</sub>	Minor

\*Amorphous content, crystalline phases present at trace levels and phases that are not currently part of the ICDD PDF 4+ database may remain unidentified.  
\*\*Compositions are approximate and represent an idealized formula for that structure, not including possible elemental substitutions into that crystal structure.  
+Estimated concentration is based off of the dried solid material.

16  
17  
18 **Q.** ~~Does this excerpt identify the estimated concentration of bentonite in your well from~~  
19 ~~samples taken July 1 and July 19, 2019?~~  
20

21 A. ~~Yes, it does. It says so under "estimated concentration".~~  
22  
23

24 **Q** ~~So, if Mr. King is saying the concentration is miniscule is he accurately~~  
25 ~~characterizing the report?~~  
26

27 A. ~~No, it's clear he is mischaracterizing the report's findings as to the estimated bentonite~~  
28 ~~concentration.~~  
29

30 **Q.** ~~Do you know from your own personal knowledge what would be a major~~  
31 ~~concentration of bentonite?~~  
32

33 A. ~~No, I would not but, fortunately, the R.J. Lee Report cover letter tells us what it means by~~  
34 ~~major concentration.~~  
35



1 Q. ~~Would you quote from the cover letter where it defines a major concentration?~~  
2  
3 A. ~~Certainly. Here is the quote: "Major concentrations denote phases that are estimated~~  
4 ~~to make up more than 20% of the material by weight".~~  
5  
6 Q. ~~So, major concentration means more than 20% of the material by weight. Did the~~  
7 ~~report state how much more than 20% the bentonite concentration is in you~~  
8 ~~drinking water?~~  
9  
10 A. ~~No, not at all. For all I know it could be 21% or 61%. The report does not give us a clue.~~  
11  
12  
13 Q. ~~Page 4, line 2, and Page 10, line 14, King states that subsequent testing results did~~  
14 ~~not detect bentonite. Is this correct?~~  
15  
16 A. ~~No.~~  
17  
18 Q. ~~Mr. King on page 10 in lines 12 – 16 makes the following statement:~~  
19  
20 ~~This amount of bentonite cannot be construed anyway [s] as~~  
21 ~~"major contamination" as Fuller suggests in her testimony. If~~  
22 ~~indeed the bentonite that was detected was related to the HDD~~  
23 ~~work, it was not detected in a subsequent sample take on October~~  
24 ~~11, 2019 from the well, indicating that the occurrence of~~  
25 ~~bentonite in the well was a short-term event and decreased to~~  
26 ~~undetectable levels quickly.~~  
27  
28 Q. ~~Do you have a problem with his conclusion that the presence of bentonite in the well~~  
29 ~~must have been a "short-term" event?~~  
30  
31 A. ~~A very big problem. Once again, context is missing. He has failed to mention a number~~  
32 ~~of important pieces of data. This is convenient if you are set on reaching a certain~~  
33 ~~conclusion. To start with, if the entire world is not already aware of it, Sunoco has let~~  
34 ~~anyone interested in finding out that Bentonite is being used as a drilling fluid in~~  
35 ~~construction of the Mariner East pipelines. The company's own website advertises this~~  
36 ~~fact: <https://marinerpipelinefacts.com/construction/overview/>~~  
37 ~~Under the Clean Streams Law, "waters of the Commonwealth" include the aquifer under~~  
38 ~~my back yard. 35 P.S. § 691.1. So, the law prohibits certain discharges into my water~~  
39 ~~supply. Contamination of my water supply is covered under the definition of "pollution.~~  
40 ~~35 P.S. § 691.1. Leaving behind Bentonite and other substances that were not in my~~  
41 ~~family's water prior to drilling pollution. It was perfectly obvious that the use of~~  
42 ~~Bentonite in Sunoco's drilling activities on my property had the potential to pollute my~~  
43 ~~water supply. It is not my point here to discuss whether or not the company violated the~~  
~~Clean Streams Law. The point is simply that anyone testing for contamination on my~~



1 ~~property was aware that there was a reasonable prospect that Bentonite might be found in~~  
2 ~~our water system.~~

3  
4 ~~With this as context, what Mr. King has left out of his testimony was that Sunoco~~  
5 ~~dispatched investigators to test our water system on at least six (6) occasions. For~~  
6 ~~example, on August 31, 2017, investigators sampled our water but only looked for~~  
7 ~~analytes, chemical constituents; they did not look for solids, such as Bentonite. Why did~~  
8 ~~they not test for that and why was this not mentioned by Mr. King? On April 1, 2019,~~  
9 ~~they were out again. Once more, they did not look for solids, such as Bentonite. Why~~  
10 ~~did they not test for that and why was this not mentioned by Mr. King? On September~~  
11 ~~23, 2019, the same story.~~

12  
13 ~~The first time Sunoco tested for Bentonite was when they came out on July 2, 2019.~~  
14 ~~Thus, even though they knew there was likely a Bentonite issue, from at least August 31,~~  
15 ~~2017 until July 2, 2019 – a period of almost two years – Sunoco ignored this problem.~~  
16 ~~The significance of this omission is this: On July 2, 2019 the test results disclosed that~~  
17 ~~more than 20% of the water in samples drawn was contaminated with Bentonite.~~  
18 ~~Assuming that was not a fluke, at least two years passed in which my family was~~  
19 ~~drinking Sunoco-contaminated water and Sunoco and Mr. King do not believe this is~~  
20 ~~important enough to put in his rebuttal testimony.~~

21  
22 ~~As regards King's statement that this was a "short-term event," he reaches this conclusion~~  
23 ~~without regard to the presence of Bentonite in our water supply from August, 2017 to~~  
24 ~~July, 2019. He ignores the fact that tests were done in September, 2019 that could have~~  
25 ~~disclosed Bentonite but Sunoco chose not to look for it. Then, having ignored these~~  
26 ~~important facts, he looks at exactly three data points to draw the conclusion that the~~  
27 ~~presence of more than 20% of Bentonite in our water was short-term. Two of the three~~  
28 ~~analyses showed major concentrations. One showed only a trace. He picked the analysis~~  
29 ~~he liked and drew his own conclusion.~~

30  
31 ~~His analysis is also flawed because he assumes that the later findings must reflect the~~  
32 ~~actual conditions. For all he knows a later analysis in December, 2019 would have~~  
33 ~~showed a major concentration again. This is flawed science and you don't need to be a~~  
34 ~~scientist to know that you can't discern a trend based on so few data points. This kind of~~  
35 ~~reasoning is obviously flawed and cannot be considered seriously in this proceeding.~~

36  
37  
38 **Q. ~~Page 10, line 17, King questions the source of the bentonite. Do you believe it could~~**  
39 **~~be naturally-occurring?~~**

40  
41 **A. ~~Let's start with what he actually says about this and also look at the data that support his~~**  
42 **~~statement. Once again, pseudoscience reigns in Mr. King's testimony. His premise:~~**  
43 **~~more than 20% Bentonite in water is miniscule. His science: "It is possible for~~**  
44 **~~hornblende to weather to montmorillonite (bentonite)."(Testimony at 11, line 16.)~~**  
45 **~~Needless to say, he offers no data to explain how a finding of major concentrations on~~**  
46 **~~two separate dates in July, 2019 could have "weathered" into bentonite. Further, he~~**



1 identifies no scientific studies to support his “weathering” claims. This is palpable  
2 nonsense. There is no evidence in this proceeding to suggest that bentonite was present  
3 in our water system prior to the time Sunoco began drilling.  
4

5 **Q. Page 9, line 10, King asserts that “bentonite is not recognized as a contaminant**  
6 **under any applicable environmental regulatory standard. Do you agree with this**  
7 **statement?**

8  
9 A. The statement is meaningless. You can take at face value that bentonite is not  
10 specifically identified as a contaminant, but neither are maple syrup or soy sauce. If a  
11 trucking company dumped 100,000 gallons of either one into Pennsylvania waters, is  
12 King suggesting that is not contamination or pollution?  
13

14 **Q. I understand you recently discovered which Bentonite Michels is using at an HDD**  
15 **site near you?**

16  
17 A. Yes, I was driving past St. Simon and Jude Church and school when I saw the pallets of  
18 Cetco Super Gel X at the construction site on June 30, 2020, at 12:50 pm.  
19

20 **Q. What did you discover about this particular brand of bentonite?**

21  
22 A. I discovered that it was highly carcinogenic to humans and carries a “Danger” label.  
23

24 **Q. How did you discover this?**

25  
26 A. I went onto Michels website. Michels, Sunoco’s contractors for the HDD, have a  
27 Contingency Plan For Inadvertent Release of Non-Hazardous Drilling Fluid:  
28 [https://puc.sd.gov/commission/dockets/HydrocarbonPipeline/2014/HP14-](https://puc.sd.gov/commission/dockets/HydrocarbonPipeline/2014/HP14-002/contingency.pdf)  
29 [002/contingency.pdf](https://puc.sd.gov/commission/dockets/HydrocarbonPipeline/2014/HP14-002/contingency.pdf)  
30 It states that “Michels has access to several different brands of bentonite. The selection of  
31 which brand to use is typically based on price, availability and proximity to the proposed  
32 drill site. The following brands all have similar characteristics providing the same results  
33 as listed above. Potential Bentonite Brands – Max Gel • Super-Gel X • Bara-Kade. The  
34 Safety Data Sheets for each are:

35 1. Max Gel-

36 [http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/Infor-](http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/InformationalResources/HDD_Safety_Data_Sheets/M-I_MAX%20GEL_MSDS.PDF)  
37 [mationalResources/HDD\\_Safety\\_Data\\_Sheets/M-I\\_MAX%20GEL\\_MSDS.PDF](http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/InformationalResources/HDD_Safety_Data_Sheets/M-I_MAX%20GEL_MSDS.PDF)

38 2. Cetco Super Gel X - [https://www.mineralstech.com/docs/default-](https://www.mineralstech.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-us/sds-us-super-gel-x.pdf?sfvrsn=25ce0ad3_8)  
39 [source/performance-materials-documents/cetco/drilling-products/sds/sds-us/sds-us-](https://www.mineralstech.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-us/sds-us-super-gel-x.pdf?sfvrsn=25ce0ad3_8)  
40 [super-gel-x.pdf?sfvrsn=25ce0ad3\\_8](https://www.mineralstech.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-us/sds-us-super-gel-x.pdf?sfvrsn=25ce0ad3_8)

41 3. Bara-Kade-

42 [http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/Infor-](http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/InformationalResources/HDD_Safety_Data_Sheets/BENTONITE%20Performance%20Minerals_BARA-KADE_SDS.pdf)  
43 [mationalResources/HDD\\_Safety\\_Data\\_Sheets/BENTONITE%20Performance%20Mi-](http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/InformationalResources/HDD_Safety_Data_Sheets/BENTONITE%20Performance%20Minerals_BARA-KADE_SDS.pdf)  
44 [nerals\\_BARA-KADE\\_SDS.pdf](http://files.dep.state.pa.us/OilGas/BOGM/BOGMPortalFiles/IndustryResources/InformationalResources/HDD_Safety_Data_Sheets/BENTONITE%20Performance%20Minerals_BARA-KADE_SDS.pdf)  
45



1 ~~The Max Gel website noted above contains the following cancer warning:~~

2  
3  
4  
5 **CHRONIC EFFECTS:**  
6 **CARCINOGENICITY:**

IARC: Not listed. NTP: Not listed. OSHA: Not regulated.

ATTENTION! CANCER HAZARD. CONTAINS CRYSTALLINE SILICA WHICH CAN CAUSE CANCER. Risk of cancer depends on duration and level of exposure.

IARC Monographs, Vol. 68, 1997, concludes that there is sufficient evidence that inhaled crystalline silica in the form of quartz or cristobalite from occupational sources causes cancer in humans. IARC classification Group 1.

7  
8  
9  
10  
11  
12  
13 **Q. ~~Does this concern you?~~**

14  
15  
16 A. ~~Yes, of course. Our Quartz and has now become potentially carcinogenic contamination. The Safety Data Sheets for these bentonite products warns "Danger", "May Cause Cancer", "Health Hazard: Carcinogenicity". "Routinely wash work clothing and protective equipment to remove contaminants". "Warning: This product can expose you to Quartz (SiO2) which is known to cause cancer".~~

17  
18  
19  
20  
21  
22 **Q. ~~Are you concerned that your "major concentration" of quartz may be harmful to your health?~~**

23  
24  
25 A. ~~Yes, very concerned. The Toxicological Information of the Cetco Super Gel X bentonite Safety Data Sheet for Quartz (SiO2) (CAS 14808-60-7) includes:~~

- 26 • ~~IARC Monographs. Overall evaluation of Carcinogenicity:~~  
27 ~~Quartz (SiO2) (CAS 14808-60-7) - 1 Carcinogenic to humans~~
- 28 • ~~OSHA Specifically Regulated Substances (29 CFR 1910.1001-1053):~~  
29 ~~Quartz (SiO2) (CAS 14808-60-7) - Cancer, lung effects, immune system~~  
30 ~~effects, kidney effects~~
- 31 • ~~U.S. National Toxicology Program (NTP) Report on Carcinogens:~~  
32 ~~Quartz (SiO2) (CAS 14808-60-7) - Known to be Human Carcinogen~~
- 33 • ~~U.S. Federal Regulations: This product is a "Hazardous Chemical" as~~  
34 ~~defined by the OSHA Hazard Communication Standard, 29 CFR 1910.1200~~

35  
36  
37 **Q. ~~During HDD drilling activities did you ever see any Sunoco workers wearing PPE?~~**

A. ~~Yes, I did.~~

**Q. ~~Were you ever warned about the dangers of inhaling any of the dust near any construction sites?~~**



1 A. ~~No, we weren't. For all of us who were near to HDD sites while these products were~~  
2 ~~being used, we have something to worry about. We were not offered protective~~  
3 ~~equipment. Every day I walked my dogs at the HDD drill site at Sleighton Park, the site~~  
4 ~~of 4 sinkholes. I have no idea what my level of exposure to the carcinogenic dust was or~~  
5 ~~how harmful it has been to me or my family. We were never informed, warned or~~  
6 ~~protected. Some homes along the pipeline route are literally a few feet away from this~~  
7 ~~construction and the HDD activities.~~

8  
9 **Q. ~~Do you have other concerns about how this might have impacted your health or the~~**  
10 **~~health or your family?~~**

11  
12 A. ~~Yes, I do. These carcinogens like Quartz and Crystalline Silica in my water present~~  
13 ~~another problem. One potential source of human exposure to environmental pollutants is~~  
14 ~~through chemically contaminated domestic tap water. The most obvious route of~~  
15 ~~exposure to contaminants is by ingestion. However, dermal and inhalation exposure may~~  
16 ~~also occur within the home. Several studies have shown that showering increases the~~  
17 ~~likelihood that an organic compound will be volatilized, resulting in human exposure~~  
18 ~~through the skin or by inhalation~~  
19 ~~(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2874882/?report=reader>).~~ Showering  
20 ~~produces respirable droplets that may serve to deposit pollutants within the respiratory~~  
21 ~~tract. My family and I have been showering in this water containing crystalline silica~~  
22 ~~every day for over a year since we were contaminated with HDD drilling fluid.~~

23  
24  
25 **Q. ~~Did anything else, apart from the carcinogenicity of some of the products in the~~**  
26 **~~Cetco Super Gel X bentonite mix, bother you about this bentonite mix?~~**

27  
28 A. ~~Yes, the fact that it contains a proprietary Trade Secret substance and we don't know~~  
29 ~~what that is (page 3 of Cetco Super Gel X SDS) - [http://www.cetco.com/docs/default-](http://www.cetco.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-canada-english/sds-canada-super-gel-x.pdf?sfvrsn=628af566_2)~~  
30 ~~[source/performance-materials-documents/cetco/drilling-products/sds/sds-](http://www.cetco.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-canada-english/sds-canada-super-gel-x.pdf?sfvrsn=628af566_2)~~  
31 ~~[canada-](http://www.cetco.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-canada-english/sds-canada-super-gel-x.pdf?sfvrsn=628af566_2)~~  
32 ~~[english/sds-canada-](http://www.cetco.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-canada-english/sds-canada-super-gel-x.pdf?sfvrsn=628af566_2)~~  
33 ~~[super-gel-x.pdf?sfvrsn=628af566\\_2](http://www.cetco.com/docs/default-source/performance-materials-documents/cetco/drilling-products/sds/sds-canada-english/sds-canada-super-gel-x.pdf?sfvrsn=628af566_2)~~

34 **Q. ~~Page 6, lines 9-17 Richard King states that "Fuller told Groundwater &~~**  
35 **~~Environmental Services, Inc ... that the well casing (the annular space between the~~**  
36 **~~overburden and the casing) was not grouted." Did you make that statement to~~**  
37 **~~GES?~~**

38 A. No, I did not. I have no idea what that even means. We were not involved in the  
39 construction of our well. We simply took it over from the previous owners of our  
40 property.

41  
42 **Q. ~~Page 13, line 6, King once again states "The fact that the Fuller's well casing was not~~**  
43 **~~grouted to seal off the annular space between the well casing and the overburden,~~**  
44 **~~provides a potential pathway for soil and upper sections of the weathered bedrock~~**



1 ~~to enter the well, particularly if the well is over-pumped.” Would you like to~~  
2 ~~comment on this statement?~~

3 A. ~~Yes, I would. I again repeat that I have never made a statement to anyone about the~~  
4 ~~construction or the grouting of our well. I have no knowledge of any of this. We do not~~  
5 ~~over-pump our well and what he means by that is unclear because he uses words like~~  
6 ~~“potential pathway” and offers no data that in fact it was a pathway. This is sheer,~~  
7 ~~unscientific speculation.~~

8  
9 **Q. Page 13, lines 9-11, King goes on to state that ‘GES reported that during the**  
10 **September 23, 2019 sampling event, Fuller explained that the well was pumped**  
11 **continuously for several hours to fill the swimming pool at the residence”. Would**  
12 **you like to comment on this?**

13  
14 A. Yes, I would. If ever we need to top up our pool it is only an inch or two of water. We  
15 do not pump our well continuously for hours to top up the pool. And if we had, there  
16 would not have been a problem since we have always had a good yield until the HDD in  
17 July last year. Richard King confirmed that himself in his statement on our yield on Page  
18 7, lines 9-17.

19  
20 We have lived in our home with the same well for 17 years. We have never, until now,  
21 had a problem with the quantity or quality of our water. This can be verified by our well  
22 company. Basically, Mr. King is hoping to suggest that we caused our own problem,  
23 even though the problem did not exist until Sunoco began drilling. His theory falls flat  
24 because, if correct, we would have had bentonite issues a long, long time ago. We did  
25 not have such a problem and he offers no evidence that we did.

26  
27 **Q. ~~Page 14, line 11. King again states there are no indications whatsoever of “major~~**  
28 **~~contamination” in the Fuller well as is alleged. What is your response to that?~~**

29  
30 A. ~~I have already addressed the issue of major concentration. I used the term “major~~  
31 ~~contamination” – a different term – in a commonsense, non-scientific way. My family~~  
32 ~~and I believe that our significant poor water quality, damage to our plumbing system and~~  
33 ~~adverse health issues are the result of major contamination. Nothing in King’s report~~  
34 ~~denies what I have described in terms of poor water quality, plumbing damage and~~  
35 ~~adverse health.~~

36  
37 **Q. ~~Page 17, line 3, King concludes that “to a reasonable degree of scientific certainty ...~~**  
38 **~~the evidence does not support the presence of a fracture trace across the Fuller~~**  
39 **~~residence property”. How would you respond to that?~~**

40  
41 A. ~~I understand from this statement that apparently the photogeological mapping that~~  
42 ~~Sunoco submitted to the DEP for the permit was, in fact, incorrect, as was the~~  
43 ~~measurement of our well from the proposed HDD which Sunoco measured as 490 ft~~

1 away when it is, in fact, only 150 ft away. This simple measurement was later corrected  
2 by Sunoco.

3 With regards to our property and the originally interpreted fracture line, I would argue  
4 that no geotechnical boring was installed in the immediate vicinity of our property and  
5 therefore no conclusion can be reached about the exact location of any fracture trace line  
6 or fissure even though King noted a topographic slope break to the northwest of the  
7 property (see Figures 7 & 8, Exhibit SPLP RK-9 and SPLP RK-10) that, if extended  
8 southeast would cross the property. Concluding to “a reasonable degree of certainty” is  
9 not sufficient to make a definitive fact-based conclusion.

10  
11 **Q. Are you aware of any recurring sinkholes in an area that has already suffered sinkholes**  
12 **followed by geophysical testing?**

13  
14 A. Yes, Lincoln Highway (Business Route 1) in Exton, the same area as Lisa Drive where families  
15 had to permanently abandon their homes due to sinkholes. Since the close of hearings in this case  
16 last November, there have been more sinkholes. In the past few weeks alone, Sunoco’s work  
17 there has caused 7 or 8 sinkholes. This is an extremely dangerous situation that must be taken  
18 very seriously. Any of these sinkholes could expand further, removing the ground supporting one  
19 or more of the active NGL pipelines – the Mariner East 1, the GRE, or the nearby Enterprise  
20 pipeline, also carrying highly volatile natural gas liquids. If there were a rupture, we know from  
21 the risk assessments that a huge flammable cloud would form within minutes without any  
22 opportunity for warnings or evacuations. This too often recurring situation gives us all  
23 nightmares.

24  
25 **Q. Page 7, line 18, Richard King makes an assumption that the perceived decrease in**  
26 **water pressure may be related to lack of maintenance of the filter system and that**  
27 **there was a build-up of sediment within the filter which would restrict the flow of**  
28 **water through the system, causing the decrease in water pressure that prompted the**  
29 **call to the DEP. What are your thoughts about this?**

30  
31 A. Our well company regularly monitors our equipment. We regularly change the filters.  
32 We did notice a build-up of sediment in our system and in our toilet tanks immediately  
33 following contamination. We showed this to our Right of Way agent, to GES who took  
34 pictures and samples, to our well company who stated they had never seen this before. I  
35 sent pictures and video footage of toilet tank mechanisms jamming, water running  
36 continuously through the system (and therefore into our septic) to GES, Percheron Field  
37 Services and the DEP. Sunoco sent in a plumbing consultant who inspected our entire  
38 property and took samples. We never heard back from Sunoco about his report and we  
39 were told his samples were “unusable” but never given any explanation.

40  
41 **Q. Has the sediment from the bentonite/ contamination become a problem for you?**

42  
43 A. We have suffered serious sediment contamination in our entire plumbing system since  
44 we were negatively impacted last year. I called in Master Plumbers from Philadelphia  
45 who stated there was no point doing anything until we were on public water. He also had  
46 never seen this amount of sediment in a toilet tank before. When our well company  
47 inspected the filter it had only recently been changed. The amount of sediment in the



1 filter was excessive and it had only just been replaced the week before. We change the  
2 filter every month now whereas it used to be approximately every five to six months  
3 before HDD activities.  
4  
5

6 **Q. Did you know you were at high risk of well water contamination due to the HDD?**  
7

8 A. Yes, we had discussed the situation with an industry friend which is why I submitted all  
9 my HDD Reevaluation Report to the DEP, asking for answers and protection.

10 [https://www.dep.pa.gov/Business/ProgramIntegration/Pennsylvania-Pipeline-Portal/Pages/HDD-  
11 Reevaluation-Reports.aspx](https://www.dep.pa.gov/Business/ProgramIntegration/Pennsylvania-Pipeline-Portal/Pages/HDD-Reevaluation-Reports.aspx)  
12

13 **Q. Did you know from Sunoco's Water Supply Plan that you were at risk of well  
14 contamination?**

15 A. No, none of these were ever pointed out to me. It was only after our well was  
16 contaminated that I read Section 5.0 Risk Assessment "Additional risks to private and  
17 public water supplies may result from the activities associated with the HDD method of  
18 pipeline installation, specifically, the use of drilling fluids during the drill process".  
19

20 **Q. Did you know that you were supposed to stop using your well during HDD  
21 activities? See page 19, halfway down:**

22 [http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/HDD\\_R  
23 eevaluation\\_Reports/Sunoco\\_Response/Sunoco%27s%20Response%20to%20DEP%20-%205-21-  
24 18%20-%20Valley%20Road%20Crossing.pdf](http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/HDD_Reevaluation_Reports/Sunoco_Response/Sunoco%27s%20Response%20to%20DEP%20-%205-21-18%20-%20Valley%20Road%20Crossing.pdf)

25 A. No, we were never told that.  
26

27 ~~**Q. In Sunoco's Pennsylvania Pipeline Project Operations Plan, it clearly states on Page  
28 16: "If any impact to a private water supply attributable to pipeline construction is  
29 identified after post-construction sampling, SPLP will restore or replace the  
30 impacted water supply to the satisfaction of the private water supply owner". It's  
31 been a year now since your well was impacted and that you've been living on bottled  
32 water. Do you feel Sunoco has complied with this requirement?**~~

33 ~~[http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/Summa  
34 ry\\_of\\_Order/Para%209%20-%20Exhibit%20E%20-%20Operations%20Plan.pdf](http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/Summary_of_Order/Para%209%20-%20Exhibit%20E%20-%20Operations%20Plan.pdf)~~  
35

36 ~~A. No, I don't. At the end of the day, you have to accept a resolution that is satisfactory to  
37 Sunoco, not to the private water supply owner, as all the plans state.~~  
38

39 ~~**Q. And there are requirements of the permits with regards to private water supplies,  
40 correct?**~~

41  
42 ~~A. Yes. The permit conditions include the protection of private water supplies that may be  
43 impacted by Chapter 105 activities to ensure drinking water such as ours are protected  
44 from pipeline construction activities.~~  
45

46 ~~DEP permit No. E23-524 also states (page 4, "Special Conditions: Water Supplies":~~  
47

- 1 ~~A. 1. "If the project results in a pollution event which may impact any public or~~  
2 ~~private water supplies, the permittee shall immediately notify the Department and~~  
3 ~~the potentially affected public or private water supplies of the pollution event"~~  
4 ~~B. In the event the permittee's work causes adverse impacts to a public or private~~  
5 ~~water supply source, the permittee shall immediately notify the Department and~~  
6 ~~implement a contingency plan, to the satisfaction of the public and private water~~  
7 ~~supply owners that addresses all adverse impacts imposed on the public and~~  
8 ~~private water supply as a result of the pollution event, including the restoration or~~  
9 ~~replacement of the impacted water supply".~~

10 <http://files.dep.state.pa.us/ProgramIntegration/PA%20Pipeline%20Portal/MarinerEastII/Permits/E23-%20524%20-%20Delaware%20County/PPP%20E23-524.pdf>

13 **Q. Do you feel the regulatory system, the processes and Sunoco have let you down?**

14 A. Yes, I do. Very much so. In Domenic Rocco's Testimony in the Joint Hearing on  
15 Pipeline Safety, Senate Environmental Resources and Energy and Consumer Protection  
16 & Professional Licensure Committees (<http://pasenategop.com/consumer/wp-content/uploads/2018/03/dep.pdf>), March 20, 2018, he stated "The Department (DEP)  
17 reiterates that there is a need for a more comprehensive and effective approach to  
18 private well protection and regulation." I couldn't agree more. The well owners along  
19 the 350-mile route of Mariner East 2 have been a vulnerable, under-protected and  
20 under-represented group of people. Article 1, Section 27 of the Pennsylvania  
21 Constitution states that "The people have a right to clean air, pure water, and to the  
22 preservation of the natural, scenic, historic and esthetic value of the environment".  
23 Sadly, in the greedy pay-to-play game for gas and oil in the State of Pennsylvania, this  
24 "right" of the citizens has not been upheld and has subsequently become irrelevant and  
25 meaningless.  
26

27  
28 **Q. Have you finished your testimony?**

29  
30 A. Yes, I have, but I reserve my right to supplement this testimony based on responses  
31 produced by SPLP and any other additional information that may develop.  
32

33 **COMPLAINANTS OFFER SURREBUTTAL EXHIBIT FULLER – 1 INTO EVIDENCE**



July 15, 2019

Ms. Holly Smoker  
Groundwater & Environmental Services, Inc.  
1500 Sycamore Road  
Suite 340  
Montoursville, PA 17754

RE: Project: 07012019-642-02  
Pace Project No.: 30311960

Dear Ms. Smoker:

Enclosed are the analytical results for sample(s) received by the laboratory on July 02, 2019. The results relate only to the samples included in this report. Results reported herein conform to the most current, applicable TNI/NELAC standards and the laboratory's Quality Assurance Manual, where applicable, unless otherwise noted in the body of the report.

Some analyses have been subcontracted outside of the Pace Network. The subcontracted laboratory report has been attached.

The sample was subcontracted to RJ Lee Group, Inc., 350 Hochberg Road, Monroeville, PA 15146 for XRD analysis. The results of this analysis are reported on the RJ Lee Group, Inc. data tables.

Revision 1 - This report replaces the July 10, 2019 report. This project was revised on July 12, 2019 to include a revised RJ Lee report. (Greensburg, PA)

Revision 2 - This report replaces the July 12, 2019 report. This project was revised on July 15, 2019 to include a revised RJ Lee report. (Greensburg, PA)

If you have any questions concerning this report, please feel free to contact me.

Sincerely,

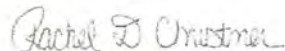


## REPORT OF LABORATORY ANALYSIS

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July 15, 2019  
Page 2



Rachel Christner  
rachel.christner@pacelabs.com  
724-850-5611  
Project Manager

Enclosures

cc: Mr. Ryan Bidelspach, Groundwater & Environmental  
Services, Inc.  
Mr. David Demko, GES (Exton)  
Ms. Stephanie Grillo, Groundwater & Environmental  
Services, Inc.



## REPORT OF LABORATORY ANALYSIS

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**LABORATORY REPORT-Rev02**  
**Revised to add estimated concentration description**

Pace Analytical Services  
1638 Roseytown Road, Suites 2, 3, & 4  
Greensburg, PA 15601  
ATTENTION: Rachel Christner  
Telephone: 724-850-5611

Revised Report Date: July 15, 2019  
Samples Received: July 2, 2019  
RJ Lee Group Job No.: PA020720190016  
Client Job No.: GES Project # 0205254-  
1116-160-xx Org 1402  
Purchase Order No.: 00046339

**ANALYSIS: X-ray diffraction (XRD) for crystalline phases**

**METHOD: Qualitative Phase Identification and Expansive Clay Determination**

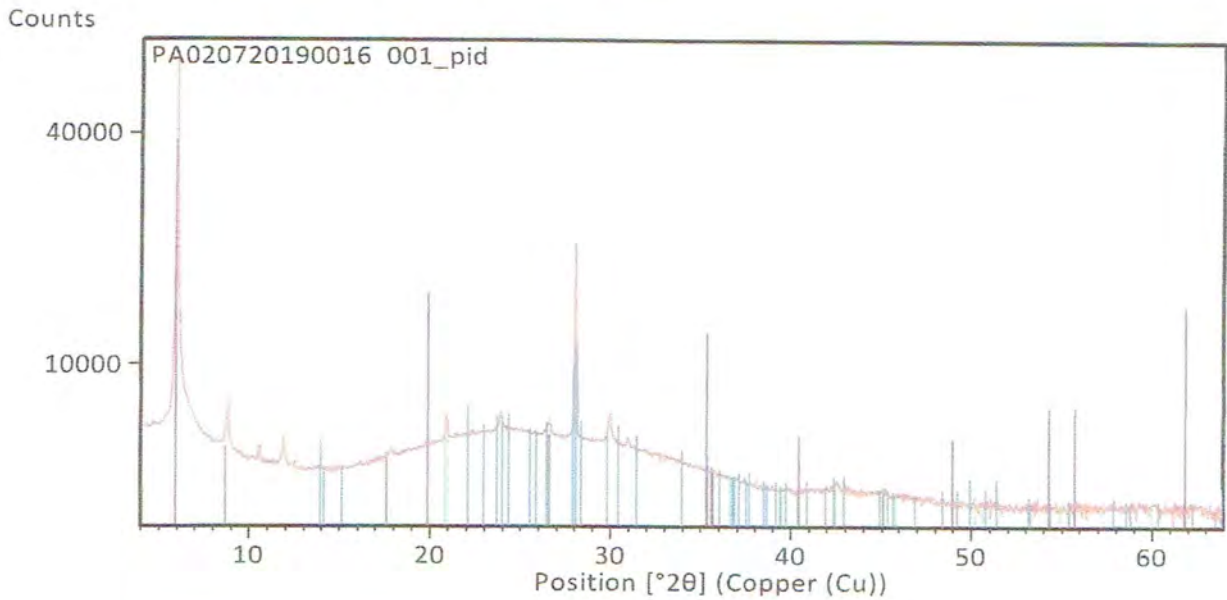
The as-received sample was filtered to remove the solids. The dried solids were hydrated in water and pipetted onto zero-background holders in order to preferentially orient the platy minerals and exaggerate the (00 $\ell$ ) basal spacing. The slide was allowed to air dry at room temperature. After drying, the sample was scanned on a PANalytical X'Pert Pro diffractometer using copper radiation. The sample was next placed in a desiccator filled with ethylene glycol. This step serves to expand any potential swelling clays. After removal from the desiccator, the sample was again scanned by XRD. The various scans were overlaid, the reflections were examined and the evolution of each was compared to the USGS Clay Mineral Identification Flow Diagram to determine which mineral each peak corresponds to. Results are presented below.

A portion of the dried sample was scanned on a PANalytical X'Pert Pro diffractometer using copper radiation and standard run parameters. The resulting diffraction pattern was then search-matched with PANalytical X'Pert HighScore software against phases in the ICDD PDF4+ database. Concentrations presented below are estimated based on peak intensities of identified crystalline phases only. Major concentrations denote phases that are estimated to make up more than 20% of the material by weight, minor concentrations estimate concentrations in the material between 20% and 5% by weight and trace concentration estimates a phases present in the sample at concentrations less than 5% by weight. Estimations may vary, as factors such as preferred orientation and the ability of each material to diffract x-rays, as well as phased concentration will affect peak intensities. Additionally, amorphous material may not necessarily be detected by XRD. In certain cases where amorphous material is present in major concentrations, its presence is evidenced by a broad hump in the background signal of an XRD scan, however minor concentrations of amorphous material may be present in a material with no evidence in the scan. Further, XRD is generally accepted to have a detection limit of approximately a few weight percent, depending on phase. It is possible that trace phases are present in the sample that remain unidentified.

Client Sample No.: 07012019-642-02  
 RJ Lee Group Sample No.: 001

Phase*	Approximate Composition**	Estimated Concentration
Quartz	SiO <sub>2</sub>	Trace
Montmorillonite/Bentonite	(Na,Ca) <sub>0.3</sub> (Al,Mg) <sub>2</sub> Si <sub>4</sub> O <sub>10</sub> (OH) <sub>2</sub> ·nH <sub>2</sub> O	Major
Mica/Illite	K(Al,Mg,Fe) <sub>2</sub> (AlSi <sub>3</sub> O <sub>10</sub> )(F,OH) <sub>2</sub>	Trace
Feldspar	NaAlSi <sub>3</sub> O <sub>8</sub>	Minor

\*Amorphous content, crystalline phases present at trace levels and phases that are not currently part of the ICDD PDF 4+ database may remain unidentified.  
 \*\*Compositions are approximate and represent an idealized formula for that structure, not including possible elemental substitutions into that crystal structure.  
 †Estimated concentration is based off of the dried solid material.



Phase	Match
Quartz	Low
Feldspar	Low
Mica/Illite	Low
Montmorillonite (bentonite)	High

Figure 1 –X-ray diffraction pattern of as-received specimen “07012019-642-02”, with position (degrees 2θ) along the x-axis and intensity (counts) along the y-axis (top). Corresponding legend denoting phase matches (bottom).



## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the persons listed below in accordance with the requirements of § 1.54 (relating to service by a party).

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Diana A. Silva, Esquire

Dated: August 17, 2020