



June 15, 2018

DRBC Commissioners &
Steven Tambini, Executive Director
Delaware River Basin Commission
P.O. Box 7360
West Trenton, New Jersey

**Re: Sunoco Pipeline L.P. – Pennsylvania Pipeline Project – Natural Gas
Liquids Pipeline: D-2015-018-1**

Dear DRBC Commissioners and Executive Director Tambini,

On December 9, 2015 you approved Docket No. D-2015-018-1 for construction of the Sunoco Pennsylvania Pipeline Project, more commonly referred to as the Mariner East project. The DRBC docket provides that:

“The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.”

In light of the severe and ongoing violations of the DRBC docket and the significant harm being inflicted on water resources of the basin, we are urging you to exercise your authority to suspend this docket and undertake a thorough review of the project, the damaging impacts it

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is having on water resources of the basin, and the need for significant restoration and mitigation activities. This thorough review should be complete and decisions finalized regarding appropriate responsive actions, including needed mitigation and restoration, before considering the appropriateness of reinstating the docket as is or with identified modifications.

Sunoco has materially changed a number of HDD Crossings without DRBC written approval in violation of its DRBC Docket.

DRBC Docket No. D-2015-018-1 explicitly mandates that:

“Any proposed change from an HDD to an alternative crossing method requires the written approval of the Executive Director prior to initiating construction of the alternative.”

Pursuant to several stop work orders, consent agreements, and settlement agreements with the Pennsylvania Department of Environmental Protection (PADEP) and other parties, including Delaware Riverkeeper Network, Sunoco has materially changed a number of HDD crossings to alternative crossing methods. Upon information and belief, the DRBC Executive Director has not provided written approval of any of these alternative crossing methods. As such, Sunoco has proceeded with its construction activity in express violation of its DRBC Docket No. D-2015-018-1.

Delaware Riverkeeper Network hereby requests that Executive Director Tambini, by his own initiative or at the instruction of the DRBC Commissioners, exercise the authority to suspend DRBC Docket No. D-2015-018-1 until such time that Sunoco comes into compliance.

Sunoco has released pollution into waterways and the environment in violation of its DRBC docket.

DRBC Docket No. D-2015-018-1 explicitly mandates that:

“Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, PADCNR, County Conservation Districts and the USACE, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. “

Therefore, any violation of any Pennsylvania permit requirements or standards, including those imposed by PADEP, PADCNR or County Conservation Districts, and/or any violations of any permit requirements or standards applicable from the US Army Corps of Engineers, is a violation of the DRBC docket. Compliance with Pennsylvania or US Army Corps permit obligations are an explicit condition of the DRBC docket, and violation thereof is an explicit violation of the DRBC docket. In fact, compliance with the state and federal permits of these other entities is a substantive mainstay of the DRBC docket.

In addition the docket mandates:

“With the exception of bentonite and water and PADEP-approved additives, no other additives shall be used in the HDD process. Used drilling mud and solids from the drilling process shall be disposed of at a State-approved disposal facility. “

Release of drilling mud and solids from the drilling process into the environment and/or waterways of the basin would be a clear and explicit violation of this docket condition.

By virtue of this letter, we are informing you that during construction of the Mariner East project that is the subject of DRBC Docket No. D-2015-018-1, Sunoco Pipeline LLC (hereinafter "Sunoco") has:

- ⇒ illegally discharged, and continues to discharge, pollution in the form of sediment-laden stormwater to waters of the basin on multiple occasions, causing or contributing to violations of water quality standards on numerous occasions and in various counties across the state of Pennsylvania and resulting in direct violations of Sunoco's permits for the project and violations of DRBC Docket No. D-2015-018-1; and
- ⇒ illegally discharged, and continues to discharge, thousands of gallons of drilling fluids into waters of the basin because of their construction activities in direct violation of Sunoco's permit obligations and as a result of these discharges has also violated DRBC Docket No. D-2015-018-1.

These discharges have contributed to, and continue to contribute to, violations (exceedances) of Pennsylvania's water quality standards. Sunoco has been subject to numerous Notices of Violation and Inspection Reports that document repeated instances of sediment-laden water being illegally discharged off the construction site and into the navigable waters of the Commonwealth of Pennsylvania thereby confirming that these are in fact violations of state permit conditions and as a result are violations of the DRBC docket. A list of violations known to the Delaware Riverkeeper Network are provided below, clearly demonstrating the extensive nature, quantity, and enduring character of the violations resulting in significant harm to water resources.

According to its docket, Sunoco is required to:

“report in writing to the Commission Project Review Section Supervisor any violation of the docket conditions within 48-hours of the occurrence or upon the docket holder becoming aware of the violation. In addition, the docket holder shall report in writing any violations of any other docket conditions to the Commission Project Review Section Supervisor within three days of the violation. The docket holder shall also provide a written explanation of the causes of the violation within 30 days of the violation and shall set forth the action(s) the docket holder has taken to correct the violation and protect against a future violation. “

By virtue of this letter we are inquiring whether Sunoco has in fact provided such written notifications and we request pursuant to the Freedom of Information Act, to receive copies of all such written notifications to the DRBC.

Given the extreme and ongoing nature of the violations being experienced as a result of construction of the Mariner East pipelines by Sunoco LLC we urge Executive Director Tambini, by his own initiative or at the instruction of the DRBC Commissioners, to suspend DRBC approval of the Sunoco Mariner East project and to revoke DRBC Docket No. D-2015-018-1. The significant, ongoing and repeated violations at issue are inflicting severe and enduring harm on the water resources of the basin. Of particular note, these are not just infrequent and accidental occurrences, they have become commonplace, are significant, and as described by Judge Elizabeth Barnes of the PUC, “Sunoco has made deliberate managerial decisions to proceed in what appears to be a rushed manner in an apparent prioritization of profit over the best engineering practices ...”

A listing of known violations

On at least the following dates, and at the following locations, information demonstrates that Sunoco has caused point source discharges of sediment-laden stormwater or other

pollutants to waters of the basin from its construction activities that violated (exceeded) water quality standards, applicable permits and the DRBC docket conditions. The discharges fall into two general categories, first are discharges of sediment-sediment laden water as a result of stormwater discharges; the second are those resulting from inadvertent returns (“IR”) of drilling fluids related to Sunoco’s hydraulic directional drilling construction efforts.

Sediment-Laden Stormwater Discharges

- ⇒ On or before May 9, 2017 and continuing until a date to be determined, the Department documented sediment laden water discharging out of the ground into a basin partially located on the right of way for the Project, and water running down the right of way on the other side of the road and into Clover Creek. The location of this discharge was off Fairview Road in Woodbury Township, Blair County.
- ⇒ On or before June 24, 2017 and continuing until a date to be determined, a Sunoco Compliance Report documented sediment-laden water depositions into an area over approximately 200 feet of stream channel. Sediment was also deposited within off right-of-way upland areas. The location of this discharge was east of N. Union Street, downslope from future Swatara Creek location, Dauphine County.
- ⇒ On or before June 28, 2017 and continuing until a date to be determined, the Department documented sediment pollution into Doubling Gap Creek and a downstream pond. The pond is located on the north side of the pipeline in Lower Mifflin Township, Cumberland County.
- ⇒ On or before June 28, 2017 and continuing until a date to be determined, the Department documented a discharge of sediment-laden water into tributaries of Swatara Creek located East of N. Union Street in Swatara Township & Middletown Borough, Dauphin County.
- ⇒ On or before July 5, 2017 and continuing until a date to be determined, the Department documented sediment discharges into a pond and other waterbodies. The receiving waters of the discharge was Opossum Creek, in in Lower Frankford Township,

Cumberland County.

- ⇒ On or before July 14, 2017 and continuing until a date to be determined, the Department documented stormwater flows that deposited sediment into vegetated areas and flows and deposits that reached the stream bank and into a waterbody resulting in silt depositions at that location. The general location of the discharge was between station number 10785+73 and 10785+00, Cumberland County.
- ⇒ On or before July 27, 2017 and continuing until a date to be determined, the Department documented sediment discharges into a number of different streams and wetlands. These waters are located in Lower Swatara Township and Middletown Borough, Dauphin County.
- ⇒ On or before August 2, 2017 and continuing until a date to be determined, the Department documented an environmental cleanup underway of contaminated soils in the area near Vinemont road, with waters leaving the soil pit. The receiving water was the Cacoosing Creek, located in South Heidelberg, Berks County.
- ⇒ On or before August 15, 2017 and continuing until a date to be determined, the Department documented an open cut to Bachman Run that was receiving a discharge of sediment laden water as a result of multiple spring seeps. The discharge ran downslope into Bachman Run. The location of the discharge was west of Mt. Wilson Road South Annville Township, Lebanon County. The Department documented plumes of sediment miles downstream from the discharge. Department Personnel also observed potential impacts at a trout hatchery down slope. The Department issued a Notice of Violation for this active release of sediment into Bachman Run.
- ⇒ On or before August 18, 2017 and continuing until a date to be determined, the Department documented sediment laden water that turned a pond cloudy. The inspection occurred at the cross over at Rock Run, which flows into Conodoguinet Creek. The location of this discharge is in Upper Frankford and North Middleton, Cumberland County. The sediment laden water followed a private access road until it hit a water bar and flowed down slope through a wooded area and into Rock Run at a point 30 feet south. Sediment

deposition was observed in the floodway at the point the flow entered Rock Run and in the stream bed between the point of entry and downstream pond 700 feet to the south.

- ⇒ On or before August 21 and continuing until a date to be determined, Department personnel arrived on site to multiple complaints of sediment-laden water being discharged into the East Branch of the Conestoga River in the area of Joanna Road. A video showed heavy flows of sediment-laden water coming off Joanna Road. The impacted area was located in South Heidelberg Township, Berks County.
- ⇒ On or before September 11, 2017 and continuing until a date to be determined, the Department documented an open cut to Hammer Creek and associated wetland with a heavy sediment discharge in and near the wetland. The open trench was completely filled with water. The location was a tributary to Hammer Creek in Heidelberg Township, Lebanon County.
- ⇒ On or before September 11, 2017 and continuing until a date to be determined, the Department documented an open cut to Bachman Run where there was standing water in the access road and north of the access road adjacent to the stream. There was 1-5 inches of accumulated sediment in the stream. The location of this discharge was in South Annville Township, Lebanon County.
- ⇒ On or before September 12, 2017 and continuing until a date to be determined, the Department documented upland soils had been deposited within a wetland. The sediment also traveled downslope and deposited into a streambed. The incident occurred in Spring Township, Berks County and the water affected was an unidentified tributary to Cacoosing Creek.
- ⇒ On or before September 14, 2017 and continuing until a date to be determined, the Department documented discharges of turbid water into a wetland in addition to discharges upslope of the wetland. The waters affected were wetlands and tributaries of Little Cocalico Creek located immediately east of Swamp Church road in West Cocalico Township, Lancaster County.
- ⇒ On or before September 18, 2017 and continuing until a date to be determined, the

Department documented a pollution event of a wetland. One cubic yard of soil and rock had fallen into the wetland. The location of the discharge was

- ⇒ North Middleton, Cumberland County. The water affected was an unidentified tributary into Meetinghouse Run.
- ⇒ On or before, September 20, 2017 and continuing until a date to be determined, the Department documented sediment laden water discharging into a wetland and waterbody. The receiving water was Meetinghouse Run, a tributary of Conodoguinet located in North Middleton, Cumberland County.
- ⇒ On or before October 31, 2017 and continuing until a date to be determined, the Department documented a discharge of sediment-laden water into an unnamed tributary to Killinger Creek. The creek is located in South Londonderry Township, Lebanon County.

Inadvertent Return Discharges

- ⇒ On or before February 27, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of 100 gallons of drilling fluids into an unnamed tributary to Locust Creek and associated wetland in Lower Frankford Township, Cumberland County.
- ⇒ On or before March 15, 2018 and continuing until a date to be determined, the Department received notice from Sunoco that an inadvertent return of approximately 200 gallons of drilling fluids within a wetland in Frankstown Township, Blair County.
- ⇒ On or before March 15, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of drilling fluids in Snitz Creek located in West Cornwall Township, Lebanon County.
- ⇒ On or before March 19, 2018 and continuing until a date to be determined, the Department received notice from Sunoco that a drill pit in Frankstown Township, Blair County was overflowing, resulting in the discharge of drilling fluids into the adjacent Frankstown Branch Juniata River. The discharge was visible for 1.5 miles downstream. Sunoco reported that groundwater was being released into the pit at a rate of 500 gallons

a minute.

- ⇒ On or before March 26, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of less than one gallon of drilling fluids within a wetlands located in Shirley Township, Huntingdon County.
- ⇒ On or before March 29, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of less than one gallon of drilling fluids within a wetlands in Toboyne Township, Perry County.
- ⇒ On or before April 10, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of approximately 500 gallons of drilling fluids within a wetlands located in Blair Township, Blair County.
- ⇒ On or before April 20, 2018 and continuing until a date to be determined, the Department received notice from Sunoco of an IR of approximately 20 gallons of drilling fluids into Snitz Creek located in West Cornwall Township, Lebanon County.
- ⇒ On or before May 15, 2018 and continuing until a date to be determined, the Department received notice of an IR of an unknown quantity of drilling fluids into an unnamed tributary of Hinckston Run located in Jackson Township, Cambria County.
- ⇒ On or before June 1, 2018 and continuing until a date to be determined, the Department received notice of an IR of a small quantity of drilling fluids into Snitz Creek located in West Cornwall Township, Lebanon County.

It is likely that additional unlawful discharges and violations of DRBC Docket No. D-2015-018-1 have occurred and the DRBC should include confirming the full extent of violations in the thorough review we have requested. It also seems obvious from the record, including the remarks of Judge Barnes in her evaluation of the project, that violations of the docket will continue to occur if construction of the Project is allowed to continue.

It is urgent that the DRBC suspend approval of the Mariner East project, undertake serious evaluation of the actions that are allowing these violations to continue, and mandate

significant mitigation and restoration activities before any decision is made by the DRBC regarding allowing future work on this project. Water resources, environments and communities are being severely impacted. DRBC must exercise its lawful jurisdiction and exercise its authority as requested by the Delaware Riverkeeper Network to suspend DRBC Docket No. D-2015-018-1.

Respectfully,



Maya K. van Rossum
the Delaware Riverkeeper

