

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Sunoco Pipeline L.P. for a	:	
Finding That the Situation of Structures to	:	Docket Nos. P-2014-2411941,
Shelter Pump Stations and Valve Control	:	2411942, 2411943, 2411944,
Stations is Reasonably Necessary for the	:	2411945, 2411946, 2411948,
Convenience and Welfare of the Public	:	2411950, 2411951, 2411952,
		2411953, 2411954, 2411956,
		2411957, 2411958, 2411960,
		2411961, 2411963, 2411964,
		2411965, 2411966, 2411967,
		2411968, 2411971, 2411972,
		2411974, 2411975, 2411976,
		2411977, 2411979, 2411980.

Petition to Intervene of the Delaware Riverkeeper Network and the Delaware Riverkeeper

Through counsel, Petitioner Delaware Riverkeeper Network and its Executive Director, the Delaware Riverkeeper Maya van Rossum (“DRN”), hereby Petition to Intervene in response to Sunoco Pipeline L.P.’s (“Sunoco”) Petition for a “Finding That the Situation of Structures to Shelter Pump Stations and Valve Control Stations is Reasonably Necessary for the Convenience and Welfare of the Public” (“Petition”). DRN requests that the Pennsylvania Public Utilities Commission (“Commission”) grant DRN Status as Intervenor pursuant to 52 Pa. Code §§5.71-75 in proceedings of the Commission concerning Sunoco’s Petitions. DRN provides the following in support of its Petition to Intervene:

1. The name and address for counsel for Petitioner is:

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2. In support of its Petition, DRN states that it is a non-profit organization established in 1988 to protect and restore the Delaware River, its associated watershed, tributaries, and habitats. This area includes 13,539 square miles, draining parts of Pennsylvania, New Jersey, New York and Delaware, and it is within this region that a portion of the Project's construction activity will take place.

3. The Upper Delaware River is a federally designated "Scenic and Recreational River" administered by the National Park Service. The National Wild and Scenic Rivers System also includes parts of the Lower Delaware River as far down as Washington Crossing and the Middle Delaware which includes the Delaware Water Gap. The Delaware River watershed and River are home to a number of federal and state listed endangered or threatened species including the dwarf wedgemussel, Indiana bat, bog turtle, shortnose sturgeon, Atlantic Sturgeon, loggerhead and Kemm's ridley sea turtles, and Northeastern bulrush. Over 200 species of migratory birds have been identified within the drainage area of the Upper Delaware River within the Basin, including the largest wintering population of bald eagles within the Northeastern United States. Migratory birds breed in or migrate through the high quality riparian corridors of the Watershed. The Delaware River and Delaware Bay are also home to dozens of species of commercially and recreationally important fish and shellfish species.

4. In its efforts to protect and restore the Delaware River and its tributary streams, DRN organizes and implements stream-bank restorations, a volunteer monitoring program, educational programs, environmental advocacy initiatives, recreational activities, and environmental law enforcement efforts throughout the entire Delaware River Watershed. DRN is a membership organization headquartered in Bristol, Pennsylvania, with more than 14,000 members with

interests in the health and welfare of the Delaware River and its watershed. DRN is uniquely qualified to comment on and provide relevant information concerning associated impacts to human health and the environment as a result of Sunoco's Petition. DRN brings this action on its own behalf and on behalf of its members, board, and staff.

5. Sunoco is engaged in developing a pipeline project called Mariner East ("Project"), which involves a combination of the construction of new pipeline facilities and the use of existing pipeline facilities that will transport ethane and propane. The origination point of the Mariner East will be in Houston, Pennsylvania and the delivery point will be located in Claymont, Delaware, within the Marcus Hook Refinery Complex. The purpose of the Project is to increase transportation infrastructure for the movement of Marcellus Shale resources.

6. Sunoco has stated that its existing and proposed pipelines "will transport the NGLs to a Sunoco, Inc. terminal in eastern Pennsylvania and Delaware for storage, processing, and subsequent transportation to alternative markets by water or truck." *See* Order Granting Petition for Declaratory Relief, 142 FERC ¶ 61,115 (Feb. 15, 2013) (Docket No. OR13-9-000). Sunoco has stated that "no major markets in the Northeast United States" exist. *Id.* However, Sunoco does not provide any description of these "alternative markets", or specifically where they are located.

7. The project is anticipated to have an initial capacity to transport approximately 72,250 barrels per day of natural gas liquids and can be "scaled to support higher volumes as needed."¹ Sunoco has failed to describe in its submissions the ceiling capacity of its system.

8. Sunoco's Project requires the construction of 17 valve stations in 15 different municipalities and the construction of 18 pumping stations in 18 different municipalities. The

¹ *See* <http://www.sunocologistics.com/Customers/Business-Lines/Natural-Gas-Liquids-NGLs/NGL-Projects/208/>.

Petition for each of the municipalities requests an exemption from section 619 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10619).

9. Intervention in Commission proceedings is permitted where a person has an interest in the matter “which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action or proceeding,” or “another interest of such nature that participation of the petitioner may be in the public interest.” 52 Pa. Code § 5.72(a)(2), (3).

10. DRN, on behalf of its 14,000 members and the public interest, have a direct and concrete interest in the outcome of Sunoco’s Petition. A substantial portion of the facilities, and the associated construction and operational impacts resulting therefrom, are proposed to be within the Delaware River watershed, and multiple subwatersheds of tributary streams. These facilities include, but are not limited to, the pump stations in Spring Township, Brecknock Township, Upper Uwchlan Township, West Goshen Township, and Upper Chichester Township; as well as the valve control stations in Spring Township, and Wallace Township. DRN has members in the each of the aforementioned townships.

11. DRN is concerned that if these facilities are exempted from local zoning ordinances the construction and operation of the facilities will result in substantial and irreparable harm to the health and quality of impacted streams, to human health, the environment, and the aesthetic values of the community.

12. Sunoco does not meet the legal standard for classification as a public utility corporation and, therefore is not exempt from 619 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10619). Furthermore, a grant of Sunoco’s Petitions is prohibited by Article I Section 27 of the Pennsylvania Constitution. Lastly, even if Sunoco qualifies as a public utility corporation, and its

Petitions were not constitutionally barred, Sunoco's Petitions must still be denied because the situation of structures is not reasonably necessary for the convenience or welfare of the public.

13. Further, DRN was a co-plaintiff in *Robinson Township, et al v. Commonwealth of Pennsylvania, et al.*, and has concerns that an exemption of local zoning ordinances pursuant to these facilities will likely contradict the holding of the Court in that case. *Robinson Township, et al v. Commonwealth of Pennsylvania, et al.*, 83 A.3d 901 (Pa. Dec. 19, 2013). DRN possesses unique institutional knowledge that will aid the Commission in the development of the facts and law necessary for a proper disposition of the proceedings.

14. In *Robinson*, the Court determined that Sections 3303 and 3304 of Act 13 were unconstitutional, which were provisions that preempted local ordinances covering oil and gas operations and set forth zoning restrictions. *Id.* at *932-989. Additionally, portions of Section 3215 were also ruled unconstitutional, which allowed the Department of Environmental Protection to waive certain setback requirements and governing its consideration of comments on well permits. *Id.* The plurality opinion specifically cited the Environmental Rights Amendment of the Pennsylvania Constitution as a primary foundation of its opinion, which states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Id. at 949-950. (*citing* Pa. Const. Art. I, §27). The Pennsylvania Supreme Court plurality clearly determined that the Constitutional provision conferred rights and obligations on municipalities.

The Commonwealth is named trustee and, notably, duties and powers attendant to the trust are not vested exclusively in any single branch of Pennsylvania's government. The plain intent of the provision is to permit the checks and balances of government to operate in their usual fashion for the benefit of the people in order to accomplish the purposes of the trust. *This includes local government.*

Id. at 956-957 (emphasis added). DRN has concerns over the relationship between a potential grant of Sunoco's Petitions by the Commission conflicting with the Commission's obligations pursuant to the Environmental Rights Amendment as articulated in the *Robinson* decision.

15. DRN's interests cannot be adequately represented by any other party to this proceeding.
16. Wherefore, DRN respectfully requests the Pennsylvania Public Utility Commission:
 - a. Grant this Petition to Intervene and,
 - b. Make any other such orders as are just and appropriate.

Dated: 4-18-14

Respectfully Submitted by:

/s/ Aaron Stemplewicz

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VERIFICATION

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

Dated April 18, 2014

/s/ Maya K. van Rossum

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CERTIFICATE OF SERVICE

I, Aaron Stemplewicz, do hereby certify that a true and accurate copy of the foregoing PETITION TO INTERVENE was served upon the following on April 18, 2014, pursuant to the requirements of 52 Pa. Code § 1.54(b)(3) (relating to service by a participant):

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Dated: 4-18-14

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