

**Delaware Riverkeeper Network ~ Berks Gas Truth
Clean Air Council ~ Protect Penn-Delco ~ Uwchlan Safety Coalition
Concerned Citizens of Lebanon County ~ 350 Philadelphia
Bucks Environmental Action ~ Bucks County Sierra Club
Better Path Coalition ~ Lancaster Against Pipelines ~ 350 Bucks County
EGSEA ~ Lebanon Pipeline Awareness
Physicians for Social Responsibility (PSR) Philadelphia/Pennsylvania
Mountain Watershed Association ~ Youghiogheny Riverkeeper
Andover Homeowners' Association, Inc.**

July 3, 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. Since the commencement of construction Sunoco has committed numerous violations that require a response from the DRBC. In light of the significant harm being inflicted on water resources of the basin we urge you to exercise your authority to:

- suspend this docket;
- undertake a thorough review of the project's damaging impacts on water resources of the basin;
- identify and require significant restoration and mitigation activities.

DRBCs June 28 letter fails to lay out a credible rationale for failing to take action against Sunoco's violations of the DRBC Docket.

While you declined to undertake enforcement action and/or to suspend Sunoco's docket as requested in the June 15 letter from the Delaware Riverkeeper Network, we urge you to reconsider this position. Your letter stated that enforcement by DRBC has not been ruled out. Your June 28 letter also points to the enforcement actions of the Delaware Riverkeeper Network, Clean Air Council and PADEP seeming to suggest that because others are enforcing there is no need for DRBC action. We do not agree that

enforcement by nonprofit organizations or a state in any way displace the need for DRBC action. This is particularly true where the brunt of the state's enforcement – aside from a short-lived suspension of construction activities – has come in the form of monetary penalties that have not had the necessary deterrent effect on Sunoco's continuing violations. Indeed, we expect violations to continue.

In addition, your June 28 letter suggests that because most of the violations to date have been outside the basin, that this also suggests no DRBC action is needed. We strenuously disagree. First, it is not actually known how many violations have happened in the basin until DRBC undertakes an independent investigation, it is not good enough to rely on Sunoco's self-reporting for this information given their pattern of violations and the lack of credibility they have established around construction of this pipeline. Indeed, there is evidence that Sunoco's contractors have attempted to hide violations from government agencies.

The attached June 26, 2017 Inspection Report, memorializes an attempt by Sunoco to deceive the government by hiding a known violation. According to the report, sediment-laden water overwhelmed erosion control measures depositing over approximately 200 linear feet of a stream. The report notes that "no notification of [the] incident was offered to the environmental inspection team by [the] contractor nor by utility inspection personnel." The only reason the incident came to the attention of the Department is because the "[environmental inspector] overheard a discussion of [the] incident by contract personnel. See Exhibit A. Second, there are in fact significant violations within the basin and a pattern of behavior by Sunoco that suggests more are sure to come, and as such DRBC action now, before it is too late, is essential.

Further, your June 28 letter suggests that because most of the violations to date have been outside the basin, that this also suggests no DRBC action is needed. We strenuously disagree. First, it is not actually known how many violations have happened in the basin until DRBC undertakes an independent investigation, it is not good enough to rely on Sunoco for this information given their pattern of violations and the lack of credibility they have established around construction of this pipeline. Second, there are in fact violations within the basin and a pattern of behavior by Sunoco that suggests more are sure to come, and as such DRBC action now, before it is too late, is essential.

Finally, it is irrelevant that the violations noted in the June 15 Delaware Riverkeeper Network letter and your response took place in intrastate waterways, if they are in the Delaware River watershed they are subject to DRBC authority. It is inappropriate for DRBC to be artificially narrowing its authority in this way. In addition, the DRBC docket is not limited to interstate waters, nor would it be legally appropriate for DRBC to attempt such an artificial narrowing.

Sunoco has and continues to release 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 Federal or Pennsylvania permit requirements or standards, including those imposed by PADEP, PADCNr or County Conservation Districts, and/the permit requirements or standards applicable from the US Army Corps of Engineers and the EPA, is a violation of the DRBC docket.

During construction of the Mariner East project, Sunoco, on multiple occasions, has illegally discharged, and continues to discharge, pollution in the form of sediment-laden stormwater and thousands of gallons of drilling fluids to waters of the basin. Pollution events within the boundaries of the basin are not limited to just two, had DRBC done its own additional research as the June 15 letter requested it could have expanded the list to include:

- ⇒ Sept 12, 2017, Spring Twp, Berks County- UNT Cacoosing Creek. “The buffer zone of wetland c12 at station 13516+00 has not been stabilized. Improper E&S BMPs have been installed at this location as hay bails are being used as an erosion control device. Rill erosion has been observed in the buffer zone. Upland soils have been deposited within wetland c12. It appears as though Compost filter sock in this area has been improperly maintained and is no longer functioning effectively. Then improperly maintained compost sock in photo 5 has led to additional issues as sediment has been observed off of ROW. This sediment then travels downslope to where it is deposited within a stream bed. Multiple segments of compost sock in this area are in need of maintenance. Compost filter sock has been overtopped and sediment has escaped containment.”
 - Per Earth Disturbance Inspection Report. Permit No. ESG0300015002 and Report No. 17-13
- ⇒ Aug 21, 2017, South Heidelberg Twp, Berks County- Cacoosing Creek; East Brach Conestoga River. “Sediment has been observed deposited off ROW in the area of the Joanna Road Crossing. It is unclear as to the impact of the sediment that has been discharged into the East Branch of the Conestoga River. Perimeter controls installed in the area of this station have not been maintained. Sediment has been piled on top of silt sock, sediment has been observed off ROW and silt sock appears to have been improperly installed.”
 - Per Notice of violation issued on February 28, 108. Certified Mail No. 9171 9690 0935 0150 2170 41
 - A video has been submitted to the Berks County Conservation District of heavy flows of sediment laden water coming off of the Joanna Road ROW, undercutting the perimeter controls and entering the receiving stream.
- ⇒ “June 10, 2018 notice of an incident occurring at the S3-0620 Glen Riddle Horizontal Directional Drilling (“HDD”) Site (PA-DE-0100.0000-RR) located in Middletown Township, Delaware County. The notice involved a discharge of approximately one-half gallon of drilling fluids into an unnamed tributary to Chester Creek, a water of the Commonwealth, from a breach of containment area S-12. The breach occurred due to the failure of a pump in the containment area.”
 - Per Notice of Violation issued on June 14, 2018 via certified mail no. 7001 2510 0006 1769 7437

- ⇒ “On December 21, 2017, the Department of Environmental Protection ("DEP") received notice of an inadvertent release ("IR") of drilling solution at HDD Site S-3-0320 along Herman 0 West Drive (Daycare) in Uwchlan Township, Chester County. On December 27, 2017, DEP received the Initial Report concerning the incident. The drilling solution was discharged to an upland area. Drilling solution is an "industrial waste" under Section 301 of the Clean Streams Law, 35 P.S. § 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law.”
 - Per Notice of Violation issued on January 8, 2018 via certified mail no. 7015 158250 0002 1486 3092
- ⇒ “On November 11, 2017, the Department of Environmental Protection ("Department") received notice of a release of sediment to an unnamed tributary ("UNT") to Hay Creek (S-Q90) in New Morgan Borough, Berks County ("Site"). On November 13 and 14, 2017, the Berks County Conservation District ("BCCD") conducted inspections of the Site 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 Horizontal Direction Drill ("HDD") activities at this location. Hay Creek is a Class A wild trout fishery and the Hay Creek basin is classified as an Exceptional Value Waters in 25 Pa. Code § 93.9(f). The drilling fluids that comprised their constitute Industrial Waste. The discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of Section 301 of The Clean Streams Law, 35 P.S. § 691.301. The Department did not authorize any IRs at the Site by permit or other authorization. Further, the Department did not authorize the crossing of the UNT to Hay Creek (S-Q90) using HDD methodology.”
 - Per Notice of Violation issued on November 16, 2017
- ⇒ “On October 27, 2017, the Department of Environmental Protection ("DEP") received notice of an inadvertent release of drilling solution near the staging area of Horizontal Directional Drill ("HDD 620") located near 224 Martins Lane Media in Middletown Township, Delaware County. DEP is concerned that the above-cited inadvertent return ("IR") is the sixth known IR from this Drill. On October 27, 2017, DEP conducted an inspection of this area; a copy of the inspection report is enclosed. The drilling solution from the IR was discharged to an unnamed tributary to Chester Creek (SC-12), a water of the Commonwealth. Drilling solution is an "industrial waste" under Section 301 of the Clean Streams Law, 35 P.S. Section 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law.”
 - Per Notice of Violation issued on November 3, 2017 via certified mail no. 7001 2510 0006 1769 7048
- ⇒ On September 2, 2017, the Department of Environmental Protection ("DEP") received notice of an inadvertent release of drilling solution near the staging area of HOD 620 located in the vicinity of 224 Martins Lane in Middletown Township, Delaware County. On September 2, 2017, DEP conducted an inspection of this area; a copy of the inspection report is enclosed. The drilling solution was discharged to an unnamed tributary to Chester Creek (SC-12), a water of the Commonwealth. Drilling solution is an "industrial waste" under Section 301 of the Clean Streams Law, 35 P.S. Section 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law. Additionally, Sunoco submitted its Initial Incident Report on September 8, 2017, 6 days after the incident. This late submission constitutes a violation of the Permits and the revised Inadvertent Return Contingency Plan; the submission was due to DEP within 24 hours of the incident.
 - Per Notice of Violation issued on September 12, 2017 via certified mail no. 7001 2510 0006 1770 9994

- ⇒ “On August 29, 2017, the Department of Environmental Protection (“DEP”) received notice of an inadvertent release of drilling solution at HDD Site S-3-0290 in the vicinity of Green Valley Road in Upper Uwchlan Township, Chester County. DEP conducted inspections of this area on August 29, 2017, and August 30, 2017; copies of the inspection reports are enclosed. The drilling solution was discharged to an unnamed tributary to Blue Marsh Lake, a water of the Commonwealth. Drilling solution is an “industrial waste” under Section 301 of the Clean Streams Law, 35 P.S. Section 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law.”
 - Per Notice of Violation issued on September 8, 2017 via certified mail no. 7001 2510 0006 1770 9987
- ⇒ “On July 17, 2017, the Department of Environmental Protection (“DEP”) received notice of an inadvertent release of drilling solution near HDD 620 Staging Area at Glen Riddle Road in Middletown Township, Delaware County. On July 18, 2017, DEP conducted an inspection of this area; a copy of the inspection report is enclosed. The drilling solution was discharged to an unnamed tributary to Chester Creek (SC-13), a water of the Commonwealth. Drilling solution is an “industrial waste” under Section 301 of the Clean Streams Law, 35 P.S. § 691.301. The discharge of industrial waste to waters of the Commonwealth is a violation of the Clean Streams Law.”
 - Per Notice of Violation issued on July 20, 2017 via certified mail no. 7001 2510 0006 1771 0013
- ⇒ “On May 3, 2017, the Department of Environmental Protection (DEP) received notice of an inadvertent release of drilling solution near 5005 Chester Creek Road in Brookhaven Borough, Delaware County. On May 4, 2017, DEP conducted a follow-up inspection; a copy of the inspection report is enclosed. Drilling solution by definition is an industrial waste which was discharged to Chester Creek, a water of the Commonwealth (Warm Water· Fisheries). The discharge of industrial waste to waters of the Commonwealth is a violation of Section 301 of the Clean Streams Law, 35 P.S. Section 691.301.”
 - Per Notice of Violation issued on May 9, 2017 via certified mail no. 7015 0640 0002 3145 0400
- ⇒ “On June 27, 2018, the Department of Environmental Protection (“Department”) received notice from Sunoco Pipeline, LP (“SPLP”) of an unquantified, but reportedly small, volume inadvertent return of drilling fluids (“IR”) to the East Branch Conestoga River located in Caernarvon Township, Berks County associated with Horizontal Directional Drill PA-BR-0191.0000-RD, aka Joanna Road HH, (“Site”). On June 27, 2018, the Department conducted an inspection of the Site and Documented that the IR discharged to the East Branch Conestoga River, a water of the Commonwealth (Warm Water Fisheries, Migratory Fishes), through the effluent discharge pipe from the adjacent Twin Valley School District Waste Water Treatment Plant. The drilling fluids that comprised the IR constitute Industrial Waste. The discharge of Industrial Waste to waters of the Commonwealth without a permit is a violation of Section 301 of The Clean Streams Law, 35 P.S. § 691.301. The Department did not authorize any IRs at the Site by permit or other authorization.”
 - Per Notice of Violation issued on June 28, 2018 via certified mail no. 9171 9690 0935 0150 2184 44

These discharges are causing or contributing to violations of water quality standards on numerous occasion and are in clear violation of DRBC Docket No. D-2015-018-1.

Sunoco’s Failure to notify violations of its docket to DRBC is serious and warrants appropriate DRBC action.

Additionally, DRBC Docket No. D-2015-018-1 mandates that Sunoco:

“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.”

It seems from your June 28 response to the Delaware Riverkeeper Network, that Sunoco has not in fact provided the required written notifications. While we appreciate that DRBC will now remind Sunoco of this obligation, its failure to comply with this obligation to date should not be taken so lightly by DRBC. It alone warrants enforcement action. It is clear that absent the Delaware Riverkeeper Network’s June 15 letter, DRBC would have allowed this violation to slide completely – whether by accident or design that is wrong. Enforcement is warranted.

Water resources, environments and communities are being severely impacted. Given the significant and ongoing nature of the violations being experienced as a result of construction of the Mariner East pipelines by Sunoco LLC, it is urgent that Executive Director Tambini, by his own initiative or at the instruction of the DRBC Commissioners, suspend DRBC approval of the Sunoco Mariner East project and DRBC Docket No. D-2015-018-1. Further, the DRBC must prevent any further work on the project until it has had an opportunity to undergo a serious evaluation of the action and establish mitigation and restoration activities that will prevent future harms from Sunoco.

Sincerely,

Maya K. van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network

Karen Feridun, Founder, Berks Gas Truth

Alex Bomstein, Clean Air Council

Susan Britton-Seyler

James Salava

Christina Johnson, Protect Penn-Delco

Mary Ann Kusner

William Poteau

Bernard Greenberg

Harvey Nickey

Nancy Harkins

Edward Cavey

Rebecca Britton, Founder, Uwchlan Safety Coalition

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Janice MacKenzie
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Adrienne Morgado, Board Member, 350 Bucks County
Melissa Haines
Lex Pavlo, Chairperson, EGSEA
Marianne Donegan
Ann Pinca, President, Lebanon Pipeline Awareness
Ron Cocco
Tammy Murphy, Medical Advocacy Director, Physicians for Social Responsibility (PSR)
Philadelphia/Pennsylvania
Carol Armstrong, Master Watershed Steward
William Wegeman
Melissa Marshall, Mountain Watershed Association, Youghiogheny Riverkeeper
Eric Friedman, President, Andover Homeowners' Association, Inc.

PHOTOS CONT'D



Station #:	11410+00
MP:	
Direction:	facing South

Comments: 6/26/17; 11410+00 facing S towards personnel removing sediment from off-ROW area of Waterbody S-C55 channel on tract PA-DA-0030.0000

