

BRIEF

Pennsylvania Public Utility Commission

Commonwealth Keystone Building

2nd Floor Room N-201, Harrisburg PA 17120

May 31, 2018

I am submitting this brief, as intervenor, in the matter of State Senator Andrew E. Dinniman's Emergency Relief Petition to stop construction of the Mariner East Pipeline (PUC Docket no. P-2018-3001453).

For the reasons detailed below, I am writing in support of Judge Barnes' Emergency Relief Order. Senator Dinniman has met all four requirements and shown the greater weight of evidence. I believe it is imperative that Sunoco's operation of the Mariner East 1 and its construction of the Mariner East 2 and 2x be halted immediately, as Judge Barnes ordered. They should remain halted until these activities can be proven to be safe and there are feasible plans for warning and public evacuation in case of a leak. It is clear, based on the evidence from the hearings in this matter, that these pipelines pose a serious risk of death to those who live, work, shop, and play along the proposed right-of-way.

Judge Barnes asserts that the Commission has a formal agreement with PHMSA to enforce pipeline safety laws. Within the past year there have been three leaks on ME1. In each case Sunoco failed to follow safety and protocol and report the leak or spill to the authorities when it occurred. In the case of the leak in Morgantown PA on April 1, 2017 it took ninety minutes from the time the landowner reported it for Sunoco to shutdown ME1 during which time nearly one thousand gallons of NGL's were released. Fortunately this occurred in an empty field and was not ignited. As a resident of densely populated West Whiteland Township with ME1 less than 250 feet from my house this is justifiably frightening.

Sunoco disregard for regulations is further evident in the more than fifty Notices of Violation it has received since construction began on ME2 last spring. In addition to the DEP NOV's, a Notice of Probable Violation and Proposed Compliance Order was issued by PHMSA for failing to adequately inspect field bends during construction in Hopedale, Ohio. Sunoco's work has been temporarily shut down twice by the DEP because of violations, and the company has also been fined twice because of violations. In the second DEP shutdown, in January of 2017, the DEP cited Sunoco for "egregious and willful violations". Each time, the DEP has required Sunoco to put in place procedures to prevent recurrence. In spite of that, Sunoco has apparently ignored the procedures and violations continue. The DEP issued a Notice of Violation as recently as May 3, just a few days before these hearings, and another after the hearing on May 15.

As Judge Barnes noted, the DEP has received reports of inadvertent returns on Mariner East amounting to hundreds of thousands of gallons of drilling fluids, including in West Whiteland Township. Judge Barnes was persuaded by the testimony of Petitioner Witness Saswosky, a karst geology expert, that drilling fluids introduced underground in West Whiteland could result in sediment reaching water wells. Furthermore, Judge Barnes noted that these drilling fluids would continue to be a concern in West Whiteland Township through the use of HDD or the proposed flex bore at Drill 382.

In their Post-Hearing Brief, Sunoco attempted to claim that the bentonite in drilling fluids poses no threat to human health if it contaminates drinking water (SLPL post hearing brief pages 33-34). Sunoco's toxicological witness Dr. Chrostowski testified that it was his expert opinion that bentonite does not pose a health or safety risk to humans in water and that it was approved by the FDA as a food additive. However, on cross examination, Dr. Chrostowski was unaware that the FDA had issued warnings to consumers against ingesting bentonite (transcript page 322, 10-12). Sunoco presented no evidence that bentonite was not detected in the water samples they had tested from private wells impacted after hitting the aquifer in West Whiteland in June 2017.

Regarding Lisa Dr in West Whiteland, Judge Barnes asserted that "there is no dispute sink holes in this area are appearing on a fault line between carbonate Conestoga limestone and non-

carbonate Octorara phyllite". Furthermore she was persuaded by Dr. Sasowsky's testimony that karst can develop along such interfaces and can be exacerbated by drilling activities. Judge Barnes was not persuaded by Sunoco's witness Dave Demko that subsidence was the result of a DEP-imposed delay before pullback could occur because the subsidence was extensive enough that at the time of the Hearing already ten or 11 cement truckloads of fill had been put in the ground at Lisa Drive.

Despite Dr. Sasowsky's testimony about the causes of sink holes, Sunoco attempted in their Post-Hearing Brief to claim that "when asked directly, Sasowsky could offer no opinion as to the causes of the subsidences at Lisa Drive". In actuality, what Dr. Sasowsky had testified was that he had read nothing in the report for the PUC that explained the cause of the sinkholes (transcript page 274, 4-11). On redirect he restated this as "I didn't see any information (in the report) about causation. It seemed to me that that was more of a remedial report that was looking at the limits of the sinkhole with a view towards ring the ground surface." (transcript page 295, 9-22)

Judge Barnes found credible my testimony that after Sunoco started HDD drilling across the road from my house on Shoen Road in West Whiteland Township on June 15, 2017 water began flooding the drill pit on June 22, 2017 and that this continued until about July 5, 2017 and Sunoco continued to drill throughout (transcript page 336, 9 – page 342,5). On cross examination Sunoco's witness Matt Gordon, Mariner East Project Director, testified that he had no idea as to when Sunoco notified the DEP of the aquifer accident (transcript page 479, 23- page 480,13). Furthermore, Gordon testified that it was homeowners that eventually alerted Sunoco of well water problems, not the other way around (transcript page 480, #15-23).

On July 20, 2017, just under two weeks after Sunoco filled the pilot hole with grout and drilling at Shoen Road was stopped, ground water emerged on my property at 103 Shoen Road in West Whiteland. This water, in the form of springs and seeps, is on the path of Mariner East 1. It continues to this day on the path of Mariner East 1 and the DEP has stated publicly that when drilling resumes this will be the first place that more water appears. (transcript, page 342, 6- page 349,19).

Sunoco went to lengths during the hearing and afterward in an email, to discredit this testimony but was unsuccessful. When cross-examined by me, Sunoco's witness David Demko confirmed that GES took water samples from the two springs that had emerged in the summer of 2017, about 12 feet uphill from the ME1 marker and that they are on the path of ME1. The seepage at the orange ME1 marker at the road is evident in VK Exhibit 1 which was taken July 30, 2017. It is also evident in the photograph Sunoco submitted post-hearing in SPLP Exhibit 47 entitled "Seep Drainage Swale (looking east)" which was taken May 11, 2018 and thereby reflects current conditions. The location of the seepage and the resulting supersaturated soil can be seen in both photographs and is clearly at the orange ME1 marker, on ME1. (Note that the "Approximate seep locations" marked in the photograph " seep location-annotated" in SPLP Exhibit 47 are incorrect as there is no seepage from that location, nor has there ever been. And the "staked red flags" referred to in Exhibit 1 are actually two stakes Sunoco put in the ground in spring 2017 prior to any drilling activity to mark that trees were not to be cut there, months before the water problem occurred).

In its Post Hearing brief, Sunoco claimed that there is no evidence of any safety risk relating to the seeps on my property. However this statement was based entirely on unsubstantiated claims. Sunoco claimed that "the seeps have not or will not impact the structural integrity of ME1", but they have no way of knowing this based solely on their visual observations of the surface. Sunoco further claimed that "after completion of ME2 and ME2X, the seeps will not persist", but provided no evidence to support this. (SLPL post-hearing brief, page 49).

It remains that after the aquifer accident last June, ground water has found a new route to the surface that runs along the Mariner East 1 for an unknown distance underground before emerging on my property. This presents a safety risk. Flowing water like this is one of the requirements for subsidence. It can carry soil away and undermine the pipeline. Abrasive soil carried by water will also gradually remove any protective coating on the pipe, eventually leading to corrosion and the potential for a leak. Mariner East 1 is in soil, only several feet underground. An additional concern is that there is a fault line in this area and an interface between non-

carbonate rock (the Chickies Formation) and carbonate rock (Ledger Formation). When water flows through such an area there is a greater potential for sinkholes according to Dr. Saswosky.

More than eleven thousand residents live in the evacuation zone in West Whiteland Township. The risk of death or personal injury because of unsafe construction and operation could be “catastrophic”, using the Commission’s own term from its Emergency Order of March 7, 2018. It is imperative that Judge Barnes’ Order Emergency Relief Order stand. Too many lives are at risk to not uphold the requirements of the Order.

Respectfully submitted,

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