

July 2, 2018

Via Electronic Filing
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265



Re: Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline, L.P.
Consolidated Docket Nos. C-2018-3001451 and P-2018-3001453

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission in the above-captioned proceeding please find Clean Air Council's Response to Respondent Sunoco Pipeline L.P.'s June 22, 2018 Submission.

Thank you very much for your assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Joseph Minott".

Joseph Otis Minott, Esq.
Executive Director &
Chief Counsel
Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Senator:	:	
Andrew E. Dinniman	:	Consolidated Docket Nos.
Complainant,	:	C-2018-3001451
v.	:	P-2018-3001453
	:	
Sunoco Pipeline, L.P.,	:	
Respondent.	:	

**CLEAN AIR COUNCIL’S RESPONSE
TO RESPONDENT SUNOCO PIPELINE L.P.’s JUNE 22, 2018 SUBMISSION**

On June 22, 2018, Respondent Sunoco Pipeline L.P. (“Sunoco”) filed with the Commission a series of documents related to requests in the Commission’s Order of June 15, 2018 (“June 15th Order”). Pursuant to paragraph eight (8) of that Order, Intervenor Clean Air Council (the “Council”) submits this response.

In the June 15th Order, the Commission aptly explained “it is critical that Sunoco [establish] adequate evidence of practices for public safety protection in order for the Commission to determine whether construction can safely restart on the ME2 and ME2X pipelines in West Whiteland Township.” Guided by this principle, the Commission then set forth a non-exhaustive list of documents Sunoco must provide to assist the Commission as it considers the safety of lifting the emergency directive that shutdown construction of ME2 and ME2X. The Commission also required Sunoco provide documentation that Sunoco has received authorization to restart construction from the Pennsylvania Department of Environmental Protection (“DEP”).

A week later, Sunoco supplied a pile of standard operating procedures and other generalized documents, many of which the Commission already had because Sunoco introduced

the same documents at the emergency hearing that preceded the June 15th Order. Wholly absent from the submission is an explanation of why, if these protocols have been in place and are adequately protective, Sunoco has caused a drove of safety incidents. That is the core of what the Commission must consider if it is true that “[t]he primary concern of this Commission is the safety of the public as well as the safety of the utility workers.” Also absent from the submission was any DEP authorization of construction restart.

If Sunoco has been following the protocols it provided the Commission and the Commission allows construction to resume under these same protocols, the Commission can fully expect the threats that necessitated the emergency shutdown to persist. The Commission’s June 15th Order would then amount to little more than a half-hearted attempt to placate the public, while ultimately doing nothing to offer additional protection and neatly accommodating Sunoco’s July timeline for construction restart. Surely that is not what the Commission intends.

1. The Commission’s June 15th Order cannot be satisfied by providing the Commission with new copies of documents already provided to the Commission last month.

The requirements in paragraph 6(a)(1) of the June 15th Order demonstrate that the Commission recognizes the importance of adequate inspection and testing protocols. Maintenance and inspection failures and the threat of leaks are of paramount concern to the public, as the outpouring of comments from residents and municipalities have made clear. Sunoco has not taken the Commission’s requests for information on these topics seriously.

In Paragraph 6(a)(1)(a) of the June 15th Order, the Commission required Sunoco to provide information related to preventative inspection and maintenance. Of the 19 documents that Sunoco submitted in response to this request, 18 of them were previously submitted as SPLP Exhibit 33 at the emergency hearing held in May. Of the documents submitted in response to the Commission’s request for information on leak detection and repairs in Paragraph 6(a)(1)(b) of

the Order, all five of them were previously submitted as SPLP Exhibit 33 at the emergency hearing.

It is important to note that, having had access to these and other documents produced at the emergency hearing, the Commission was not satisfied that it had the information it needed to ensure the safety of ME2 and ME2X, and thus required additional evidence in the June 15th Order. The Commission was right to require additional evidence. If Sunoco's current submission is accepted in satisfaction of Paragraph 6(a)(1) of the June 15th Order, the June 15th Order would be rendered meaningless.

2. Sunoco's standard operating procedures demonstrably fail to protect the public.

It is unclear from Sunoco's submission how broadly the standard operating procedures it provided apply, how long they have been in place, the extent to which they are being implemented on the ground, and whether or how they have been adjusted in response to Sunoco's ongoing incidents. If Sunoco has not changed and improved its policies in response to incidents, there is no reason to believe conditions will improve. Also, as Sunoco's pipeline safety consultant testified at hearing, effective safety and integrity management depend on how well a company carries out its own policies.

Federal records shows 296 reported hazardous liquids leaks on Sunoco pipelines between 2006-2018. These leaks occurred despite Sunoco's numerous standard operating procedures, including standard operating procedures for evaluation defects (SOP HL1.06) and pipeline repair (SOP HL1.05).

One leak, the 1996 leak of a Sunoco 12" HVL pipeline, was located at 123 Pennell Road in Middletown Township, Delaware County, Pennsylvania, across the street from the Glenwood Elementary School. The accident released a self-reported 15 barrels (630 gallons) of gasoline.

Sunoco did not detect the leak; it was reported by a resident who smelled gasoline. While Sunoco reported the cause as corrosion, it also claimed that the excavated pipe showed “damage by others.” Sunoco conceded that a section of HVL pipeline transporting gasoline was damaged in the 1980s by sewer utility work. The extent of the damage was not properly identified or mitigated by the operator. Some years later, corrosion developed at this point of weakness and led to a pipe leak. This leak was *not* detected by Sunoco, but rather by the homeowner.

On May 21, 2018, several hundred yards from the 1996 incident, an Aqua PA utility subcontractor struck the not-yet-operational ME 2 within 1000 feet of the Glenwood Elementary School, which now houses over 450 school children and some 50 teachers and support staff. Sunoco has a standard operating procedure for identifying depth of cover (SOP HLI.24) as well as reporting such depths to 811 PA One Call (SOP HLI.31). However, in this case, the pipe depth was inaccurately reported to be at 9 feet. The Aqua utility subcontractor struck the pipe at a 6-foot depth. This incident calls into question the reliability of PA One Call system; if Sunoco is reporting inaccurate information, the value of this important tool for the public and contractors is diminished. The incident also calls into question Sunoco’s own standard operating procedures for identifying and reporting pipe depth. Sunoco should be aware of the depth and location of a pipe that was just constructed within the past 6 months.

With respect to the leak on ME1 in Morgantown, PA on April 1, 2017, Sunoco’s own Senior Maintenance Supervisor, Mark Martin, testified in West Cornwall Township on June 13, 2017 that inline inspection had occurred in 2013, hydrostatic testing was performed in 2014, and additional smart pig tests were run in October or November of 2016.¹ However, the inspector

¹ Video recording of testimony available at, <https://www.youtube.com/watch?v=zFyfNjNi3gc>.

also testified that, “The test is good the day that you do it. The next day based on operations anything can change.”

Martin went on to explain that the leak in Berks County was reported by a landowner because Sunoco’s monitoring equipment was located at the pump station several miles away, and they do not have the capability to detect a small leak. This “small” leak on ME1 in Morgantown, PA, which was undetectable by Sunoco, released a dangerous quantity of approximately 1,000 gallons of highly volatile ethane in the two and a half hours from the time the leak was reported to the time the line was shut down. It is unknown how long the line was leaking before the homeowner reported it. Clearly Sunoco’s SOP HLI.06 for Evaluating Pipeline Defects and HLD.35 for Pipeline Inspections and Evaluations were inadequate to prevent any of the three known leaks that have already occurred on ME1.

Given Sunoco’s history of incidents, its established protocols are either inadequate and need to be amended to address the specific threats posed by the Mariner East pipelines, Sunoco is not following its own protocols, or a combination of both.

3. Sunoco has failed to prove its policies and procedures will ensure safe construction.

While Sunoco has submitted numerous documents in an attempt to demonstrate that it will *operate* ME2 and ME2X safely, it has largely ignored a crucial issue: Sunoco’s *construction* has endangered the public, and water supplies and property in particular. Construction-related threats were central both to the emergency hearing and the Commission’s June 15th Order. As the Commission explained in the July 15th Order, “[s]afe water implicates public safety” and “[u]nsafe construction could also be catastrophic by harming the water sources of the Township.” Nevertheless, inspection and testing protocols provided by Sunoco are designed to apply after construction is complete.

The Commission should require Sunoco to address squarely the risks posed by Sunoco's construction. Having a plan for responding to drilling fluid spills is insufficient as Sunoco's damage to water supplies and property is not limited to drilling fluid spills, and despite having a response plan in place, drilling fluid spills have continued. Increasing training is also not sufficient. Even well-trained contractors cannot properly prevent and respond to incidents if the construction plans they are following are not sufficiently informed by site-specific analysis. Sunoco should provide evidence that it will conduct appropriate geological testing and other site-specific field inspections prior to resuming construction to ensure construction will not cause further damage water supplies or property. The Commission's request for information related to inspections and testing was not limited to plans that apply only after construction is complete.

4. Sunoco's communication of emergency response plans is inadequate.

Sunoco's statistical rundown of documents it has provided to the public regarding plans for responding to an emergency is unpersuasive. Regardless of what Sunoco believes or espouses regarding the adequacy of its efforts to educate the public about these plans, the public who relies on such information has made it perfectly clear more information is needed.

The guidance provided by Sunoco (rapid on-foot self-evacuation in the correct upwind or uphill direction) is simply not possible for many members of the public while they are in unsafe proximity to Mariner East in West Whiteland Township or elsewhere, particularly at night or during inclement weather. Expecting seniors, children, and disabled individuals to be able to quickly self-evacuate at a moment's notice is not credible, given obstacles, limited self-evacuation routes, and potential dark or inclement conditions. Moreover, the most routine everyday actions could trigger ignition of an entire vapor cloud: things which the federal

government warns people to avoid are light switches; doorbells; garage door openers; and vehicles.

As evidenced at the emergency hearing, the public needs Sunoco to partner with school districts and communities to come up with site-specific response plans. Until this happens, Construction cannot responsibly resume.

Conclusion

Sunoco's submission neither satisfies the Commission's June 15th Order nor ensures protection for the public. On the contrary, allowing restart based on a series of protocols which have thus far failed to protect the public all but guarantees that the threats posed by Sunoco will persist. The Commission should require Sunoco to explain the shortcomings of its protocols and to demonstrate how it will change its practices to prevent future incidents, whether that means improvements to protocols, better implementation of protocols on the ground, or both. The Commission should also continue to focus on safety related to the construction process itself and require evidence that Sunoco has made changes that will result in safer construction. Despite the central role of construction-related threats at the emergency hearing and in the June 15th Order, Sunoco's submission is devoid of such evidence. Sunoco has also failed to provide documentation from DEP as required by the June 15th Order and must not be allowed to restart construction until it does.

The public is counting on the Commission to provide meaningful protections and not to allow the requirements of its June 15th Order amount to mere window dressing. The Commission has already demonstrated it recognizes what is at stake. This is the Commission's opportunity to prevent future harm the public.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph M.", with a stylized flourish at the end.

Joseph Otis Minott, Esq.
Executive Director & Chief Counsel
Clean Air Council
135 South 19th Street, Suite 300
Philadelphia, PA 19103

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the forgoing upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

VIA ELECTRONIC SERVICE

Mark L. Freed
PA ID No. 63860
Doylestown Commerce Center
2005 South Easton Road, Suite 100
Doylestown, PA 18901
mlf@curtinheefner.com

Counsel for Pennsylvania State Senator Andrew E. Dinniman

Thomas J. Sniscak
PA ID. # 33891
tjsniscak@hmslegal.com

Kevin J. McKeon
PA ID. # 30428
kjmckeon@hmslegal.com

Whitney E. Snyder
PA ID. #316625
wesnyder@hmslegal.com

Hawke McKeon & Sniscak,LLP
100 North Tenth Street
Harrisburg, PA 17101

Robert D. Fox
PA ID No. 44322
rfox@mankogold.com

Neil S. Witkes
PA ID No. 37653
nwitkes@mankogold.com

Diana A. Silva
PA ID No. 311083
dsilva@mankogold.com

Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004

Counsel for Sunoco Pipeline L.P.

Virginia Marcille Kerslake
103 Shoen Road, Exton, PA 19341
vkerslake@gmail.com


Kathryn L. Urbanowicz, Esq.

Dated: July 2, 2018