

Thomas J. Sniscak  
(717) 703-0800  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Kevin J. McKeon  
(717) 703-0801  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)

Whitney E. Snyder  
(717) 703-0807  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

April 1, 2019

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

Re: Meghan Flynn, et al. v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3006116  
and P-2018-3006117; **SUNOCO PIPELINE L.P.'S ANSWER TO  
COMPLAINANTS' MOTION TO COMPEL RESPONSES TO  
COMPLAINANT INTERROGATORIES SET 1 AND  
COMPLAINANT REQUEST FOR PRODUCTION OF  
DOCUMENTS SET 1**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.'s Answer to Complainants' Motion to Compel Responses to Complainant Interrogatories Set 1 and Complainant Request for Production of Documents Set 1 in the above-referenced proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

/s/Whitney E. Snyder

Thomas J. Sniscak  
Kevin J. McKeon  
Whitney E. Snyder  
*Counsel for Sunoco Pipeline L.P.*

WES/das  
Enclosure

cc: Per Certificate of Service  
James J. Byrne, Esquire ([jjbyrne@mbmlawoffice.com](mailto:jjbyrne@mbmlawoffice.com))  
Kelly S. Sullivan, Esquire ([ksullivan@mbmlawoffice.com](mailto:ksullivan@mbmlawoffice.com))  
Michael P. Pierce, Esquire ([mpierce@pierceandhughes.com](mailto:mpierce@pierceandhughes.com))

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party). This document has been filed electronically on the Commission's electronic filing system and served on the following:

### **VIA ELECTRONIC AND FIRST CLASS**

Michael S. Bomstein, Esquire  
Pinnola & Bomstein  
Suite 2126 Land Title Building  
100 South Broad Street  
Philadelphia, PA 19110  
[mbomstein@gmail.com](mailto:mbomstein@gmail.com)

*Counsel for Complainants*

Anthony D. Kanagy, Esquire  
Garrett P. Lent, Esquire  
Post & Schell PC  
17 North Second Street, 12<sup>th</sup> Floor  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
[glent@postschell.com](mailto:glent@postschell.com)

*Counsel for Range Resources – Appalachia LLC*

Guy A. Donatelli, Esquire  
Lamb McErlane, PC  
24 East Market St., Box 565  
West Chester, PA 19382-0565  
[gdonatelli@lambmcerlane.com](mailto:gdonatelli@lambmcerlane.com)

*Counsel for Downingtown Area School District, Chester County, Pennsylvania and Rose Tree Media School District, Delaware County, Pennsylvania*

Rich Raiders, Esquire  
Raiders Law  
321 East Main Street  
Annville, PA 17003  
[rich@raiderslaw.com](mailto:rich@raiderslaw.com)

*Counsel for Andover Homeowner's Association, Inc.*

Margaret A. Morris, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for East Goshen Township*

Leah Rotenberg, Esquire  
Mays, Connard & Rotenberg LLP  
1235 Penn Avenue, Suite 202  
Wyomissing, PA 19610  
[rotenberg@mcr-attorneys.com](mailto:rotenberg@mcr-attorneys.com)

*Counsel for Twin Valley School District, Berks County, Pennsylvania*

Vincent M. Pompo, Esquire  
Lamb McErlane, PC  
24 East Market St., Box 565  
West Chester, PA 19382-0565  
[vpompo@lambmcerlane.com](mailto:vpompo@lambmcerlane.com)

*Counsel for West Whiteland Township, Chester County, Pennsylvania*

Alex J. Baumler, Esquire  
Lamb McErlane, PC  
24 East Market St., Box 565  
West Chester, PA 19382-0565  
[abaumler@lambmcerlane.com](mailto:abaumler@lambmcerlane.com)

*Counsel for Downingtown Area School District, Chester County, Pennsylvania, Rose Tree Media School District, Delaware County, Pennsylvania, and West Whiteland Township*

Mark L. Freed  
Curtin & Heefner LP  
2005 S. Easton Road, Suite 100  
Doylestown, PA 18901  
[mlf@curtinheefner.com](mailto:mlf@curtinheefner.com)

*Counsel for Uwchlan Township*

James R. Flandreau, Esquire  
Paul, Flandreau & Berger, LLP  
320 W. Front Street  
Media, PA 19063  
[jflandreau@pfbllaw.com](mailto:jflandreau@pfbllaw.com)

*Counsel for Middletown Township*

Michael Maddren, Esquire  
Patricia Sons Biswanger, Esquire  
Office of the Solicitor  
County of Delaware  
Government Center Building  
201 West Front Street  
Media, PA 19063  
[MaddrenM@co.delaware.pa.us](mailto:MaddrenM@co.delaware.pa.us)  
[patbiswanger@gmail.com](mailto:patbiswanger@gmail.com)

*Counsel for County of Delaware*

James C. Dalton, Esquire  
Unruh Turner Burke & Frees  
P.O. Box 515  
West Chester, PA 19381-0515  
[jdalton@utbf.com](mailto:jdalton@utbf.com)

*Counsel for West Chester Area School District, Chester County, Pennsylvania*

/s/Whitney E. Snyder

Thomas J. Sniscak, Esq.  
Kevin J. McKeon, Esq.  
Whitney E. Snyder, Esq.

Dated: April 1, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:		
ROSEMARY FULLER	:		
MICHAEL WALSH	:		
NANCY HARKINS	:		
GERALD MCMULLEN	:		
CAROLINE HUGHES and	:		
MELISSA HAINES	:		
	:	Docket Nos.	C-2018-3006116
Complainants,	:		P-2018-3006117
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

**Sunoco Pipeline L.P.’s Answer to Complainants’ Motion to Compel Responses to  
Complainant Interrogatories Set 1 and Complainant Request for Production of Documents  
Set 1**

Pursuant to 52 Pa. Code § 5.342(g)(1), Sunoco Pipeline L.P. (SPLP) submits this Answer to Complainants’ March 25, 2019 Motion to Compel Responses to Complainant Interrogatories Set 1 and Complainant Request for Production of Documents Set 1<sup>1</sup> (Motion). The Motion should be denied because: 1. It is untimely, Complainants delayed haste in pursuing discovery is no excuse, and it is procedurally defective because it did not include SPLP’s objections and instead mischaracterized and/or ignored objections; and 2. Complainants’ requests are fatally overbroad and unduly burdensome, do not seek information relevant to this proceeding, seek legal theories and conclusions, and/or are so vague and hypothetical that SPLP cannot provide a response.

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<sup>1</sup> SPLP has provided Complainants’ Set 1 Requests as Attachment A to this Answer.

**I. COMPLAINANTS' MOTION IS UNTIMELY AND NO REASONABLE GROUND EXISTS FOR COMPLAINANTS' FAILURE TO ACT**

Complainants' Motion should be dismissed because it is untimely and procedurally defective. Procedural rules and deadlines are not mere guidelines, but embodied in regulations that hold parties to equal standards and have the force and effect of law. Complainants are represented by counsel. Complainants did not timely or properly file a Motion to Compel, and therefore their requests to which SPLP objected are deemed withdrawn. 52 Pa. Code § 5.342(g) ("If a motion to compel is not filed within 10 days of service of the objection, the objected to interrogatory will be deemed withdrawn."). There is no excuse for Complainants' failure to timely and properly file a motion to compel and their Set 1 Discovery is now deemed withdrawn as to the requests to which SPLP has objected.

First, Complainants failed to include SPLP's Objections<sup>2</sup> to Complainants' Set 1 Interrogatories and Set 1 Request for Production of Documents. Instead, Complainants mischaracterize and/or ignore SPLP's objections within their Motion. Such tactics show why the objections must be included with the Motion. This is not just a mere administrative defect. Complainants failure to attach SPLP's objections paints an incomplete and incorrect picture of the dispute and the Motion should be denied on this basis.

Next, Complainants admit their motion is untimely. Motion at ¶ 6. Complainants likewise concede that waivers of a deadline can only be granted where "reasonable grounds are shown for the failure to act." Motion at ¶ 7 (quoting 52 Pa. Code § 1.15).

Complainants show no reasonable ground for failure to meet the ten-day deadline. Complainants asserted "reasonable grounds" are that they usually file things on time, but in this instance had other deadlines that made it "impossible" to comply with the ten-day deadline. "Other

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<sup>2</sup> SPLP has provided its Objections as Attachment B to this Answer.

deadlines” is not good cause, where as here, it is asserted after the fact with no details of what other matters were so pressing that Complainants could not comply with the deadline. Complainants lodged 260 interrogatories with accompanying requests for documents, and despite a plethora of “other deadlines,” SPLP complied with the Commission’s ten-day time period for objections. Complainants should be held to the same standard.

Complainants assertion that the Motion should not be denied as untimely because the discovery requests seek information that is “important” and that it would be “manifestly unjust” for their untimely Motion to result in the loss of the ability to compel SPLP to respond to their Set 1 Discovery is wholly meritless. There is no need for haste here, especially when Complainants’ own actions have caused this scenario. Complainants could have lodged discovery since the date of the filing of their Complaint, November 19, 2018. Instead, Complainants waited until March 1, 2019 and lodged overbroad and unduly burdensome on SPLP that is essentially a giant fishing expedition. Complainants delayed initial discovery request shows that there is no need for haste regarding discovery. Moreover, there has not been a procedural order set in this case yet determining when Complainants’ direct testimony will be due. Complainants’ delayed haste regarding discovery does not merit considering a motion to compel responses to discovery requests, especially where those requests are largely overbroad and unduly burdensome. Justice is best served when parties are all equally held to the applicable legal rules and standards. There is no policy consideration here that merits excusing Complainants’ faulty attempts to compel discovery.

SPLP submits that Complainants would be better served if they lodged more specific and detailed requests that are reasonably calculated to lead to the production of admissible evidence instead of overbroad “all records/documents” fishing expedition requests that would result in very

time consuming and burdensome production of potentially hundreds of thousands of documents. The Motion should be denied.

SPLP notes that it has attempted to confer with Complainants' counsel on its objections. An email memorializing that conversation is provided as Attachment C to this Answer.

## **II. SPLP SHOULD NOT BE COMPELLED TO RESPOND TO THE DISCOVERY TO WHICH IT HAS OBJECTED**

Instead of fully addressing SPLP's actual objections or the applicable law, Complainants' motion is rife with ad hominin attacks on SPLP. Complainants' mischaracterization of SPLP's practices as "shoddy" and "deceptive" does not merit overruling SPLP's Objections. Complainants begin their Responses alleging that SPLP misreads the discovery rules, attempting to prove their point by citing the Pennsylvania Rules of Procedure, which do not apply here. The Commission has its own discovery rules that apply to this proceeding.

SPLP notes that it objected to certain requests on the basis that the requests sought information regarding integrity, which SPLP had raised in a preliminary objection as outside the scope of this proceeding. Since that time, Your Honor issued the Second Interim Order and dismissed this preliminary objection. SPLP acknowledges the Second Interim Order and withdraws its objection that integrity is not at issue in this proceeding and will not repeat those objections in this Answer.

SPLP will first address the overbreadth and undue burden of the requests. SPLP will then address its Objections and Complainants' arguments as to the specific requests, which are contained in a document attached to the Motion that will be referred to as "Responses."

SPLP has indicated in this Answer that it is willing to narrow the scope of certain requests and provide relevant explanations and/or documents that should provide Complainants

with the information they are seeking. SPLP has begun working on these responses and will provide them on a rolling basis as they are completed.

A. Overbreadth and Undue Burden of Requests

Most of Complainants' requests for the identification and/or production of documents<sup>3</sup> are fishing expeditions, essentially trying to obtain all documents SPLP has related to broad topics. That is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere fishing expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence***. 52 Pa. Code § 5.321(c) (emphasis added).

To appreciate the overbreadth of the requests, it is first necessary to understand the requests in the context of Complainants' definitions and instructions. SPLP notes that it has objected to those definitions and instructions and Complainants have not addressed those objections in their motion to compel and thus any argument from Complainants on those objections is waived.

First, the instructions create an unduly broad scope of information sought because they request up to 90-years of information. Definition Q, states:

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<sup>3</sup> Complainants' Interrogatory instructions allow SPLP to produce documents instead of identifying documents.



For purposes of these Interrogatories, unless otherwise indicated, the relevant time period for which information is sought is from the date a pipeline became operational until the present.

That means, unless otherwise specified in the request, that the request seeks information dating back to the 1930s. This is particularly overbroad when considering the statute of limitations for violations of the Public Utility Code or regulations, which is three years. 66 Pa. C.S. § 3314(a).

- (a) **General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

*Id.* “This section thus provides a general limitation period of three years for any action under the Code.” *Suburban East Tires, Inc. v. Pa. P.U.C.*, 582 A.2d 727, 729 (Pa. Commw. Ct. 1990) (applying three-year statute of limitations to consumer complaint against utility). To obtain any relief in this proceeding, Complainants must show SPLP violated the public utility code within the past three years of the Complaint. *Id.*; *West Penn Power Co. v. Pa. P.U.C.*, 478 A.2d 947, 949 (Pa. Commw. Ct. 1984) (“We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.”).

Complainants fail to show how their overbroad requests are reasonably calculated to lead to discovery of admissible evidence that would meet their burden to prove SPLP has violated the law or regulation within the past three years.

Next, Complainants’ definition of “record” is likewise overbroad. Record really means document and is defined as:

For purposes of these interrogatories, the terms “record” and “documents” are used interchangeable and shall include without limitation (1) books of account, spreadsheets, ledgers, computerized data bases and other records; (2) checkbooks, canceled checks, check stubs and checking account statements; (3) personnel files in which records are segregated for individual employees; (4) all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made in such copies or otherwise, including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, releases, agendas, opinions, reports, studies, test results, record of measurements, surveys, maps of any sort, written protocols, summaries, statements, consultations speeches, summaries, pamphlets, books, inter-office communications, manuals, notations of any sort of conversation, bulletins, computer printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments or any of the foregoing; (5) graphic or manual records or representations of any kind, including without limitations, photographs, charts, graphs, microphone, microfilm, videotape, records, motion pictures; and (6) electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, discs and recording.

Taking these definitions and instructions together, various of Complainants’ requests actually seek any document related to a broad topic for the past 90-years. Requests of this type are not, as required under the Commission’s regulations, “reasonably calculated to lead to the discovery of admissible evidence.” 52 Pa. Code § 5.321. They are overbroad and would cause an undue burden on SPLP, especially considering that SPLP would have to review all of these documents to determine their confidentiality status, including highly confidential security information. Responding to such overbroad requests would take months and result in production of potentially hundreds of thousands of documents. Placing this undue burden on SPLP is not allowable under the Commission’s regulations. 52 Pa. Code § 5.361(a)(4). The Motion should be dismissed.

To the extent SPLP is ordered to respond to “all document” or “all record” requests, SPLP requests that it be able to do so on a rolling basis using best efforts to complete production by May

31, 2019, depending on the number of requests that SPLP is compelled to answer. There are approximately 32 “all records” or “all documents” requests that Complainant’ seek to compel SPLP to answer. There a multitude of custodians whose documents will have to be reviewed for responsiveness, confidentiality, privilege, and confidential security information status. Some of these requests encompass 90-years’ worth of records. Producing responses is clearly a very burdensome and time-consuming request. If compelled, SPLP will use good faith efforts to produce on a rolling basis and try to complete production by May 31, 2019 and requests Your Honor memorialize this in any order compelling responses.

As to narrative responses that Complainants’ seek to compel, some of these responses require very detailed explanation and analysis and will also require a significant amount of time to complete. If compelled to answer, SPLP will produce responses on a rolling basis and attempt to complete such responses by May 31, 2019, and requests Your Honor memorialize this in any order compelling responses.

**B. COMPLAINANT SET 1, NOS. 1 and 10**

Complainant Set 1, No. 1 states:

Identify all records in your possession, custody or control that relate in part or in whole to the "significant upgrades and testing" for ME1 to which you refer in Section A of your answer to the Flynn Complaint Introduction.

Complainant Set 1 No. 10 states:

Identify all records in your possession, custody or control that relate in part or in whole to the "significant upgrades and testing" for the 12 inch pipeline to which you refer in Section B of your answer to the Flynn Complaint Introduction.

SPLP objected to these requests because they are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

The request in Complainant Set 1, No. 1, is not reasonably tailored to lead to the discovery of relevant evidence and is unduly burdensome and overbroad because it requests “all records” which is likewise defined overbroadly. Taken literally this request could pertain to hundreds of thousands of documents. This request for all records is a fishing expedition and is not reasonably tailored to discover admissible evidence.

SPLP Objections at 8, 10.

In their Response, Complainants totally mischaracterize SPLP’s objections and fail to address the overbreadth of the requests, which taken by their terms mean any documents related in any way to the significant upgrades and testing that SPLP performed on ME1 and the 12-inch pipeline prior to placing them in NGL service. These requests encompass approximately 6 years of documents. Complainants’ attempt to justify their requests by stating: “Complainants are entitled to an opportunity to see what non-privileged documents confirm Respondent’s assertion that it made significant upgrades and performed tests.” Response at 3. But that is not what Complainants asked for. In fact, that statement would be a reasonable request – ie. for SPLP to describe the upgrades it made and tests it performed and provide records confirming those tests and upgrades regarding Chester and Delaware Counties. If that is what Complainants want, then that is what they should request, not the overbroad and unduly burdensome request lodged that is not reasonably calculated to lead to admissible evidence. The requests are a fishing expedition and are not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) (“Anything in the nature of a mere fishing expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.”) (quoting *American Car & Foundry Company v.*

*Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence***. 52 Pa. Code § 5.321(c) (emphasis added).

In the spirit of compromise and subject to and without waiver of its objections, SPLP is willing to produce an explanation of the upgrades performed and tests completed for the conversion of these pipelines to HVL service and records confirming such upgrades and test results regarding Chester and Delaware Counties. SPLP believes this is a reasonable compromise that will provide Complainants with the relevant information they are seeking without placing an undue burden on SPLP.

C. COMPLAINANT SET 1, NOS. 3-9

Complainant Set 1, No. 3-9 state:

3. For each such product identified in your answer to No. 2 above, for the period 2014 to the present, broken down by year, state how much product was shipped all together irrespective of destination.
4. For each product identified in your answer to No. 3 above, identify the person that took delivery of the product.
5. What are the projected hourly and daily rates of volume of HVLs in the workaround pipeline in the high consequence areas of Chester and Delaware counties?
6. For each identifiable segment of ME1, including the Montello to Twin Oaks segment, state what you expect the maximum expected volume of HVLs to be.
7. For each segment identified in your answer to No. 6 above, what will be the rates and volumes be (by product)?
8. Identify all shippers transporting HVL products on Mariner East pipelines to destinations within Pennsylvania.

9. Identify all shippers transporting HVL products on Mariner East pipelines to destinations outside Pennsylvania.

SPLP objected to these requests as follows:

SPLP objects to these requests because they do not seek information relevant to this proceeding. Set 1, Nos. 3-9 all seek information related to SPLP's commercial intra and inter-state operations. The specific volumes of product ship, shippers, parties taking delivery, rates of volume, expected volumes, rates, and shippers by delivery destinations do no relate to any of Complainant's claims in these proceedings. These requests all appear to seek information parties such as Complainant's have attempted to use to argue SPLP is not a public utility. However, Complainant makes absolutely no such claim in its Complaint. The Commission and appellate courts have repeatedly and conclusively decided SPLP is a PUC-certificated utility and that its Mariner pipelines provide public utility service. Moreover, evidence regarding specific destinations, shippers, rates, and the inter or intra-state nature of transportation on the pipeline would not even be dispositive to whether SPLP is providing service to or for the public. The test is whether SPLP is willing and able to provide service to or for the public. It is. Complainant's legally incognizable theory regarding bearing risk for non-Pennsylvania services is nothing more than attempting to rehash SPLP's public utility status. Such claims are not relevant here.

Moreover, SPLP objects to No. 4, 7, 8, and 9 because they seek information of competitively sensitive customer information without the customer being joined or notified of the request. SPLP also objects to No. 9 because it seeks information outside the Commission's jurisdiction and irrelevant to this proceeding. SPLP's obligations as a Pennsylvania Public Utility end where the customer takes delivery. What a customer does with that product is not within SPLP's control and is not relevant to this proceeding.

Objections at 9-10.

Complainants' move to compel SPLP to respond by mischaracterizing SPLP's objection as objecting to providing the identity of the liquids flowing through the pipelines. Response at 3. That was not SPLP's objection and in fact SPLP responded to Complainants Interrogatory Set 1, No. 2, and provided the identity of the liquids flowing through the pipelines. Most of these

interrogatories do not even seek the information Complainants state they need. Complainants state: “The matters in the Compliant fall into three principal areas: the public awareness plan is inadequate; the pipelines have been sited dangerously close to homes, schools and other public facilities; and Sunoco’s integrity management program is inadequate and unlawful.” Response at 3.

The only information sought in these requests that relates to the claims as Complainants have stated them is a request for information regarding the amount of product in the pipelines now and projected for the future, not who shipped it, or where it came from, or where it goes, or who receives it, or volumes since 2014 – none of that information is relevant to Complainants’ claims. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

Complainants’ requests regarding volumes in Nos. 5-7 are unclear as to what information Complainants are seeking and in what format. In the spirit of compromise and subject to and without waiver of its objections, SPLP is working with Complainants to provide them with information on volumes.

D. COMPLAINANT SET 1, NOS. 11-12

SPLP notes that Complainants’ Responses misidentify interrogatories 11 and 12 – the interrogatories that the Responses quote as 11 is actually 13, and 12 is actually 14. SPLP will address its objections to actual interrogatories 11 and 12 in this section.

Complainant Set 1, No. 11 states:

You state that your pipeline integrity management program ("PIMP") "continues to function in compliance with the law." Identify each statute and regulation of which you are aware that sets out PIMP requirements.

Complainant Set 1, No. 12 states:

With reference to your answer to No. 11 above, explain how you are in compliance with each such statute and regulation.

SPLP objected to these requests on the basis that they are overbroad and unduly burdensome and seek SPLP's legal opinions and legal theories.

SPLP also objects to Complainant Set 1 No. 11 because it seeks disclosure of legal theories or opinions. Under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a). Complainant Set 1, No. 11 seeks legal theories and conclusions and thus is not an allowable request under the Commission's regulations.

...

SPLP further objects to this request as unduly burdensome. This request is essentially seeking to have SPLP explain how it is in compliance with every applicable section of the PHMSA and Pa PUC regulations, the Public Utility Code, and the Pipeline Safety Act.

Objections at 10-11.

Complainants' Response which simply alleges that these questions do not seek legal theories or conclusions is nonsensical. Complainants are seeking to have SPLP tell them what parts of the law SPLP believes applies to it and how SPLP believes it complies with that law. Moreover, Complainants' instructions expressly state that the word "you" "shall refer both to Sunoco and/or any other person representing or purporting to represent Sunoco in any capacity, *including its attorneys.*" Interrogatory Definition B. The plain terms of these requests show that they are seeking legal theories and conclusions.



Moreover, these requests are overbroad and unduly burdensome. Requiring SPLP to explain how it is in compliance with each and every applicable law and regulation concerning pipeline integrity management is no small task. Pipeline integrity management is a complex and technical subject matter with many aspects. The request for explanation is a fishing expedition – it is seeking to have SPLP give an explanation of every aspect of integrity management without stating with particularity how any single one of those aspects is particularly relevant to Complainants' claims that SPLP violated a law or regulation. Complainants are attempting to have SPLP produce a plethora of information and then comb through it for evidence. That is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

In the spirit of compromise and subject to and without waiver of its objections, SPLP will produce its integrity management plans, which reference various applicable regulations. Complainants can determine for themselves how these documents comply with applicable regulations.

E. COMPLAINANT SET 1, NO. 13

Complainants' Response misidentifies as No. 13 the request that is actually No. 14. SPLP will address its objections to the actual No. 13. Complainant Set 1, No. 13 states:

13. Identify all records containing information on the maintenance and upgrades of ME1, the 12 inch pipeline, and the workaround pipeline.

SPLP objected to this request because it seeks irrelevant information and is overbroad and unduly burdensome. *See* Objections at 11 incorporating Objection to Set 1, No. 1.

Complainants' Response fails to address the burden associated with this request. Again, the word "records" means all documents related to maintenance and upgrades of ME1 and the 12-inch pipeline. This request also encompasses 90-years worth of such documents. This is clearly and overbroad and unduly burdensome fishing expedition. Moreover, Complainants' wholly fail to address how approximately 90-years worth of records could be relevant here. They are not. The statute of limitations for violation of the public utility code is three years. 66 Pa. C.S. § 3314(a).

- (b) **General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

*Id.* "This section thus provides a general limitation period of three years for any action under the Code." *Suburban East Tires, Inc. v. Pa. P.U.C.*, 582 A.2d 727, 729 (Pa. Commw. Ct. 1990) (applying three-year statute of limitations to consumer complaint against utility). To obtain any relief in this proceeding, Complainants have to show SPLP violated the public utility code within the past three years of the Complaint. *Id.*; *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 478 A.2d 947, 949 (Pa. Commw. Ct. 1984) ("We hold that in order for the PUC to sustain a complaint

brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.”).

Complainants fail to show how their overbroad requests are reasonably calculated to lead to discovery of admissible evidence that would meet their burden of proof. This overbroad fishing expedition is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

In the spirit of compromise and subject to and without waiver of its objections, SPLP is willing to produce information summarizing maintenance and upgrades performed in the past three years in Chester and Delaware County.

F. COMPLAINANT SET 1, NOS. 14-103, 197-205.

Complainant Set 1, Nos. 14-103 state:

14. BIE in its Complaint at ¶ 28 alleges that "SPLP's procedures have since been revised." Identify each procedure that has been revised since the date of the Morgantown Incident.

15. For each said procedure set forth in your answer to No. 14 above, where applicable, describe what the previous procedure had been.
16. For each said procedure set forth in your answer to No. 15 above, identify all documents containing information showing on what date the procedure was revised.
17. Do you agree with BIE's allegation in ¶ 29 of its Complaint that, "any testing related to the adequacy of cathodic protection must consider the eight (8) inch and twelve (12) inch pipelines because they are located in the same right of way?"
18. If you do not agree entirely with BIE's allegation as set forth in No. 17 above, please explain in detail the reasons for your disagreement.
19. The BIE Complaint in ¶ 30 alleges that at station 2459+00, which is approximately 1,030 feet from the leak, SPLP's records indicated cathodic protection readings of -628 millivolts ("mV") in 2016 and -739 mV in 2015." Is this statement accurate?
20. If the statement noted above in No. 19 is not accurate, explain in detail how it is not.
21. In your Answer to ¶ 74 of the Amended Formal Complaint ("the Flynn Complaint") you refer to NACE SP0169-2007. Do you agree that the excerpt below, entitled 6.2 Criteria," is an accurate excerpt?

#### 6.2 Criteria

6.2.1 It is not intended that persons responsible for external control be limited to the criteria listed below. Criteria that have been successfully applied on existing piping systems can continue to be used on those piping systems. Any other criteria used must achieve corrosion control comparable to that attained with the criteria therein.

22. If your answer to No. 21 above is that the excerpt is not accurate, please explain.
23. Was the 6.2 Criteria provision in effect from 2015 at least through April 1, 2017?
24. For the period from the time ME1 became operational through the present, identify all methods that Sunoco has

successfully applied to control external corrosion on the M1 pipeline.

25. Identify all documents in your possession that pertain to the methods noted in your answer to No. 24 above.

26. Identify all findings of corrosion on the ME1 pipeline.

27. Identify all documents in your possession that pertain to the findings of corrosion referred to in No. 26 above.

28. Identify all punctures, leaks and ruptures found on the ME1 pipeline.

29. Identify all documents in your possession that pertain to the punctures, leaks and ruptures identified in your answer to No. 28 above.

30. In your answer to ¶ 74 of the Flynn Complaint, you refer to "O&M Procedures." What are O&M Procedures?

31. For the period from the time ME1 became operational through the present, identify all O&M procedures that set forth criteria you use to assess external corrosion.

32. For the period from the time became operational through the present, identify all O&M procedures that describe methods you use to control external corrosion.

33. For the period from the time ME1 became operational through the present, identify all records containing information on actual steps taken to control external corrosion.

34. Is it your contention that, for the period from the time ME1 became operational through the present, Sunoco was not required to achieve a negative cathodic potential of at least -850 mV?

35. If your answer to No. 34 above "yes," identify each NACE alternative standard that made it unnecessary for you to achieve -850 mV potential.

36. For each NACE alternative standard set out in your answer to No. 35 above, explain what steps you took to meet the requirements of the standard.

37. Identify all records that reflect all the steps that you took to meet the requirements of each alternative standard identified in your answer to No. 35 above.

38. With respect to ¶ 32 of the BIE Complaint, BIE makes certain allegations as to how you performed side drain measurements at Station 2459+00. What is a side drain measurement?
39. What is the purpose of taking side drain measurements?
40. Is ¶ 32 of the BIE Complaint an accurate description of how you performed side drain measurements?
41. If your answer to No. 40 above is in the negative, please furnish a more accurate description.
42. Set forth each date on which you performed side drain measurements on MEI, the 12 inch pipeline and the workaround pipeline.
43. The BIE Complaint in ¶ 33 asserts that "several" of the side drain measurements indicate current was flowing away from the pipelines. How many of the side drain measurements disclosed currents flowing away from the pipelines?
44. With reference to ¶ 33 of the BIE Complaint, for each side drain measurement that you took, what were the actual quantitative measurements of the currents?
45. With reference to ¶ 33 of the BIE Complaint, what consideration was given to other interference sources, including but not limited to geological (e.g., high iron rocks)?
46. Do you agree that electrical current flowing away from a pipeline is a sign of corrosion?
47. If your answer to No. 46 above is in the negative, explain fully.
48. If you do not agree that electrical current flowing away from the pipeline is an indication that the cathodic protection system is not performing to specification, please explain why.
49. Is it your contention that in a multiple pipe right of way there is no interference of current magnitudes between pipes?
50. If "yes" to No. 49 above, please explain fully.
51. What is an "earth current technique?"

52. If it is your contention that side drain measurements are not an earth current technique, please explain fully.

53. Is it your contention that § 6.2.2.3.1 does not caution that an earth current technique is often meaningless in multiple pipe rights of way?

54. If your answer to No. 53 above is "yes," please explain fully.

55. In your answer to ¶ 74 of the Flynn Complaint, you stated:

SPLP analyzed and documented that the testing it used, taken together, demonstrated that net protective current was flowing toward both lines from the north and south, since the lines share the same CP system(s), any CP current accumulated on either line will remain on that line as it returns to it (sic) source, and there would not be a current exchange between the lines through the soil, as the resistance of the electrolyte to the pipe surface is much greater than the resistance of the metallic path through the pipe itself.

Identify all records containing or reflecting your analysis and documentation of the testing referred to above.

56. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, how many rectifiers were in the system being tested?

57. Identify the specifications for each rectifier noted in your answer to No. 56 above.

58. State what load was on each rectifier noted in your answer to No. 56 above.

59. How far down each line does each rectifier influence?

60. What is the per mile loss of cathodic protection from each rectifier or circuit?

61. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, what do you mean by "net protective current?"

62. Relative to the testing discuss in your answer to ¶ 74 of the Flynn Complaint, explain in detail how you determined the net protective current.

63. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, did your calculation include measurements of currents flowing away from the pipes?
64. Identify all records containing the data involved in the measurements of net protective current as described in your answer to ¶ 74 of the Flynn Complaint.
65. ¶ 35 of the BIE Complaint alleges that "SPLP's records concerning close interval potential surveys ("CIPS") of ME1, which were performed in 2009, 2013 and 2017, demonstrate that only "on" potentials were measured." If BIE's allegation is not entirely accurate, please explain fully.
66. With reference to ¶ 35 of the BIE complaint, did you also measure "off" potentials?
67. If your answer to No. 66 above is in the affirmative, identify all records that document the potentials that were measured.
68. ¶ 35 of the BIE Complaint alleges that "the CIPS do not contain accurate and reliable data needed to assess cathodic protection on the pipeline in that the CIPS do not align with footages and test station points." If this allegation is not entirely accurate, explain fully.
69. ¶ 35 of the BIE Complaint alleges further that "certain features, such as rectifiers, areas with parallel pipelines and overhead power lines are not identified in the records where such information is critical in the determination of the validity and accuracy of the test results." If this statement is not entirely accurate, explain fully.
70. Is it your contention that in determining the validity and accuracy of CIPS it is not necessary to account for the presence of rectifiers, parallel pipelines and overhead power lines?
71. If your answer to No. 70 above is "yes," please explain fully.
72. Is it your contention that it is not necessary to identify in your records of CIPS surveys the presence of rectifiers, parallel pipelines and overhead pipelines?
73. If "yes" to No. 72 above, please explain fully.
74. Identify each place in your records where you note the presence of rectifiers, parallel pipelines and overhead pipelines in connection with CIPS.



75. With respect to the requirements for external corrosion monitoring set out in 49 C.F.R. § 195.573, your answer to ¶ 74 of the Flynn Complaint states that "Regulations do not require annual ILI testing." For the period from when ME1 became operational until the present, identify all documents showing (a) each and every test that you did perform to monitor external corrosion control, and (b) the results of those tests.

76. In your response to ¶ 74 of the Flynn Complaint you write, "SPLP did conduct other tests to evaluate the cathodic protection status where necessary consistent with its procedures in place at the time." Identify where in your records you set out your procedures to determine whether testing to evaluate cathodic protection status is necessary.

77. Identify where in your O&M Manual you describe corrosion control procedures.

78. You state in your answer to ¶ 74 of the Flynn Complaint that, "In some instances, SPLP also used Scope of Work documents to supplement its O&M procedures for specific tasks." What are Scope of Work documents?

79. Identify all documents that show Scope of Work documents were used to supplement O&M procedures?

80. State where you retain copies of Scope of Work documents for corrosion control procedures.

81. ¶ 36 of the BIE Complaint identifies records examined by BIE relative to its investigation of inspections using your In-Line Inspection ("ILI") tool. Identify all records relative to the ILI inspection you conducted in 2016 to detect anomalies and measure corrosion in the ME1 segment between Twin Oaks and Montello.

82. With respect to your response to No. 81 above, do you agree that the ILI tool failed and no data were available from the 2016 inspection?

83. If your answer to No. 82 above is in the negative, please explain fully.

84. Do you agree that you conducted another ILI inspection for the same Twin Oaks to Montello segment of ME1 in 2017?

85. Where are all the records of the additional ILI inspection in 2017?

86. What conclusions did you draw as to the cause of metal loss identified in the 2017 inspection?
87. Did you rule out corrosion as a cause or possible cause of the metal loss in connection with the 2017 inspection?
88. What steps if any did you take as a consequence of the metal loss findings from the 2017 inspection?
89. In your answer to ¶ 74 in the Flynn Complaint you state "SPLP's manual provides SPLP will create a list of segments where CIPS should be utilized and where such testing is not practical and necessary the list will document the reasons. SPLP created and maintains this list." Where is this list located and retained?
90. Identify all records for the Morgantown line segment reflecting any inspections or maintenance performed on that segment.
91. Identify all records for the Morgantown line segment from prior to the Morgantown Incident reflecting a finding or decision that any type of testing is not practical or reasonable.
92. For the Morgantown line segment, identify all testing that showed whether adequate cathodic protection levels were met or not met prior to the Morgantown Incident.
93. In reference to your answer to ¶ 74 of the Flynn Complaint, identify all of the "several consecutive ILI reports with cathodic protection data" that you say SPLP compared to look for corrosion or corrosion growth.
94. The BIE Complaint in ¶ 41 alleges that Sunoco's procedures for compliance with § 195.402 "did not include any detail on how to accomplish the five CIPS metrics [required by § 195.173]. In response, you state in ¶ 74 of your answer to the Flynn Complaint that "[r]eview of 195.402 shows that there are not prescriptive standards of what details must be contained in an O&M manual." What is an O&M manual?
95. In reference to the quote cited in No. 94 above, what do you mean by "prescriptive standards?"
96. Do you agree that 49 C.F.R. § 195.402(a) states that an O&M manual requires an operator to "prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities... ?"

97. If your answer is "yes" to No. 95 above, what is your understanding of the meaning of "written procedures for conducting" in this regulation?

98. Do you agree that 49 C.F.R. § 195.402(c)) dictates that the O&M manual must include procedures for, inter alia, ". . .maintaining... the pipeline system?"

99. If your answer is "yes" to No. 98 above, is it your contention that "procedures for maintaining" means something other than a description of how to obtain, evaluate and accomplish the five CIPS metrics set out in § 195.173?

100. If your answer is "yes" to No. 99 above, please explain fully.

101. The BIE Complaint in ¶ 38 alleges that your Manual procedure for § 195.571, relative to adequacy of cathodic protection, (a) fails to state any applications of or limitations on the criteria list, (b) fails to incorporate the precautionary notes of NACE SPOI 169-2007 at § 6.2.2.3 regarding use of earth current techniques in multiple rights of way, and (c) failed to require documentation. Is this allegation factually incorrect?

102. If the answer to No. 101 above is "yes," please explain why these things were not included.

103. For a period of five years prior to the date of the Morgantown Incident, identify all records of each analysis, check, demonstration, examination, inspection, investigation, review, survey and test performed in connection with your corrosion control measures.

197. Identify all reports, test results, studies and other documents in your possession or control regarding weld records for ME1 in proximity to the April 1, 2017 Morgantown leak.

198. Identify all internal analysis and communication related to the determination that failed O-rings caused the leak in Morgantown April 1, 2017.

199. Why did Sunoco not detect the leak that occurred in Morgantown April 1, 2017 prior to it being discovered by a resident?

200. Quantify the size of the Morgantown leak noted in Flynn Complaint ¶ 65.

201. What was the cause of the Morgantown leak?

202. Explain why you did not prevent the Morgantown leak.

203. Did faulty O-rings play any role in the development of the Morgantown leak?

204. Identify all written statements you have made regarding the Morgantown leak.

205. Do accept as correct the findings of PHMSA in its accident report on the Morgantown leak?

SPLP stated the following objections:

SPLP objects to each and every one of these requests because they do not seek information relevant to this proceeding. Each of these requests pertains to BI&E's Morgantown Complaint against SPLP. Complainants have improperly attempted to incorporate that entire Complaint (which relates to events with no discernable effect on Complainants), into their Complaint. As explained in SPLP's Preliminary Objections, Complainants attempt to incorporate the BI&E Morgantown Complaint and/or the issues therein should not be allowed in this proceeding. Complainants also lack standing to make allegations regarding the BI&E complaint, which focuses on a pin-hole leak and alleged past non-conformity with integrity management and cathodic protection regulations. Complainants wholly fail to allege that the Morgantown incident or those past occurrences have in any way impacted them, let alone had the required direct, immediate, and substantial impact required for standing; those claims should be dismissed from this proceeding and therefore discovery seeking information regarding those claims is irrelevant.

Moreover, BI&E's Morgantown Complaint has resulted in a settlement in principle with a Joint Petition for Settlement forthcoming that will allow for a public comment period for interested persons prior to the Commission deciding whether to approve that settlement. The settlement will promote public safety. Allowing Complainants' to essentially open litigation of that settled Complaint is against Commission policy. Commission policy encourages settlement. 52 Pa. Code § 5.231(a). Allowing a Complainant to essentially act as a private attorney general and litigate a complaint that the actual prosecutory entity brought against SPLP is improper and has a chilling effect on settlements. If SPLP is subject to litigation for the same claims it has settled with BI&E here, that takes away SPLP's incentives to settle cases and agree to terms that promote public safety where it is subject to litigation of those same claims before the same regulatory body regardless of such settlement. Complainants were not discernably affected by the events of the Morgantown Complaint. To the extent Complainants are curious concerning the BI&E Complaint and resolution thereof,

they can submit comments to the Commission concerning the Joint Petition for Settlement at that docket.

The interrogatories Complainants propounded demonstrate their complete lack of understanding and knowledge regarding the facts, regulations, and law concerning the Morgantown Complaint, and shows why Complainants should not be allowed to essentially act as a private attorney general for these claims and incorporate them wholly into their Complaint. Moreover, the discovery propounded is in large part an attempt to annoy and harass SPLP as many of the requests seek information contained in SPLP's publicly available Answer to the Morgantown Complaint.

SPLP also objects to these requests for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

Objections at 19-21, 29.

Complainants' Response argues that since it is now attempting to amend its Complaint for a second time to copy/paste I&E's Complaint into its proposed Second Amended Complaint in light of Your Honor's ruling that Complainants cannot incorporate BI&E's Morgantown Complaint in their Complaint, these requests are relevant. SPLP opposes the proposed amendment and will fully address those arguments in its Answer to Complainants' Motion for Reconsideration of Second Interim Order. Complainants are simply trying to side-step Your Honor's ruling in an attempt to litigate BI&E's Morgantown Complaint. That is absurd and should not be allowed. The requests themselves show that Complainants are in fact attempting to litigate that Complaint by seeking information on BI&E's allegations.

Complainants are trying to act as a private attorney general, essentially trying to conduct their own investigation of BI&E's allegations. Complainants do not have investigatory powers – that is BI&E's job. Instead, Complainants can use discovery to seek information relevant to their own claims that is reasonably calculated to lead to admissible evidence.

Moreover, BI&E's claims have been settled. The Joint Petition for Settlement will be publicly available on or about April 3, 2019. SPLP requests that Your Honor withhold ruling on these requests until considering the Joint Petition for Settlement in the context of SPLP's Answer to Complainants' Motion for Reconsideration of Second Interim Order. SPLP also notes that it provided Complainants' counsel with a copy of SPLP's Answer to the BI&E Morgantown Complaint. Counsel will confer on these requests again after Complainants have had an opportunity to consider the Morgantown Answer and Settlement.

G. COMPLAINANT SET 1, NOS. 104-112

Complainant Set 1, Nos. 104-112 state:

104. Identify all records in your possession, custody or control that relate in part or in whole to the Sinkhole Incidents.

105. Other than the sinkholes in the Sinkhole Incidents, have other sinkholes occurred along the routes of ME 1, the 12 inch pipeline and the workaround pipelines since 2014?

106. Identify the specific location of each such sinkhole listed in response to No. 105 above.

107. Identify when and how Sunoco first learned of each sinkhole identified in the answer to No. 106 above.

108. Identify who, if anyone, Sunoco notified about each sinkhole identified in the answer to No. 106 above.

109. With respect to your answer to No. 108 above, state when such notice of a sinkhole was given.

110. Identify what testing or studies were done as a result of each of the sinkholes identified in your answer to No. 106 above.

111. Identify any mitigating action taken in relation to the sinkholes identified in your answer to No. 106 above.

112. Identify any and all records that relate in whole or in part to the sinkholes identified in your answer to No. 106 above.

SPLP stated the following objections based on irrelevance, overbreadth and undue burden:

SPLP objects to Complainant Set 1, Nos. 104-112 because these requests do not seek information relevant to this proceeding. The Amended Complaint does not raise issues of subsidence events or geology. Complainant Set 1, Nos. 104-112 all seek information related to subsidence events and geology that are not relevant to this proceeding according to the allegations raised in the Complaint and therefore are outside the scope of discovery allowed under the Commission's regulations.

SPLP also objects to these requests for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

Objections at 21-22.

Complainants' Responses argue that even though their Amended Complaint does not raise issues of geology regarding the pipelines at issue here, because they made allegations about potential geological issue regarding a Beaver County incident concerning a natural gas gathering pipeline, they should be allowed to inquire as to geology issues related to ME1 and the 12-inch pipeline. But Complainant cannot raise claims regarding geology of the ME1, ME2 or 12-inch pipelines because it did not plead any facts thereto, meaning its Complaint cannot encompass such claims. The Commission's rules of procedure provide that a formal complaint must contain a "clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation." 52 Pa. Code § 5.22(a)(5). The Commission's rule is based on Pennsylvania's Rule of Civil Procedure 1019, which **requires a plaintiff to plead all the facts that he must prove in order to achieve recovery on the alleged cause of action**. *Steven Higgins v. National Fuel Gas Distr. Corp.*, Docket No. C-2012-2338926, Initial Decision, 2013 WL 1100798, at \*2 (Pa. P.U.C.. Feb. 26, 2013) (Colwell, ALJ) (emphasis added). Complainants did not plead facts regarding the Lisa Drive geological issues or any geological issues regarding

ME1, ME2, or the 12-inch pipeline. The cannot now seek discovery on claims outside of their Complaint because such claims are irrelevant.

Complainants also mischaracterize Mr. Zurcher's testimony a different proceeding, *State Senator Dinniman v. SPLP*, in an attempt to make their requests relevant to this proceeding. The key is that Complainants here, in this proceeding, have not raised geology regarding the pipelines at issue here. Thus, these requests are irrelevant to Complainants' claims. Likewise, Complainants' statement now, in their unverified Responses, that they believe "sinkholes in Chester County were a consequence of . . . disregard of the geology of the area" does not bring geology within the scope of this proceeding. The scope of the proceeding as to claims Complainants can make is limited to the allegations in the Amended Complaint.

Complainants wholly fail to address the overbroad and unduly burdensome nature of these requests. The requests are not limited in scope by geography and thus would apply to information regarding the entire state. Moreover, Nos. 104 and 112 are, again, "all records" requests, meaning all documents related to a broad topic that fail to identify specific types of documents sought or their relevance. Such fishing expedition is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain



discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

H. COMPLAINANT SET 1, NOS. 113-118

Complainant Set 1, Nos. 113-118 state:

113. Identify all leaks, punctures and ruptures that have occurred on ME1.

114. Identify all leaks, punctures and ruptures that have occurred on the 12 inch line.

115. Identify all leaks, punctures and ruptures that have occurred on the workaround pipeline.

116. Identify all injuries, deaths and property damage associated with ME1.

117. Identify all injuries, deaths and property damage associated with the 12 inch line.

118. Identify all injuries, deaths and property damage associated with the workaround pipeline.

SPLP stated the following objections:

SPLP objects to Complainant Set 1 Nos. 113-118 because these requests are unduly burdensome and intended to annoy and harass where the information requested is already publicly available on PHMSA's website. These requests all seek information regarding incidents that SPLP is required to and does report to PHMSA. PHMSA compiles information from these reports and makes it publicly available in spreadsheet form available on its website. As this information is just as readily available to Complainants as Respondent, requests for this publicly available information is unduly burdensome, intended to annoy and harass, and thus is outside the scope of discovery allowable under the Commission's regulations.

To the extent these requests seek information beyond the time period for which PHMSA makes such data publicly available, SPLP objects to these requests as not calculated to discovery admissible evidence and unduly burdensome. A request for data back to the 1930's that Complainants have not shown is relevant to their Amended Complaint is a fishing expedition and requires

unreasonable investigation. These requests are beyond the scope of allowable discovery under the Commission's regulations.

Objections at 22-23.

Complainants' Response illogically argues that: "It is striking that Sunoco would suggest providing documents related to leaks and ruptures dating back to the 30's is somehow unreasonable and yet the actual operation of a pipeline from the 30's is not." Response at 17. How long SPLP's pipelines have been in operation is irrelevant to the scope of discoverable materials. Moreover, Complainants' reference to providing documents is non-sensical. Complainants did not request identification or production of documents for these requests.

Complainants' request for publicly available information is unreasonable and unduly burdensome because Complainants have not alleged that they are somehow incapable of retrieving this information. Instead, they attempt to place the burden on SPLP to respond to yet another of their unduly burdensome requests.

Regarding the scope of the request for information back to the 1930's that is clearly overbroad and irrelevant. The statute of limitations for violation of the public utility code is three years. 66 Pa. C.S. § 3314(a).

- (c) **General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

*Id.* "This section thus provides a general limitation period of three years for any action under the Code." *Suburban East Tires, Inc. v. Pa. P.U.C.*, 582 A.2d 727, 729 (Pa. Commw. Ct. 1990) (applying three-year statute of limitations to consumer complaint against utility). To obtain any relief in this proceeding, Complainants have to show SPLP violated the public utility code within

the past three years of the Complaint. *Id.*; *West Penn Power Co. v. Pa. P.U.C.*, 478 A.2d 947, 949 (Pa. Commw. Ct. 1984) (“We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.”). This fishing expedition is not allowed. Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

Complainants fail to show how their overbroad requests are reasonably calculated to lead to discovery of admissible evidence that would meet their burden of proof.

In the spirit of compromise and subject to and without waiver of its objections, SPLP is willing to produce the PHMSA incident data dating back to 1986, which will show all reported incidents, whether there was any injury/death/property damage associated with the incident and provide a copy of the incident report form for each incident. SPLP believes this production will provide more than the relevant information Complainants are seeking without placing an undue burden on SPLP.

I. SET 1, NO. 123

Set 1, No. 123 states:

123. Is it your contention that PUC approval of the dissemination of the PAP in the Dinniman case was tantamount to approval of the content of the PAP?

SPLP stated the following objection to this request:

SPLP objects to Set 1, No. 123 because it seeks a legal conclusion. Section 5.323 prohibits discovery of legal theories and conclusions. 52 Pa. Code § 5.323(a). This request by its terms seeks SPLP’s legal

conclusions and theories concerning the Commission's Orders in the *Dinniman* proceeding. Accordingly, this request is outside the scope of allowable discovery under the Commission's regulations.

Objections at 23.

Complainants' Responses argue that this was one of SPLP's defenses. SPLP has made a similar **legal argument** in this proceeding regarding its legal interpretation of the Commission's orders. Moreover, Complainants' instructions expressly state that the word "you" "shall refer both to Sunoco and/or any other person representing or purporting to represent Sunoco in any capacity, *including its attorneys.*" Interrogatory Definition B. The plain terms of this request show it is seeking legal theories and conclusions.

J. SET 1, NOS. 127, 144, 155-162

Set 1, Nos. 127, 144, 155-162 state:

127. Sunoco has informed the public that a leak could be identified by a hissing sound. Can this sound be heard above regular traffic noise on SR 352 or other heavily travelled roads in Chester and Delaware Counties?

144. How close would a person have to be to an HVL leak in order to smell it?

155. Is the potential impact radius for an HVL leak or rupture any different from the potential impact radius of a natural gas leak or rupture?

156. Identify all data you considered in your answer to No. 155 above.

157. For what distances can HVLs move downwind or downhill while remaining in combustible concentrations?

158. How can HVLs be detected without specialized equipment?

159. How would HVLs dissipate/disperse following a leak?

160. How long would it take for this dissipation to occur?

161. How far could HVLs move while still in a combustible concentration?

162. An HVL leak may cause brown or dead vegetation. How can these conditions be detected in the winter?

In the spirit of compromise and subject to and without waiver of its objections, SPLP will provide responses to these requests.

K. COMPLAINANT SET 1, NOS. 163-164

Complainant Set 1, Nos. 163-164 state:

163. What is your understanding of the term "pipeline integrity management program" ("PIMP") in relation to pipelines?

164. Identify all documents in which your PIMP is found.

SPLP objected to these requests based on integrity not being at issue in these proceedings and undue burden as to request No. 164. SPLP will respond to request 163. In the spirit of compromise and subject to and without waiver of its objections, SPLP will produce its integrity management plans.

L. COMPLAINANT SET 1, NOS. 165-166

Complainant Set 1, Nos 165-166 state:

165. Identify all records reflecting planning for the location of ME pipelines in Chester and Delaware counties.

166. Identify all records reflecting planning for transportation of HVLs through Chester and Delaware counties.

SPLP provided the following objections:

SPLP objects to these requests because they are overly broad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. These requests for "all records" interpreted literally could lead to the production of hundreds of thousands of documents and thus are overbroad and unduly burdensome. Moreover, these requests are a fishing expedition because they are not calculated to lead to discovery of admissible evidence relevant to the Amended Complaint.

Complainants' Responses simply argue that this information is important to them and it is probative. This wholly ignores the overbreadth of these requests and the lack of relevance to Complainants' burden of proof. That SPLP sited its pipelines in High Consequence Areas (HCAs) cannot be violation of any applicable law or regulation. The applicable federal regulations incorporated at 52 Pa. Code § 59.33(b), expressly allow for siting pipelines in HCAs. *See, e.g.*, 49 C.F.R. § 195.452 (specifying pipeline integrity management in high consequence areas). Thus, the documents related to planning for the siting of the pipelines and transportation of products is irrelevant because siting the pipelines in HCAs cannot be a violation of the law. Moreover, the scope of this request is behemoth. The term "planning" appears to indicate any documents related to how SPLP chose to site a particular piece of pipe where it did. That would encompass thousands of documents, down to every pipeline profile drawing and the iterations thereof. This is an absurdly overbroad fishing expedition and is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

In the spirit of compromise and subject to and without waiver of its objections, SPLP is willing to produce an explanation of its planning process when it considered the location for siting ME2. SPLP believes this will provide Complainants with the information they are seeking without placing an undue burden on SPLP.

M. COMPLAINANT SET 1, NO. 169

Complainant Set 1, No. 169 states:

169. What consideration was given to the relative risks of locating valve stations near vulnerable populations such as schools, hospitals, senior residences, etc.?

SPLP stated the following objection:

SPLP objects to this request because it assumes a false premise and lack sufficient factual detail for SPLP to be able to respond. Complainant Set 1, No. 169 seeks information regarding SPLP decision-making based on “the relative risks of locating valve stations.” However, the request fails to define what “relative risks” or “vulnerable populations” Complainants assert exist regarding valve stations. As SPLP has stated in its Answer to the Amended Complaint, non-expert allegations concerning valve stations are overstating risks associated with valves.

Objections at 25.

Complainants’ Responses argue this information is probative and that the request does not lack sufficient detail. They argue that all the question seeks is “how [SPLP] looked at the possibility of locating valve stations near schools and hospitals.” That is not what the request asks though. The request discusses undefined “relative risks of locating valve stations near vulnerable populations” without explaining what is meant by relative risk or vulnerable. SPLP will not guess at what Complainants are trying to ask about. A clearer request would be to explain how SPLP considered locating valve stations near schools, hospitals and senior residences, and if that is the

information Complainants seek, that is what they should ask. The question as phrased is too undefined for SPLP to provide a response.

In the spirit of compromise and subject to and without waiver of its objections, SPLP will produce an explanation as to how it considered the location of valve stations in Chester and Delaware County for the ME2 pipeline.

N. COMPLAINANT SET 1, NOS. 173-177

Complainant Set 1, Nos. 173-177 state:

173. Identify all risk assessments, studies, reports, memos and other documents in your possession, custody or control regarding the safety of ME1 and the workaround pipeline.

174. Identify all risk assessments, studies, reports, memos, test results and other documents in your possession, custody or control that have evaluated the consequences or probable consequences of the ignition of gaseous HVLs following their release from pipelines as a result of punctures, leaks and ruptures.

175. Identify all documents showing the locations of ME1 and ME2 & 2X in Chester and Delaware counties.

176. Identify all documents showing the depth of ME1 and ME2 & 2X below the surface in Chester and Delaware counties.

177. Explain how the determination was made to install pipelines at the depths noted in the documents identified in your answer to the above question.

SPLP stated the following objections:

SPLP objects to these requests as overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. These “all documents” requests interpreted literally implicate tens of thousands of documents. Moreover, these requests are a fishing expedition, not calculated to lead to the discovery of admissible evidence. Accordingly, these requests are beyond the scope of allowable discovery under the Commission’s regulations.

Objections at 26.



Complainants' Responses ignore the extreme overbreadth of these requests and the undue burden response would place on SPLP, instead making rhetorical arguments about the alleged "burden" of living close to a pipeline. SPLP is not attempting to conceal information that may be relevant. However, these all related documents requests are clearly a fishing expedition, failing to seek specific records Complainants believe are probative and instead asking for all documents related to extremely broad topics. That is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence***. 52 Pa. Code § 5.321(c) (emphasis added).

Regarding Nos. 175-177, in the spirit of compromise and subject to and without waiver of its objections, SPLP will produce maps showing the location and depth of ME1, ME2, and the 12-inch pipeline and provide a response to 177. SPLP believe it has an agreement with Complainants that this production will fulfill their requests for 175-177. See Attachment C at Paragraph 9.

O. COMPLAINANT SET 1, NOS. 178-180

Complainant Set 1, Nos. 178-180 state:

178. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, which Mariner East pipelines either ship or are planned to ship HVLs through the pipes located between her home and 233 Lenni Road?

179. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, what is the horizontal distance between the Higgins house and each Mariner east pipeline that either ships or is planned to ship HVLs?

180. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, for each pipeline identified above, state at which depth the pipes are or will be below the surface.

SPLP stated the following objections:

SPLP objects to these requests because they do not seek evidence relevant to this proceeding. Each request seeks information regarding property allegedly owned by Allison Higgins. Ms. Higgins is not a Complainant in this proceeding nor is her property listed as the address of any of the Complainants in this proceeding. Complainants do not have standing to represent the interests of others. Accordingly, requests for information regarding Ms. Higgins property are not relevant to this proceeding and are not within the scope of allowable discovery under the Commission's regulations.

Objections at 26.

Complainants' Responses admit Ms. Higgins is not a Complainant here, that the Morgantown leak incident is not the subject of this case, and that Glenwood Elementary School is not a Complainant either. Instead, Complainants argue that these entities "figure into what SPLP has been doing in terms of pipeline safety practices." SPLP disagrees. Again, these questions go to the location of the pipelines in HCAs. Siting a pipeline in an HCA is not a violation of law, to the contrary, it is allowed under the law. *See, e.g.* 49 C.F.R. § 195.452. Moreover, Complainants have not plead facts regarding Ms. Higgins, and therefore these topics are outside the scope of the Amended Complaint and thus are irrelevant to this proceeding. The Commission's rules of

procedure provide that a formal complaint must contain a “clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.” 52 Pa. Code § 5.22(a)(5). The Commission's rule is based on Pennsylvania's Rule of Civil Procedure 1019, which **requires a plaintiff to plead all the facts that he must prove in order to achieve recovery on the alleged cause of action.** *Steven Higgins v. National Fuel Gas Distr. Corp.*, Docket No. C-2012-2338926, Initial Decision, 2013 WL 1100798, at \*2 (Pa. P.U.C. Feb. 26, 2013) (Colwell, ALJ) (emphasis added). Discovery must seek information that is relevant. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence.*** 52 Pa. Code § 5.321(c) (emphasis added).

P. **COMPLAINANT SET 1, NOS. 181-182**

Complainant Set 1, Nos. 181-182 state:

181. Identify copies of all cost estimates to install HVL leak detector and alarm systems for schools and children's play areas that are within the blast radius of the Mariner East pipelines.

182. If your answer to No. 181 is that you have not obtained any such estimates, explain why not.

In the spirit of compromise and subject to and without waiver of its Objections, SPLP will provide responses to these requests.

Q. **COMPLAINANT SET 1, NOS. 183-184**

Complainant Set 1, Nos. 183-184 state:

183. With respect to incidents in 2018 in which Aqua drilling struck a Mariner line or lines in Middletown, Delaware County, explain fully your understanding of why the incident occurred.

184. Identify all documents related to the incidents identified in your answer to No. 183 above.

SPLP stated the following objections:

SPLP objects to Set 1, Nos. 183-184 because they do not seek information relevant to this proceeding. The Amended Complaint does not raise allegations concerning the Aqua line hit that these requests seek information. Accordingly, these requests do not seek information relevant to this proceeding and are beyond the scope of allowable discovery under the Commission's regulations.

SPLP also objects to Set 1, Nos. 183-184 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

Objections at 28.

Complainants' Responses argue that this information is broadly related to pipeline safety and therefore it is relevant. But Complainants did not plead facts regarding the Aqua incident and therefore it is outside the scope of this proceeding and irrelevant. The Commission's rules of procedure provide that a formal complaint must contain a "clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation." 52 Pa. Code § 5.22(a)(5). The Commission's rule is based on Pennsylvania's Rule of Civil Procedure 1019, which **requires a plaintiff to plead all the facts that he must prove in order to achieve recovery on the alleged cause of action.** *Steven Higgins v. National Fuel Gas Distr. Corp.*, Docket No. C-2012-2338926, Initial Decision, 2013 WL 1100798, at \*2 (Pa. P.U.C. Feb. 26, 2013) (Colwell, ALJ) (emphasis added). Discovery must seek information that is relevant. A party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence.*** 52 Pa. Code § 5.321(c) (emphasis added).

Complainants wholly fail to address the overbreadth of the all documents related to request, which is a disallowable fishing expedition that is not reasonably calculated to lead to the discovery

of admissible evidence. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) ("Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.") (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is ***relevant to a pending proceeding*** and ***reasonably calculated to lead to the discovery of admissible evidence***. 52 Pa. Code § 5.321(c) (emphasis added).

In the spirit of compromise and subject to and without waiver of its objections, SPLP is willing to answer No. 183 and for 184 provide the One Call report it submitted to the Commission. This should provide the Complainants with the information they are seeking without placing an undue burden on SPLP regarding the "all documents" request.

R. COMPLAINANT SET 1, NOS. 195-196

Complainant Set 1, Nos. 195-196 state:

195. Do you agree completely with Mr. Zurcher's statement as quoted in ¶ 62 of the Flynn Complaint?

196. If "no" to No. 195 above, please explain fully.

In the spirit of compromise and subject to and without waiver of its objections, SPLP will respond to these requests.

S. OBJECTION TO COMPLAINANT SET 1, NOS. 206-213

Complainant Set 1, Nos. 206-213 state:

**Beaver County Explosions**

206. Identify each factual allegation in 68 of the Flynn Complaint that you contend is inaccurate.
207. Who constructed the Rover pipeline that was involved in the Beaver County Explosions?
208. What company was operating the Rover pipeline at the time of the Beaver County Explosions?
209. When was the Rover pipeline placed in service?
210. What was the cause of the Beaver County Explosions?
211. Did geological features cause or contribute to the Beaver County Explosions?
212. Is the Zurcher quote in Flynn Complaint ¶ 71 inaccurate?
213. If your answer to No. 216 above is "yes," please explain.

SPLP stated the following objections:

SPLP objects to these requests because they do not seek information relevant to this proceeding. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c), in turn, provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Complainants do not have standing to raise issues regarding the incidents in Beaver County on the Revolution pipeline. That pipeline is not a public utility and the Commission does not have jurisdiction to hear a Complaint under section 701 concerning the Revolution pipeline.

Moreover, the Revolution pipeline was not constructed, owned, or operated by SPLP. The Revolution pipeline is a natural gas gathering line, not an HVL transmission line such as the pipelines at issue in this proceeding. The incidents that occurred regarding the Revolution pipeline are not relevant to this proceeding and thus discovery of such matters is beyond the scope of discovery allowed under the Commission's procedural rules.

Objections at 29-30.

Complainants' Responses mischaracterize SPLP's objections and argue that SPLP "had placed the Beaver County pipeline in service." Complainants are incorrect. SPLP does not own or operate and did not construct the Revolution pipeline. Complainants' do not have standing to raise allegations concerning a natural gas gathering pipeline half-way across the state that is not a public utility. The only jurisdiction the Commission has over that pipeline is pursuant to Act 12 of 2011. Neither that Act nor the Public Utility Code Section 701 allow for the public to make Complaints against non-public utility pipeline operators. Only the Commission's Bureau of Investigation and Enforcement has the ability to make such Complaint before the Commission. Moreover, Complainants' fail to show how allegations concerning that pipeline have any bearing on the pipelines at issue here. These requests do not seek information relevant to this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence as required under the Commission's regulations. 52 Pa. Code § 5.321(c).

T. OBJECTION TO COMPLAINANT SET 1, NOS. 214-216

Complainant Set 1, Nos. 214-216 state:

214. What is the range of leak sizes detected by Sunoco on the Mariner East pipelines?

215. What is the smallest leak Sunoco has detected on an HVL line?

216. What is the smallest leak Sunoco is equipped to detect on an HVL line during the course regular inspection and maintenance?

SPLP stated the following objections:

SPLP objects to these requests because they are vague, ambiguous, and do not provide enough factual detail for SPLP to be able to respond to them. They are overbroad and seek to inquire into matters beyond the time and geographic scope relevant to this proceeding. Each of these requests seek information regarding leak detection on SPLP's pipelines, including all HVL lines SPLP operates, since the time each pipeline has been in operation. This request is well beyond the scope of what is relevant to this

proceeding considering Complainant's do not have standing to raise claims outside of the geographic area for which they claim standing in Chester and Delaware Counties. *DiBernardino v. Sunoco Pipeline L.P.*, Order Granting In Part And Denying In Part Preliminary Objections To Amended Complaint at 11 (Order entered Dec. 21, 2018) (Barnes, J.). Moreover, the questions do not specify why Complainants mean by leak detection or regular inspection and maintenance. Accordingly, SPLP objects to these requests as overbroad, seeking information not relevant to this proceeding, and thus beyond the scope of discovery allowed under the Commission's regulations. SPLP also objects to these requests as vague, and ambiguous such that SPLP cannot respond to these requests.

Objections at 30-31.

Complainants' Responses simply disagree with SPLP's objections without addressing the overbroad nature of these requests or their ambiguity. These requests are not limited by time, so they seek information back to the 1930's nor are they limited by geography to Chester and Delaware County. Regarding the scope of the request for information back to the 1930's that is clearly overbroad and irrelevant. The statute of limitations for violation of the public utility code is three years. 66 Pa. C.S. § 3314(a).

- (d) General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

*Id.* "This section thus provides a general limitation period of three years for any action under the Code." *Suburban East Tires, Inc. v. Pa. P.U.C.*, 582 A.2d 727, 729 (Pa. Commw. Ct. 1990) (applying three-year statute of limitations to consumer complaint against utility). To obtain any relief in this proceeding, Complainants have to show SPLP violated the public utility code within the past three years of the Complaint. *Id.*; *West Penn Power Co. v. Pa. P.U.C.*, 478 A.2d 947, 949



(Pa. Commw. Ct. 1984) (“We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.”). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

Complainants fail to show how their overbroad requests are reasonably calculated to lead to discovery of admissible evidence that would meet their burden of proof. For example, if SPLP failed to detect a leak in 1950, that has absolutely no bearing on this case and Complainants have not even attempted to allege how it could.

Moreover, these requests are vague and ambiguous and SPLP is not required to guess at what Complainants are asking. It is unclear what Complainants mean by “detected” – are they seeking information regarding the leak detection equipment present on the pipelines and/or leaks that may be detected by other means? It is also not clear whether request Nos. 215-216 only seek information regarding the Mariner pipelines or are so overbroad as to request information regarding other SPLP pipelines not at issue in this proceeding.

U. COMPLAINANT SET 1, NOS. 219-221

Complainant Set 1, Nos. 219-221 state:

219. What is your actual rate of detecting pipeline cracks and corrosion, regardless of the means of detection?

220. Of the leaks that have been detected on Sunoco's ME1 and workaround pipelines, what percentage were first detected by Sunoco?

221. Out of all cracks and corrosion detected, what percentage is first detected by the public?

SPLP stated the following objections:

SPLP objects to these requests because they are vague, ambiguous, and do not provide enough factual detail for SPLP to be able to respond to them, they are overbroad and seek to inquire into matters beyond the time and geographic scope relevant to this proceeding. Each of these requests seek information regarding percentage or rate of crack and corrosion detection on SPLP's pipelines, including all HVL lines SPLP operates, since the time each pipeline has been in operation. This request is well beyond the scope of what is relevant to this proceeding considering Complainant's do not have standing to raise claims outside of the geographic area for which they claim standing in Chester and Delaware Counties. Moreover, the questions do not specify why Complainants mean by leak detection or regular inspection and maintenance. Accordingly, SPLP objects to these requests as overbroad, seeking information not relevant to this proceeding, and thus beyond the scope of discovery allowed under the Commission's regulations. SPLP also objects to these requests as vague, and ambiguous such that SPLP cannot respond to these requests.

SPLP objects to Set 1, Nos. 219-221 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

Objections at 31-32.

Complainants' Responses again fail to address SPLP's Objections. These requests are not limited by time, so they seek information back to the 1930's nor are they limited by geography to Chester and Delaware County. Regarding the scope of the request for information back to the 1930's that is clearly overbroad and irrelevant. The statute of limitations for violation of the public utility code is three years. 66 Pa. C.S. § 3314(a).

- (e) **General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

*Id.* “This section thus provides a general limitation period of three years for any action under the Code.” *Suburban East Tires, Inc. v. Pa. P.U.C.*, 582 A.2d 727, 729 (Pa. Commw. Ct. 1990) (applying three-year statute of limitations to consumer complaint against utility). To obtain any relief in this proceeding, Complainants have to show SPLP violated the public utility code within the past three years of the Complaint. *Id.*; *West Penn Power Co. v. Pa. P.U.C.*, 478 A.2d 947, 949 (Pa. Commw. Ct. 1984) (“We hold that in order for the PUC to sustain a complaint brought under this section, the utility must be in violation of its duty under this section. Without such a violation by the utility, the PUC does not have the authority, when acting on a customer's complaint, to require any action by the utility.”).

Complainants fail to show how their overbroad requests are reasonably calculated to lead to discovery of admissible evidence that would meet their burden of proof. This fishing expedition is not allowed. *See, e.g., City of York v. Pa. P.U.C.*, 281 A.2d 261, 265 (Pa. Commw. Ct. 1971) (“Anything in the nature of a mere **fishing** expedition is not to be encouraged. Where the plaintiff will swear that some specific book contains material or important evidence, and sufficiently describes and identifies what he wants, it is proper that he should have it produced. But this does not entitle him to have brought in a mass of books and papers in order that he may search them through to gather evidence.”) (quoting *American Car & Foundry Company v. Alexandria Water Company*, 70 A. 867, 869 (Pa. Super. Ct. 1908)). Instead, under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is *relevant to a pending proceeding* and *reasonably calculated to lead to the discovery of admissible evidence*. 52 Pa. Code § 5.321(c) (emphasis added).

Moreover, these requests are vague and ambiguous and SPLP is not required to guess at what Complainants are asking. It is unclear what Complainants mean by “rate of detection,” especially in terms of corrosion. SPLP is not required to guess at what Complainants’ are intending to ask.

V. COMPLAINANT SET 1, NO. 228

Complainant Set 1, No. 228 states:

228. What changes were made to Sunoco's PAP in response to any public safety concerns?

SPLP stated the following objections:

SPLP objects to Complainant Set 1, No. 228 because it is vague, ambiguous, and lacking sufficient detail for SPLP to respond to it. Complainant Set 1, No. 228 seeks a description of change made to SPLP’s public awareness program “in response to any public safety concerns.” The term “public safety concerns” is undefined, very broad, and therefore ambiguous as used in this request. SPLP will not assume what Complainants are attempting to ask. Accordingly, SPLP objects to this request because it is overbroad, vague, and lacking sufficient detail for SPLP to respond to it.

Objections at 32.

In the spirit of compromise and subject to and without waiver of its objections, SPLP will explain changes made to its Public Awareness Plan in the past three years.

W. COMPLAINANT SET 1, NOS. 232-257

Complainants have withdrawn these requests at this time. See Responses at 33; Attachment C at Paragraph 12.

X. COMPLAINANT SET 1, NOS. 258-260

Complainants have withdrawn these requests at this time. See Responses at 33; Attachment C at Paragraph 13.

Y. Complainant Set 1 Document Requests

Complainant Set 1, Requests for Production of Documents state as follows:

1. All documents identified in your responses to Interrogatories Nos. 1, 10 and 13.
2. All documents identified in your responses to Interrogatories Nos. 14, 25, 27, 29, 33, 37, 55, 64, 67, 75, 78, 79, 81, 90, 91, 103.
3. All documents identified in your responses to Interrogatories Nos. 104 and 112.
4. All documents identified in your response to interrogatory No. 164.
5. All documents identified in your responses to Interrogatories Nos. 165, 166, 173, 174, 175, 176, 181, 184, and 190.
6. All documents identified in your responses to Interrogatories Nos. 192 and 194.
7. All documents identified in your responses to Interrogatories Nos. 198 and 204.

SPLP objected to these requests by incorporating its objection to each of the related interrogatories. Objections at 38. SPLP notes that the interrogatories provide that instead of “identifying” documents, SPLP can instead produce such documents. SPLP thus objected to each interrogatory that requested identification of documents as if it were a request for production of documents. SPLP likewise addressed these interrogatories and requests for production of documents together in this Answer and incorporates its arguments herein as if set forth in full.

### III. CONCLUSION

WHEREFORE, SPLP requests that Complainants' Motion to Compel Responses to Complainants' Set 1 Discovery be denied as stated herein.

Respectfully submitted,

/s/ Whitney E. Snyder

Thomas J. Sniscak, Attorney I.D. # 33891  
Kevin J. McKeon, Attorney I.D. # 30428  
Whitney E. Snyder, Attorney I.D. # 316625  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
(717) 236-1300  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

/s/ Robert D. Fox

Robert D. Fox, Esq. (PA ID No. 44322)  
Neil S. Witkes, Esq. (PA ID No. 37653)  
Diana A. Silva, Esq. (PA ID No. 311083)  
MANKO GOLD KATCHER & FOX, LLP  
401 City Avenue, Suite 901  
Bala Cynwyd, PA 19004  
Tel: (484) 430 5700  
[rfox@mankogold.com](mailto:rfox@mankogold.com)  
[nwitkes@mankogold.com](mailto:nwitkes@mankogold.com)  
[dsilva@mankogold.com](mailto:dsilva@mankogold.com)

Dated: April 1, 2019

*Attorneys for Respondent Sunoco Pipeline L.P.*

# ATTACHMENT A

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C - 2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES,	:	DOCKET NO. P - 2018-3006117
Complainants	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

**COMPLAINANTS' FIRST DOCUMENT REQUEST**

Pursuant to 52 pa. Code § 5.349(a)(1), Complainants hereby request that Sunoco Pipeline LP (hereinafter "Sunoco" or "Respondent") (1) respond to the following Document Request in writing within twenty (20) days after the Document Request is deemed served, and (2) produce electronically or permit Complainants or their representatives to inspect and copy or scan the documents designated below which are in the possession, custody or control of Respondent. Inspection shall take place at such time as the parties shall agree but, absent agreement, it shall occur on Friday, March 22, 2019 at 9 a.m. at the respondent's offices at 4041 Market Street, Aston, PA 19014 and continue until copying/scanning are complete.

This Document Request shall be deemed to be continuing as to require the filing of Supplemental Responses promptly in the event Sunoco or its representatives (including counsel) discover additional documents not identified in the original responses. Such Supplemental Responses may be filed from time to time, but not later than 30 days after discovery of such additional documents. This Document Request is addressed to Sunoco as a party to this proceeding; Respondent's Responses shall be based upon information known to Respondent or



in the possession, custody or control of Respondent, its attorneys or other representatives acting on its behalf whether in preparation for litigation or otherwise.

This Document Request must be answered completely and specifically by Respondent in writing and must be verified. The fact that investigation is continuing or that discovery is not complete shall not be used as an excuse for failure to respond to each request as completely as possible. The failure to identify any requested document(s) shall be deemed a representation that such document was not known to Respondent, its counsel, or other representatives at the time of service of the responses.

### **Definitions**

A. The terms “you” and “your” shall refer both to Sunoco and/or any other person representing or purporting to represent Sunoco in any capacity, including its attorneys.

B. “Interrogatories” as used herein refers to Complainants’ Interrogatories, also served this date.

C. “Identify” when used with respect to a document has the same meaning as set forth in Complainants’ Interrogatories.

### **Instructions**

1. If you object to the scope or breadth of any of these discovery requests, you shall, to the extent possible, respond to the request notwithstanding your objection.

2. If any of these discovery requests cannot be answered in full, you shall answer to the extent possible, specifying the reasons for its inability to answer the remainder and stating what information, knowledge or belief you have concerning the unanswered portion.

### Document Request

You are directed to produce the following documents:

1. All documents identified in your responses to Interrogatories Nos. 1, 10 and 13.
2. All documents identified in your responses to Interrogatories Nos. 14 , 25, 27, 29, 33, 37, 55, 64, 67, 75, 78, 79, 81, 90, 91, 103.
3. All documents identified in your responses to Interrogatories Nos. 104 and 112.
4. All documents identified in your response to interrogatory No. 164.
5. All documents identified in your responses to Interrogatories Nos. 165, 166, 173, 174, 175, 176, 181, 184, and 190.
6. All documents identified in your responses to Interrogatories Nos. 192 and 194.
7. All documents identified in your responses to Interrogatories Nos. 198 and 204.

PINNOLA & BOMSTEIN



Michael S. Bomstein, Esq.

Pinnola & Bomstein

PA ID No. 21328

Email: [mbomstein@gmail.com](mailto:mbomstein@gmail.com)

Suite 2126 Land Title Building

100 South Broad Street

Philadelphia, PA 19110

Tel.: (215) 592-8383

Attorney for Complainants

Dated: February 28, 2019

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:	
ROSEMARY FULLER	:	
MICHAEL WALSH	:	
NANCY HARKINS	:	
GERALD MCMULLEN	:	DOCKET NO. C- 2018-3006116
CAROLINE HUGHES and	:	
MELISSA HAINES,	:	DOCKET NO. P-2018-30066117
Complainants	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent	:	

**COMPLAINANTS' FIRST INTERROGATORIES  
ADDRESSED TO SUNOCO PIPELINE L.P.**

Complainants hereby make demand that Sunoco Pipeline L.P. (hereinafter "Sunoco" or "Respondent") answer the following Interrogatories pursuant to the applicable discovery rules of the Public Utility Commission. Answers must be served on all parties within twenty (20) days after the Interrogatories are deemed served.

These Interrogatories are deemed to be continuing as to require the filing of Supplemental Answers promptly in the event Sunoco or its representatives (including counsel) learn additional facts not set forth in the original Answers or discover that information provided in the Answers is erroneous. Such Supplemental Answers may be filed from time to time, but not later than 20 days after such further information is received. These Interrogatories are addressed to Sunoco as a party to this proceeding; Respondent's Answers shall be based upon information known to Respondent or in the possession, custody or control of Respondent, its attorneys or other representatives acting on its behalf whether in preparation for litigation or otherwise.

These Interrogatories must be answered completely and specifically by Respondent in writing and must be verified. The fact that investigation is continuing or that discovery is not complete shall not be used as an excuse for failure to answer each interrogatory as completely as possible. The omission of any name, fact, or other item of information from the Answers shall be deemed a representation that such name, fact, or other item was not known to Respondent, its counsel, or other representatives at the time of service of the Answers.

**Definitions**

A. The terms "person" or "persons" shall refer not only to natural persons, but also, without limitation, to firms, partnerships, corporations, associations,

unincorporated associations, organizations, businesses, trusts, public entities, parent companies, subsidiaries, divisions, departments or other units thereof, and/or any other type of legal entities.

B. The terms "you" and "your" shall refer both to Sunoco and/or any other person representing or purporting to represent Sunoco in any capacity, including its attorneys.

C. "Identify" is defined as the following:

1) *when used with respect to individuals*, means to state (a) their name; business affiliation and official title and/or position; and (c) their last known residential and business address.

2) *when used with respect to a document*, means to state (a) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail) (b) its date of origin or creation; (c) its author and addressee; (d) its last known custodian or locations; and (e) a brief description of its subject matter and size. In lieu of identifying any document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive. ALL DOCUMENTS SO IDENTIFIED SHALL BE BATES STAMPED OR OTHERWISE STAMPED USING SEQUENTIAL NUMBERING FOR EASE OF REFERENCE.

3) *when used with respect to a company or other business entity*, means to state, (a) the company's legal name, any former names, and the name under which it trades or does business; (b) the address of its principal place of business; and (c) the identity of its chief executive officer

D. The term "communication" shall refer to any exchange or transmission of words or ideas to another person or entity, whether accomplished person-to-person, by telephone, in writing, via electronic mail or through another medium, and shall include, but shall not be limited to, discussions, conversations, negotiations, conferences, meetings, speeches, memoranda, letters, correspondence, notes, and statements or questions.

E. For purposes of these interrogatories, the terms "records" and "documents" are used interchangeably and shall include without limitation (1) books of account, spreadsheets, ledgers, computerized data bases and other records; (2) checkbooks, canceled checks, check stubs and checking account statements; (3) personnel files in which records are segregated for individual employees; (4) all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made in such copies or otherwise, including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, releases, agendas, opinions, reports, studies, test results, records of measurements, surveys, maps of any sort, written protocols, summaries, statements, consultations speeches, summaries, pamphlets, books, inter-office and infra-office communications, manuals, notations of any sort of

conversation, bulletins, computer print-outs, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments or any of the foregoing; (5) graphic or manual records or representations of any kind, including without limitations, photographs, charts, graphs, microphone, microfilm, videotape, records, motion pictures; and (6) electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, discs and recording.

F. If any information, communication, or document responsive to anyone (or portion thereof) of the following requests is withheld based on any claim of privilege, describe generally the substance or subject matter of the information, communication, or document withheld, state the privilege being relied upon or claimed and the basis therefore, and identify all persons or entities who have had access to such information, communication, or document.

G. The term "including" shall mean including without limitations.

H. The terms "all," "each," and "any" are used in their broadest sense and shall be construed as all and any.

I. The conjunctions "and" and "or" shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of a discovery request all responses that might otherwise be outside its scope.

J. The terms "concerning" and "concerns" shall mean, in whole or in part, referring to, describing, evidencing, constituting, containing, comprising, embodying, connected to, reflecting, analyzing, showing, discussing, identifying, illustrating, stating, regarding, supporting, refuting, rebutting, responding to, commenting on, evaluating, about, in respect of, mentioning, dealing with, or in any way pertaining to, either explicitly or implicitly.

K. Use of the past tense in these interrogatories includes the present tense unless otherwise explicitly stated.

L. Use of the singular form of any word includes the plural and vice versa.

M. The term "statement" includes:

(1) A written statement, signed or otherwise adopted or approved by the person making it, or

(2) A stenographic, mechanical, electronic, videographic or other recording, or a transcript thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

N. "BIE Complaint" as used herein refers to the formal complaint filed on behalf of the Public utility Commission ("PUC") Bureau of Investigation and Enforcement as docketed in the PUC at No. C-2018-3006534.

O. “Flynn Complaint” as used herein refers to the Amended Formal Complaint filed in the instant proceeding.

P. “Sinkhole incidents” as used herein refers to the development of sinkholes in West Whiteland, Chester County, Pennsylvania in 2018 and 2019 in the vicinity of the Mariner East pipelines.

Q. For purposes of these Interrogatories, unless otherwise indicated, the relevant time period for which information is sought is from the date a pipeline became operational until the present.

R. “ME1” and “the 8 inch pipeline” are used synonymously herein below. The description of this pipeline set forth in ¶¶ 13 - 17 of the BIE Complaint is hereby incorporated by reference thereto.

S. “The 12 inch pipeline” refers to the Sunoco pipeline placed into service by Sunoco’s predecessors in the 1930’s that has now been pieced together with various sections of 20 inch ME2 and 16 inch ME2X pipeline segments to begin additional transport of highly volatile liquids (“HVLs”).

T. “Workaround pipeline” as used herein refers to the hybrid HVL pipeline consisting of various sections of 20 inch ME2, 16 inch ME2X and 12 inch pipeline segments.

U. “Morgantown Incident” refers to the pipeline leak on or about April 1, 2017 as described more in detail in ¶¶ 65 – 67 of the Amended Formal Complaint in this proceeding.

V. “Morgantown line segment” refers to the ME1 line segment in which the Morgantown incident occurred.

W. “Beaver County Explosions” refers to the pipeline events described more in detail in ¶ 68 of the Flynn Complaint.

### **Instructions**

1. No interrogatory shall be construed with reference to any other interrogatory for purposes of limitation.

2. If you object to the scope or breadth of any of these discovery requests, you shall, to the extent possible, respond to the request notwithstanding its objection.

3. If any of these discovery requests cannot be answered in full, you shall answer to the extent possible, specifying the reasons for your inability to answer the remainder and stating what information, knowledge or belief you have concerning the unanswered portion.

## Interrogatories

### Introductory

1. Identify all records in your possession, custody or control that relate in part or in whole to the “significant upgrades and testing” for ME1 to which you refer in Section A of your answer to the Flynn Complaint Introduction.
2. Identify all products that are transported on the ME1 pipeline.
3. For each such product identified in your answer to No. 2 above, for the period 2014 to the present, broken down by year, state how much product was shipped all together irrespective of destination.
4. For each product identified in your answer to No. 3 above, identify the person that took delivery of the product.
5. What are the projected hourly and daily rates of volume of HVLs in the workaround pipeline in the high consequence areas of Chester and Delaware counties?
6. For each identifiable segment of ME1, including the Montello to Twin Oaks segment, state what you expect the maximum expected volume of HVLs to be.
7. For each segment identified in your answer to No. 6 above, what will be the rates and volumes be (by product)?
8. Identify all shippers transporting HVL products on Mariner East pipelines to destinations within Pennsylvania.
9. Identify all shippers transporting HVL products on Mariner East pipelines to destinations outside Pennsylvania.
10. Identify all records in your possession, custody or control that relate in part or in whole to the “significant upgrades and testing” for the 12 inch pipeline to which you refer in Section B of your answer to the Flynn Complaint Introduction.
11. You state that your pipeline integrity management program (“PIMP”) “continues to function in compliance with the law.” Identify each statute and regulation of which you are aware that sets out PIMP requirements.

12. With reference to your answer to No. 11 above, explain how you are in compliance with each such statute and regulation.

13. Identify all records containing information on the maintenance and upgrades of ME1, the 12 inch pipeline, and the workaround pipeline.

**BIE Complaint Allegations**

14. BIE in its Complaint at ¶ 28 alleges that “SPLP’s procedures have since been revised.” Identify each procedure that has been revised since the date of the Morgantown Incident.

15. For each said procedure set forth in your answer to No. 14 above, where applicable, describe what the previous procedure had been.

16. For each said procedure set forth in your answer to No. 15 above, identify all documents containing information showing on what date the procedure was revised.

17. Do you agree with BIE’s allegation in ¶ 29 of its Complaint that, “any testing related to the adequacy of cathodic protection must consider the eight (8) inch and twelve (12) inch pipelines because they are located in the same right of way?”

18. If you do not agree entirely with BIE’s allegation as set forth in No. 17 above, please explain in detail the reasons for your disagreement.

19. The BIE Complaint in ¶ 30 alleges that at station 2459+00, which is approximately 1,030 feet from the leak, SPLP’s records indicated cathodic protection readings of -628 millivolts (“mV”) in 2016 and -739 mV in 2015.” Is this statement accurate?

20. If the statement noted above in No. 19 is not accurate, explain in detail how it is not.

21. In your Answer to ¶ 74 of the Amended Formal Complaint (“the Flynn Complaint”) you refer to NACE SP0169-2007. Do you agree that the excerpt below, entitled 6.2 Criteria,” is an accurate excerpt?

**6.2 Criteria**

6.2.1 It is not intended that persons responsible for external control be limited to the criteria listed below. Criteria that have been successfully applied on existing piping systems can continue to be used on those piping systems. Any other criteria used



must achieve corrosion control comparable to that attained with the criteria therein.

22. If your answer to No. 21 above is that the excerpt is not accurate, please explain.

23. Was the 6.2 Criteria provision in effect from 2015 at least through April 1, 2017?

24. For the period from the time ME1 became operational through the present, identify all methods that Sunoco has successfully applied to control external corrosion on the M1 pipeline.

25. Identify all documents in your possession that pertain to the methods noted in your answer to No. 24 above.

26. Identify all findings of corrosion on the ME1 pipeline.

27. Identify all documents in your possession that pertain to the findings of corrosion referred to in No. 26 above.

28. Identify all punctures, leaks and ruptures found on the ME1 pipeline.

29. Identify all documents in your possession that pertain to the punctures, leaks and ruptures identified in your answer to No. 28 above.

30. In your answer to ¶ 74 of the Flynn Complaint, you refer to "O&M Procedures." What are O&M Procedures?

31. For the period from the time ME1 became operational through the present, identify all O&M procedures that set forth criteria you use to assess external corrosion.

32. For the period from the time ME1 became operational through the present, identify all O&M procedures that describe methods you use to control external corrosion.

33. For the period from the time ME1 became operational through the present, identify all records containing information on actual steps taken to control external corrosion.

34. Is it your contention that, for the period from the time ME1 became operational through the present, Sunoco was not required to achieve a negative cathodic potential of at least -850 mV?

35. If your answer to No. 34 above "yes," identify each NACE alternative standard that made it unnecessary for you to achieve -850 mV potential.

36. For each NACE alternative standard set out in your answer to No. 35 above, explain what steps you took to meet the requirements of the standard.

37. Identify all records that reflect all the steps that you took to meet the requirements of each alternative standard identified in your answer to No. 35 above.

38. With respect to ¶ 32 of the BIE Complaint, BIE makes certain allegations as to how you performed side drain measurements at Station 2459+00. What is a side drain measurement?

39. What is the purpose of taking side drain measurements?

40. Is ¶ 32 of the BIE Complaint an accurate description of how you performed side drain measurements?

41. If your answer to No. 40 above is in the negative, please furnish a more accurate description.

42. Set forth each date on which you performed side drain measurements on ME1, the 12 inch pipeline and the workaround pipeline.

43. The BIE Complaint in ¶ 33 asserts that "several" of the side drain measurements indicate current was flowing away from the pipelines. How many of the side drain measurements disclosed currents flowing away from the pipelines?

44. With reference to ¶ 33 of the BIE Complaint, for each side drain measurement that you took, what were the actual quantitative measurements of the currents?

45. With reference to ¶ 33 of the BIE Complaint, what consideration was given to other interference sources, including but not limited to geological (e.g., high iron rocks)?

46. Do you agree that electrical current flowing away from a pipeline is a sign of corrosion?

47. If your answer to No. 46 above is in the negative, explain fully.

48. If you do not agree that electrical current flowing away from the pipeline is an indication that the cathodic protection system is not performing to specification, please explain why.

49. Is it your contention that in a multiple pipe right of way there is no interference of current magnitudes between pipes?

50. If "yes" to No. 49 above, please explain fully.

51. What is an "earth current technique?"

52. If it is your contention that side drain measurements are not an earth current technique, please explain fully.

53. Is it your contention that § 6.2.2.3.1 does not caution that an earth current technique is often meaningless in multiple pipe rights of way?

54. If your answer to No. 53 above is "yes," please explain fully.

55. In your answer to ¶ 74 of the Flynn Complaint, you stated:

SPLP analyzed and documented that the testing it used, taken together, demonstrated that net protective current was flowing toward both lines from the north and south, since the lines share the same CP system(s), any CP current accumulated on either line will remain on that line as it returns to it (sic) source, and there would not be a current exchange between the lines through the soil, as the resistance of the electrolyte to the pipe surface is much greater than the resistance of the metallic path through the pipe itself.

Identify all records containing or reflecting your analysis and documentation of the testing referred to above.

56. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, how many rectifiers were in the system being tested?

57. Identify the specifications for each rectifier noted in your answer to No. 56 above.

58. State what load was on each rectifier noted in your answer to No. 56 above.

59. How far down each line does each rectifier influence?

60. What is the per mile loss of cathodic protection from each rectifier or circuit?

61. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, what do you mean by “net protective current?”

62. Relative to the testing discuss in your answer to ¶ 74 of the Flynn Complaint, explain in detail how you determined the net protective current.

63. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, did your calculation include measurements of currents flowing away from the pipes?

64. Identify all records containing the data involved in the measurements of net protective current as described in your answer to ¶ 74 of the Flynn Complaint.

65. ¶ 35 of the BIE Complaint alleges that “SPLP’s records concerning close interval potential surveys (“CIPS”) of ME1, which were performed in 2009, 2013 and 2017, demonstrate that only “on” potentials were measured.” If BIE’s allegation is not entirely accurate, please explain fully.

66. With reference to ¶ 35 of the BIE complaint, did you also measure “off” potentials?

67. If your answer to No. 66 above is in the affirmative, identify all records that document the potentials that were measured.

68. ¶ 35 of the BIE Complaint alleges that “the CIPS do not contain accurate and reliable data needed to assess cathodic protection on the pipeline in that the CIPS do not align with footages and test station points.” If this allegation is not entirely accurate, explain fully.

69. ¶ 35 of the BIE Complaint alleges further that “certain features, such as rectifiers, areas with parallel pipelines and overhead power lines are not identified in the records where such information is critical in the determination of the validity and accuracy of the test results.” If this statement is not entirely accurate, explain fully.

70. Is it your contention that in determining the validity and accuracy of CIPS it is not necessary to account for the presence of rectifiers, parallel pipelines and overhead power lines?

71. If your answer to No. 70 above is “yes,” please explain fully.

72. Is it your contention that it is not necessary to identify in your records of CIPS surveys the presence of rectifiers, parallel pipelines and overhead pipelines?

73. If “yes” to No. 72 above, please explain fully.

74. Identify each place in your records where you note the presence of rectifiers, parallel pipelines and overhead pipelines in connection with CIPS.

75. With respect to the requirements for external corrosion monitoring set out in 49 C.F.R. § 195.573, your answer to ¶ 74 of the Flynn Complaint states that “Regulations do not require annual ILI testing.” For the period from when ME1 became operational until the present, identify all documents showing (a) each and every test that you did perform to monitor external corrosion control, and (b) the results of those tests.

76. In your response to ¶ 74 of the Flynn Complaint you write, “SPLP did conduct other tests to evaluate the cathodic protection status where necessary consistent with its procedures in place at the time.” Identify where in your records you set out your procedures to determine whether testing to evaluate cathodic protection status is necessary.

77. Identify where in your O&M Manual you describe corrosion control procedures.

78. You state in your answer to ¶ 74 of the Flynn Complaint that, “In some instances, SPLP also used Scope of Work documents to supplement its O&M procedures for specific tasks.” What are Scope of Work documents?

79. Identify all documents that show Scope of Work documents were used to supplement O&M procedures?

80. State where you retain copies of Scope of Work documents for corrosion control procedures.

81. ¶ 36 of the BIE Complaint identifies records examined by BIE relative to its investigation of inspections using your In-Line Inspection (“ILI”) tool. Identify all records relative to the ILI inspection you conducted in 2016 to detect anomalies and measure corrosion in the ME1 segment between Twin Oaks and Montello.

82. With respect to your response to No. 81 above, do you agree that the ILI tool failed and no data were available from the 2016 inspection?

83. If your answer to No. 82 above is in the negative, please explain fully.

84. Do you agree that you conducted another ILI inspection for the same Twin Oaks to Montello segment of ME1 in 2017?

85. Where are all the records of the additional ILI inspection in 2017?

86. What conclusions did you draw as to the cause of metal loss identified in the 2017 inspection?

87. Did you rule out corrosion as a cause or possible cause of the metal loss in connection with the 2017 inspection?

88. What steps if any did you take as a consequence of the metal loss findings from the 2017 inspection?

89. In your answer to ¶ 74 in the Flynn Complaint you state "SPLP's manual provides SPLP will create a list of segments where CIPS should be utilized and where such testing is not practical and necessary the list will document the reasons. SPLP created and maintains this list." Where is this list located and retained?

90. Identify all records for the Morgantown line segment reflecting any inspections or maintenance performed on that segment.

91. Identify all records for the Morgantown line segment from prior to the Morgantown Incident reflecting a finding or decision that any type of testing is not practical or reasonable.

92. For the Morgantown line segment, identify all testing that showed whether adequate cathodic protection levels were met or not met prior to the Morgantown Incident.

93. In reference to your answer to ¶ 74 of the Flynn Complaint, identify all of the "several consecutive ILI reports with cathodic protection data" that you say SPLP compared to look for corrosion or corrosion growth.

94. The BIE Complaint in ¶ 41 alleges that Sunoco's procedures for compliance with § 195.402 "did not include any detail on how to accomplish the five CIPS metrics [required by § 195.173]. In response, you state in ¶ 74 of your answer to the Flynn Complaint that "[r]eview of 195.402

shows that there are not prescriptive standards of what details must be contained in an O&M manual.” What is an O&M manual?

95. In reference to the quote cited in No. 94 above, what do you mean by “prescriptive standards?”

96. Do you agree that 49 C.F.R. § 195.402(a) states that an O&M manual requires an operator to “prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities...?”

97. If your answer is “yes” to No. 95 above, what is your understanding of the meaning of “written procedures for conducting” in this regulation?

98. Do you agree that 49 C.F.R. § 195.402(c) dictates that the O&M manual must include procedures for, inter alia, “...maintaining...the pipeline system?”

99. If your answer is “yes” to No. 98 above, is it your contention that “procedures for maintaining” means something other than a description of how to obtain, evaluate and accomplish the five CIPS metrics set out in § 195.173?

100. If your answer is “yes” to No. 99 above, please explain fully.

101. The BIE Complaint in ¶ 38 alleges that your O&M Manual procedure for § 195.571, relative to adequacy of cathodic protection, (a) fails to state any applications of or limitations on the criteria list, (b) fails to incorporate the precautionary notes of NACE SP01169-2007 at § 6.2.2.3 regarding use of earth current techniques in multiple rights of way, and (c) failed to require documentation. Is this allegation factually incorrect?

102. If the answer to No. 101 above is “yes,” please explain why these things were not included.

103. For a period of five years prior to the date of the Morgantown Incident, identify all records of each analysis, check, demonstration, examination, inspection, investigation, review, survey and test performed in connection with your corrosion control measures.

### **Sinkholes**

104. Identify all records in yours possession, custody or control that relate in part or in whole to the Sinkhole Incidents.

105. Other than the sinkholes in the Sinkhole Incidents, have other sinkholes occurred along the routes of ME 1, the 12 inch pipeline and the workaround pipelines since 2014?

106. Identify the specific location of each such sinkhole listed in response to No. 105 above.

107. Identify when and how Sunoco first learned of each sinkhole identified in the answer to No. 106 above.

108. Identify who, if anyone, Sunoco notified about each sinkhole identified in the answer to No. 106 above.

109. With respect to your answer to No. 108 above, state when such notice of a sinkhole was given.

110. Identify what testing or studies were done as a result of each of the sinkholes identified in your answer to No. 106 above.

111. Identify any mitigating action taken in relation to the sinkholes identified in your answer to No. 106 above.

112. Identify any and all records that relate in whole or in part to the sinkholes identified in your answer to No. 106 above.

**Injuries, Deaths and Property Damage**

113. Identify all leaks, punctures and ruptures that have occurred on ME1.

114. Identify all leaks, punctures and ruptures that have occurred on the 12 inch line.

115. Identify all leaks, punctures and ruptures that have occurred on the workaround pipeline.

116. Identify all injuries, deaths and property damage associated with ME1.

117. Identify all injuries, deaths and property damage associated with the 12 inch line.

118. Identify all injuries, deaths and property damage associated with the workaround pipeline.



**Public Awareness Program (PAP)**

119. Is it your contention that the testimony of John Zurcher at the hearing on November 29, 2018 regarding Sunoco's PAP was completely accurate?

120. If your answer to No. 119 above is that the testimony was not completely accurate, state in what respect it was not.

121. What is your Pipeline Awareness Plan ("PAP")?

122. Is Sunoco Exhibit 31 from the injunction hearing in this case the PAP?

123. Is it your contention that PUC approval of the dissemination of the PAP in the Dinniman case was tantamount to approval of the content of the PAP?

124. In Chester and Delaware Counties, what information was provided to public institutions regarding evacuation versus shelter-in-place in the event of a pipeline puncture, leak or rupture?

125. What role do pipeline valve sites play in the reduction of the volume of HVLs released in the event of a pipeline rupture?

126. In the event of a pipeline leak detected by one individual who is not a Sunoco employee, how do you expect the public to become informed of the leak and the need to self-evacuate?

127. Sunoco has informed the public that a leak could be identified by a hissing sound. Can this sound be heard above regular traffic noise on SR 352 or other heavily travelled roads in Chester and Delaware Counties?

128. What guidance does Sunoco provide in the event there is no wind or if the wind direction is downhill?

129. Once first responders have determined whether residents should shelter in place or evacuate how will this be communicated to affected residents?

130. How does the PAP account for the possibility of a cell phone or door bell being an ignition source?

131. You state in your answer to the Flynn Complaint Introduction at ¶ C that your Ex. 31 from the November, 2018 injunction

hearing is your Pipeline Awareness Plan ("PAP"). With reference to that PAP, explain where PAP identifies sources of ignition.

132. With reference to that PAP, explain where the PAP tells the public not to use telephones.

133. With reference to that PAP, explain how the public can call 911 without telephones.

134. With reference to that PAP, explain how the public would know when they have reached a safe area.

135. With reference to that PAP, explain how the public would know what areas the first responders have designated as safe.

136. With reference to that PAP, explain how the public would not whether or not to leave the home in the event of a leak, puncture or rupture.

137. With reference to that PAP, explain what is the point of calling 911 if first responders already are on the scene.

138. With reference to that PAP, explain where the PAP describes how to determine which way the wind is blowing.

139. With reference to that PAP, explain how young children, residents of senior living communities and people with disabilities would become aware of HVL leaks, punctures or ruptures.

140. With reference to that PAP, explain how vulnerable populations such as young children, residents of senior living communities, and people with disabilities would be able to proceed on foot to safety in the event of a leak, puncture or rupture.

141. With reference to that PAP, explain where the PAP informs the public of the possibility of death or serious injury in the event of HVL leaks, punctures or ruptures.

142. With reference to that PAP, explain where the PAP advises the public to move away from pipelines.

143. Is it your contention that Sunoco literature that describes HVLs as odorless is inaccurate?

144. How close would a person have to be to an HVL leak in order to smell it?

145. What are the various odor threshold concentrations detectable by the human nose for each product being shipped through ME1 and ME2?

146. What is the odor of HVLs that Sunoco is moving in ME1 or the workarround pipe?

147. Do you agree HVLs are colorless?

148. How close would a person have to be to an HVL leak in order to see it?

149. Identify all likely ignition sources for HVLs leaked from a pipeline in their gaseous state.

150. Do you agree that county emergency service providers could trigger an explosion of gaseous HVLs if they call hundreds or thousands of cell phones in the area of the leak, puncture or rupture?

151. John Zurcher has stated under oath that if a school child were within a few feet to 50 feet of a 2 inch HVL leak he would be concerned about a high probability of injury or death. (N.T. November 30, 2018 at 415-420). Is Zurcher correct to be concerned?

152. How does probability of injury from a natural gas leak or rupture differ from the probability of injury from an HVL leak or rupture?

153. Identify all data you considered in your answer to No. 151 above.

154. What is your understanding of the term "potential impact radius?"

155. Is the potential impact radius for an HVL leak or rupture any different from the potential impact radius of a natural gas leak or rupture?

156. Identify all data you considered in your answer to No. 155 above.

157. For what distances can HVLs move downwind or downhill while remaining in combustible concentrations?

158. How can HVLs be detected without specialized equipment?

159. How would HVLs dissipate/disperse following a leak?

160. How long would it take for this dissipation to occur?
161. How far could HVLs move while still in a combustible concentration?
162. An HVL leak may cause brown or dead vegetation. How can these conditions be detected in the winter?

**Pipeline Integrity Management Program (PIMP)**

163. What is your understanding of the term "pipeline integrity management program" ("PIMP") in relation to pipelines?
164. Identify all documents in which your PIMP is found.

**Pipeline Siting**

165. Identify all records reflecting planning for the location of ME pipelines in Chester and Delaware counties.
166. Identify all records reflecting planning for transportation of HVLs through Chester and Delaware counties.
167. Identify all alternative non-high-consequence routes you considered prior to the routes currently going through high-consequence areas in Delaware and Chester Counties.
168. Furnish all details as to how public safety was considered in assessing siting of the Mariner east pipelines and related aboveground facilities.
169. What consideration was given to the relative risks of locating valve stations near vulnerable populations such as schools, hospitals, senior residences, etc.?
170. Was any consideration given to additional security or other protective measures for valve sites or above ground facilities near vulnerable populations such as schools, hospitals, senior residences?
171. If your answer to No. 170 above is "yes," explain your analysis and what you concluded.
172. If your answer to No. 170 above is "no," explain why additional protective measures were not considered.

173. Identify all risk assessments, studies, reports, memos and other documents your possession, custody or control regarding the safety of ME1 and the workaround pipeline.

174. Identify all risk assessments, studies, reports, memos, test results and other documents in your possession, custody or control that have evaluated the consequences or probable consequences of the ignition of gaseous HVLs following their release from pipelines as a result of punctures, leaks and ruptures.

175. Identify all documents showing the locations of ME1 and ME2 & 2X in Chester and Delaware counties.

176. Identify all documents showing the depth of ME1 and ME2 & 2X below the surface in Chester and Delaware counties.

177. Explain how the determination was made to install pipelines at the depths noted in the documents identified in your answer to the above question.

178. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, which Mariner East pipelines either ship or are planned to ship HVLs through the pipes located between her home and 233 Lenni Road?

179. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, what is the horizontal distance between the Higgins house and each Mariner east pipeline that either ships or is planned to ship HVLs?

180. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, for each pipeline identified above, state at which depth the pipes are or will be below the surface.

181. Identify copies of all cost estimates to install HVL leak detector and alarm systems for schools and children's play areas that are within the blast radius of the Mariner East pipelines.

182. If your answer to No. 181 is that you have not obtained any such estimates, explain why not.

183. With respect to incidents in 2018 in which Aqua drilling struck a Mariner line or lines in Middletown, Delaware County, explain fully your understanding of why the incident occurred.

184. Identify all documents related to the incidents identified in your answer to No. 183 above.

185. What is the distance from each Mariner East pipeline to Glenwood Elementary School grounds?

186. What is the distance from each Mariner East pipeline to Glenwood Elementary School building?

187. What is the distance from each Mariner East pipeline to Marsh Creek Sixth Grade Center?

188. What is the distance from each Mariner East pipeline to Shamona Creek Elementary School?

**Leak Consequences**

189. In your answer to Flynn Complaint ¶ 28, you state that “it is denied that a large leak at any location along ME1 or workaround pipeline has (potential) fatalities.” Is it your contention that a Mariner HVL leak could not potentially result in fatalities?

190. Identify all reports, test results, studies and other documents in your possession or control that support your answer to No. 189 above.

191. In your answer to Flynn Complaint ¶ 28, you state that “it is denied that a puncture at any location along ME1 or workaround pipeline has (potential) fatalities.” Is it your contention that a puncture of one of the Mariner East pipelines HVL could not potentially result in fatalities?

192. Identify all reports, test results, studies and other documents in your possession or control that support your answer to No. 191 above.

193. In your answer to Flynn Complaint ¶ 28, you state that “it is denied that a rupture at any location along ME1 or workaround pipeline has (potential) fatalities.” Is it your contention that a rupture of one of the Mariner East could not possibly result in fatalities?

194. Identify all reports, test results, studies and other documents in your possession or control that support your answer to No. 193 above.

**Morgantown**

195. Do you agree completely with Mr. Zurcher’s statement as quoted in ¶ 62 of the Flynn Complaint?

196. If “no” to No. 195 above, please explain fully.

197. Identify all reports, test results, studies and other documents in your possession or control regarding weld records for ME1 in proximity to the April 1, 2017 Morgantown leak

198. Identify all internal analysis and communication related to the determination that failed O-rings caused the leak in Morgantown April 1, 2017.

199. Why did Sunoco not detect the leak that occurred in Morgantown April 1, 2017 prior to it being discovered by a resident?

200. Quantify the size of the Morgantown leak noted in Flynn Complaint ¶ 65.

201. What was the cause of the Morgantown leak?

202. Explain why you did not prevent the Morgantown leak.

203. Did faulty O-rings play any role in the development of the Morgantown leak?

204. Identify all written statements you have made regarding the Morgantown leak.

205. Do accept as correct the findings of PHMSA in its accident report on the Morgantown leak?

### **Beaver County Explosions**

206. Identify each factual allegation in ¶ 68 of the Flynn Complaint that you contend is inaccurate.

207. Who constructed the Rover pipeline that was involved in the Beaver County Explosions?

208. What company was operating the Rover pipeline at the time of the Beaver County Explosions?

209. When was the Rover pipeline placed in service?

210. What was the cause of the Beaver County Explosions?

211. Did geological features cause or contribute to the Beaver County Explosions?

212. Is the Zurcher quote in Flynn Complaint ¶ 71 inaccurate?

213. If your answer to No. 216 above is “yes,” please explain.

**Leak Detection**

214. What is the range of leak sizes detected by Sunoco on the Mariner East pipelines?

215. What is the smallest leak Sunoco has detected on an HVL line?

216. What is the smallest leak Sunoco is equipped to detect on an HVL line during the course regular inspection and maintenance?

217. Is a drop in the pressure of HVLs moving through a pipeline one way of detecting HVL leaks?

218. With regard to drops in pressure, what is the threshold percentage of total daily flow that needs to be attained in order for detection to occur?

219. What is your actual rate of detecting pipeline cracks and corrosion, regardless of the means of detection?

220. Of the leaks that have been detected on Sunoco’s ME1 and workaroud pipelines, what percentage were first detected by Sunoco?

221. Out of all cracks and corrosion detected, what percentage is first detected by the public?

**Risk Assessment**

222. In regard to Flynn Complaint ¶ 82, explain in full detail the extent to which you disagree with the conclusions of the November 13, 2018 Delaware County risk assessment.

223. In regard to Flynn Complaint ¶ 83, explain in full detail the extent to which you disagree with the conclusions of the November 13, 2018 Delaware County risk assessment.

224. In regard to Flynn Complaint ¶87, explain in full detail the extent to which you disagree with the conclusions of the November 13, 2018 Delaware County risk assessment.



### **Impact Radius**

225. Identify any estimated or calculated impact to health, safety, or the environment from potential fires or explosions due to Mariner East pipeline integrity incidents, including without limitation all calculations of the "potential impact radius" as the term is defined in Title 49 of the Code of Federal Regulations, and any measurements of the geographic area falling within the potential impact radius for each point along the pipelines.

226. Identify each person involved in the carrying out and/or commissioning of any such studies, models, or reviews noted in your answer to No. 135 above.

227. Identify each person involved in the creation of any such estimates, calculations, or measurements noted in your answer to No. 225 above.

228. What changes were made to Sunoco's PAP in response to any public safety concerns?

### **Construction Rules**

229. Identify all guidelines given to workers regarding how close they can park motor vehicles to valve sites and aboveground equipment?

230. Identify all guidelines given to workers regarding how close to valve sites and aboveground equipment they can smoke?

231. How are the guidelines referenced in your answers to Nos. 229-230 above communicated to employees and enforced?

### **Communications**

232. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission (including the BIE) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

233. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission (including the BIE) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

234. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission (including the BIE)

concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

235. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

236. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

237. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

238. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental Protection, concerning your transportation or proposed transportation of HVLs in Pennsylvania.

239. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental Protection, concerning the maintenance or repair of ME1 or the 12 inch pipeline.

240. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental Protection, concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch HVL pipelines.

241. Other than persons identified in your answers to Nos. 238 - 240 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning your transportation or proposed transportation of HVLs in Pennsylvania.

242. Other than persons identified in your answers to Nos. 238-240 above, identify each person known or believed by you to have

communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning the maintenance or repair of ME1 or the 12 inch pipeline.

243. Other than persons identified in your answers to Nos. 238-240 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

244. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

245. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

246. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

247. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

248. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

249. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

250. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

251. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

252. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

253. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the obtaining of pipeline easements.

254. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

255. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

256. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

257. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the obtaining of pipeline easements.


*Identification of Witnesses*

258. Identify each person who participated in answering the above interrogatories.

259. For each person identified in your answer to No. 258 above, identify by number the interrogatories which that person assisted in answering.

260. Identify all persons known, or believed to be known to you, with knowledge or information concerning any of the matters set forth in the Flynn Complaint and your Answer and New Matter to the said complaint.

PINNOLA & BOMSTEIN



Michael S. Bomstein, Esq.

Pinnola & Bomstein

PA ID No. 21328

Email: [mbomstein@gmail.com](mailto:mbomstein@gmail.com)

Suite 2126 Land Title Building

100 South Broad Street

Philadelphia, PA 19110

Tel.: (215) 592-8383

Attorney for Complainants

Dated: February 28, 2019

# **ATTACHMENT B**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MEGHAN FLYNN	:		
ROSEMARY FULLER	:		
MICHAEL WALSH	:		
NANCY HARKINS	:		
GERALD MCMULLEN	:		
CAROLINE HUGHES and	:		
MELISSA HAINES	:		
	:		
Complainants,	:	Docket Nos.	C-2018-3006116
	:		P-2018-3006117
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.,	:		
	:		
Respondent.	:		

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**SUNOCO PIPELINE L.P. OBJECTIONS TO COMPLAINANT’S INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

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Pursuant to 52 Pa. Code § 5.342, Sunoco Pipeline L.P. (SPLP) submits these Objections to certain of Complainant’s Set 1 Interrogatories and Requests for Production of Documents. As explained below, SPLP objects to certain discovery requests Complainant propounded in Set 1 because they seek information that is privileged, not relevant to the issues raised and/or allowable in this proceeding, and not likely to lead to the discovery of relevant or admissible evidence in this proceeding.

Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c) provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). In

addition, under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a).

The interrogatories and requests for production of documents to which SPLP objects seek information that is exempt from discovery under the Commission's regulations. Therefore, in accordance with the Commission's regulations, SPLP objects to Complainant Set 1, Instructions and Definitions as discussed below, including portions of the unlabeled instructions on page 1, Definitions B, E, F, P, Q, and Instruction No. 2. SPLP objects to Complainants Interrogatories, Set 1, Nos. 1, 3-9, 10-118, 123, 127, 144, 155-166, 169, 173-184, 195-216, 219-221, 228, 232-260. SPLP also objects to Complainants Request for Production of Documents that correspond to Interrogatories to which SPLP has objected listed above.

## **I. OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

### **A. OBJECTION TO INTERROGATORY INSTRUCTIONS**

- SPLP objects to the instructions and definitions contained in Complainant Interrogatories, Set 1 to the extent any such instructions or definitions are inconsistent with the Commission's regulations. Lack of specific written objection to any instruction or definition shall not construed as SPLP's agreement with such instruction or objection.
- SPLP objects to Complainant's instruction that answers be served on all parties. To the extent any of SPLP's responses contain confidential, proprietary, highly confidential, or confidential security information, SPLP will only provide such materials pursuant to the terms of the Amended Protective Order<sup>1</sup> once it is entered in this proceeding.

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<sup>1</sup> SPLP will be submitting a motion to amend the Protective Order in this proceeding on or about Wednesday, March 13, 2019.



- SPLP objects the instruction that “Such Supplemental Answers may be filed from time to time, but not later than 20 days after such further information is received.” To the extent SPLP is required to supplement answers, it will do so consistent with the Commission’s regulations.
- SPLP objects to the instruction that SPLP’s answers “shall be based upon information known to Respondent or in the possession, custody or control of Respondent, its attorneys or other representatives acting on its behalf whether in preparation for litigation or otherwise.” SPLP objects to this instruction to the extent it requires the production of any information subject to any applicable privilege. SPLP further objects to this instruction to the extent it requires the production of information exempt from discovery under 52 Pa. Code § 323(a) (litigation preparation materials).
- SPLP objects to the instruction that “The omission of any name, fact, or other item of information from the Answers shall be deemed a representation that such name, fact, or other item was not known to Respondent, its counsel, or other representatives at the time of the service of the Answers.” Complainant propounded 260 interrogatories with accompanying document requests, most of which are objectionable. SPLP will produce responses to the requests to which it does not object as consistently with the 20-day answer period as possible. However, to the extent SPLP does not have such information available within that time frame, SPLP will provide additional information on a rolling-basis as it is available.
- SPLP objects to Definition B, which provides:
 

The terms “you” and “your” shall refer both Sunoco and/or any other person representing or purporting to represent Sunoco in any capacity, including its attorneys.

SPLP objects to Definition B to the extent it seeks disclosures of an attorney's mental impressions or work product and to the extent it seeks production of information exempt from discovery under 52 Pa. Code § 323(a) (litigation preparation materials).

- SPLP objects to Definition E, which states:

For purposes of these interrogatories, the terms "record" and "documents" are used interchangeable and shall include without limitation (1) books of account, spreadsheets, ledgers, computerized data bases and other records; (2) checkbooks, canceled checks, check stubs and checking account statements; (3) personnel files in which records are segregated for individual employees; (4) all written or printed matter of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made in such copies or otherwise, including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, releases, agendas, opinions, reports, studies, test results, record of measurements, surveys, maps of any sort, written protocols, summaries, statements, consultations speeches, summaries, pamphlets, books, inter-office communications, manuals, notations of any sort of conversation, bulletins, computer printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments or any of the foregoing; (5) graphic or manual records or representations of any kind, including without limitations, photographs, charts, graphs, microphone, microfilm, videotape, records, motion pictures; and (6) electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, discs and recording.

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Section 5.323(a) of the Commission's regulations also exempts preliminary or draft versions of testimony and exhibits from discovery, whether or not the final versions of the testimony or exhibits are offered into evidence. 52 Pa. Code § 5.323(a). In addition, the Commission's regulations prohibit discovery which would cause unreasonable burden to a party. 52 Pa. Code § 5.361(a)(4). Complainant Definition E defines

"Document" in a manner which is unreasonably burdensome, and seeks information that is privileged, irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence.

Complainant Definition E specifically seeks to include all prior drafts of any document, and handwritten notes, notations, records or recordings of any conversation in the definition of "Document." Any prior drafts of a document are irrelevant and immaterial to the issues in this proceeding and are not likely to lead to the discovery of admissible evidence. To the extent that a document is relevant to the issues in this proceeding, the content of that document speaks for itself and does not require inquiry into any prior draft(s). Moreover, such drafts are exempt from discovery under the Commission's regulations. In addition, production of prior drafts, and any handwritten notes, notations, records or recordings of any conversation is unreasonably burdensome. Production of such materials would require an unreasonably extraordinary and burdensome effort by SPLP, and only serve to inefficiently delay this proceeding.

Moreover, Definition E seeks to include materials and documents that were created in preparation of litigation in its definition of Document. To the extent that any document or other material was prepared in anticipation or preparation of litigation, such materials are privileged and exempt from discovery.

Based on the foregoing, SPLP objects to Complainant Set 1 Definition E as unreasonably burdensome, and as seeking information that is privileged, irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence. SPLP reserves the right to further object to any question that similarly seeks discovery of an overly broad classification or category of materials or documents.

- SPLP objects to Definition F, which states:

If any information, communication, or document responsive to anyone (or portion thereof) of the following requests is withheld

based on any claim of privilege, describe generally the substance or subject matter of the information, communication, or document withheld, state the privilege being relied upon or claimed and the basis therefore, and identify all persons or entities who have had access to such information, communication, or document.

The Commission's regulations broadly exempt privileged materials and documents from discovery. 52 Pa. Code §§ 5.321(c) and 5.323(a); *see also* 52 Pa. Code § 5.361(a)(3) (prohibiting discovery which relates to a matter which is privileged). However, the Commission's regulations do not require a party to maintain a privilege log for any material or materials for which privilege is asserted. In addition, the Commission's regulations prohibit discovery which would cause unreasonable burden to a party. 52 Pa. Code § 5.361(a)(4). Complainant Set 1 Definition F seeks to unreasonably burden SPLP efforts to respond to discovery requests, which specifically inquire into matters which are exempt from discovery under the Commission's regulations, by imposing a requirement on SPLP that is not contemplated by the Commission's regulations.

- SPLP objects to Definition P, which states:

“Sinkhole incidents” as used herein refers to the development of sinkholes in West Whiteland, Chester County, Pennsylvania in 2018 and 2019 in the vicinity of the Mariner East pipelines.

SPLP objects to the mischaracterization of the subsidence events referenced as sinkholes.

- SPLP objects to Definition Q, which states:

For purposes of these Interrogatories, unless otherwise indicated, the relevant time period for which information is sought is from the date a pipeline became operational until the present.

SPLP objects to Definition Q because it is overbroad, requests information that is not relevant, and would place an undue burden on SPLP. Some of the pipelines at issue here have been in operation since the 1930's, thus a request for information from the date a pipeline became operational is a request for over 80 years of information. Such a request goes far afield of the

Commission's regulations because it is overbroad, requests information that is not relevant, and would place an undue burden on SPLP.

- SPLP objects to Instruction No. 2, which states:

If you object to the scope or breadth of any of these discovery requests, you shall, to the extent possible, respond to the request not withstanding its objection.

SPLP objects to this request because it is inconsistent with the Commission's regulations which do not require a part to respond to a request to which it has objected. 52 Pa. Code § 5.342(c)(1).

## **II. OBJECTIONS TO INTERROGATORIES**

### **A. OBJECTION TO COMPLAINANT SET 1, NO. 1**

Complainant Set 1, No. 1 states:

Identify all records in your possession, custody or control that relate in part or in whole to the "significant upgrades and testing" for ME1 to which you refer in Section A of your answer to the Flynn Complaint Introduction.

SPLP objects to this request because it seeks information irrelevant to this proceeding and is overbroad and unduly burdensome. Pursuant to 52 Pa. Code § 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. *Id.* The information sought in Complainant Set 1, No. 1 is not relevant to the issues to be addressed in this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

The information requested in Complainant Set 1, No. 1 is not relevant because it requests information regarding the integrity of SPLP's pipelines, which Complainant's counsel bindingly admitted was not at issue in this proceeding. Complainants cannot litigate integrity of SPLP's pipelines in this proceeding. Complainants' counsel admitted that integrity issues are not a part of this proceeding after Your Honor consolidated the Complaint and Petition proceedings, those

admissions are binding, and Complainants cannot now amend their Complaint and attempt to place integrity of SPLP's pipelines at issue in this case. At hearing, counsel for Complainants admitted, after the Petition and Complaint were consolidated, that integrity is not at issue in this proceeding. *See, e.g.*, N.T. 32:810 ("If Your Honor please, we're not talking about the integrity of the pipelines. That's not an issue in this proceeding.") That admission is binding on Complainants. *See, e.g.*, *Sule v. W.C.A.B. (Kraft, Inc.)*, 121 Pa. Cmwlth. 242, 245, 550 A.2d 847, 849 (1988) ("It is well settled that an admission of an attorney during the course of a trial is binding upon his client."); *Marmo v. Com., Dep't of Transp.*, 121 Pa. Cmwlth. 191, 195–96, 550 A.2d 607, 609 (1988). Complainants cannot now raise integrity as an issue here.

The request in Complainant Set 1, No. 1, is not reasonably tailored to lead to the discovery of relevant evidence and is unduly burdensome and overbroad because it requests "all records" which is likewise defined overbroadly. Taken literally this request could pertain to hundreds of thousands of documents. This request for all records is a fishing expedition and is not reasonably tailored to discover admissible evidence.

**B. OBJECTION TO COMPLAINANT SET 1, NOS. 3-9**

Complainant Set 1, No. 3-9 state:

3. For each such product identified in your answer to No. 2 above, for the period 2014 to the present, broken down by year, state how much product was shipped all together irrespective of destination.
4. For each product identified in your answer to No. 3 above, identify the person that took delivery of the product.
5. What are the projected hourly and daily rates of volume of HVLs in the workaroud pipeline in the high consequence areas of Chester and Delaware counties?
6. For each identifiable segment of ME1, including the Montello to Twin Oaks segment, state what you expect the maximum expected volume of HVLs to be.

7. For each segment identified in your answer to No. 6 above, what will be the rates and volumes be (by product)?
8. Identify all shippers transporting HVL products on Mariner East pipelines to destinations within Pennsylvania.
9. Identify all shippers transporting HVL products on Mariner East pipelines to destinations outside Pennsylvania.

SPLP objects to these requests because they do not seek information relevant to this proceeding. Set 1, Nos. 3-9 all seek information related to SPLP's commercial intra and inter-state operations. The specific volumes of product ship, shippers, parties taking delivery, rates of volume, expected volumes, rates, and shippers by delivery destinations do no relate to any of Complainant's claims in these proceedings. These requests all appear to seek information parties such as Complainant's have attempted to use to argue SPLP is not a public utility. However, Complainant makes absolutely no such claim in its Complaint. The Commission and appellate courts have repeatedly and conclusively decided SPLP is a PUC-certificated utility and that its Mariner pipelines provide public utility service. Moreover, evidence regarding specific destinations, shippers, rates, and the inter or intra-state nature of transportation on the pipeline would not even be dispositive to whether SPLP is providing service to or for the public. The test is whether SPLP is willing and able to provide service to or for the public. It is. Complainant's legally incognizable theory regarding bearing risk for non-Pennsylvania services is nothing more than attempting to rehash SPLP's public utility status. Such claims are not relevant here.

Moreover, SPLP objects to No. 4, 7, 8, and 9 because they seek information of competitively sensitive customer information without the customer being joined or notified of the request. SPLP also objects to No. 9 because it seeks information outside the Commission's jurisdiction and irrelevant to this proceeding. SPLP's obligations as a Pennsylvania Public

Utility end where the customer takes delivery. What a customer does with that product is not within SPLP's control and is not relevant to this proceeding.

C. OBJECTION TO COMPLAINANT SET 1, NO. 10

Complainant Set 1, No. 10 states:

10. Identify all records in your possession, custody or control that relate in part or in whole to the "significant upgrades and testing" for the 12 inch pipeline to which you refer in Section B of your answer to the Flynn Complaint Introduction.

SPLP objects to Set 1, No. 10 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

D. OBJECTION TO COMPLAINANT SET 1, NO. 11

Complainant Set 1, No. 11 states:

11. You state that your pipeline integrity management program ("PIMP") "continues to function in compliance with the law." Identify each statute and regulation of which you are aware that sets out PIMP requirements.

SPLP objects to Complainant Set 1, No. 11 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

SPLP also objects to Complainant Set 1 No. 11 because it seeks disclosure of legal theories or opinions. Under Section 5.323, discovery may not include disclosure of legal research or legal theories. 52 Pa. Code § 5.323(a). Complainant Set 1, No. 11 seeks legal theories and conclusions and thus is not an allowable request under the Commission's regulations.

E. OBJECTION TO COMPLAINANT SET 1, NO. 12

Complainant Set 1, No. 12 states:

12. With reference to your answer to No. 11 above, explain how you are in compliance with each such statute and regulation.



SPLP objects to Complainant Set 1, No. 12 for the same reasons stated in Objection to Complainant Set 1, Nos 1, 11, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A., D. SPLP further objects to this request as unduly burdensome. This request is essentially seeking to have SPLP explain how it is in compliance with every applicable section of the PHMSA and Pa PUC regulations, the Public Utility Code, and the Pipeline Safety Act.

F. OBJECTION TO COMPLAINANT SET 1, NO. 13

Complainant Set 1, No. 13 states:

13. Identify all records containing information on the maintenance and upgrades of ME1, the 12 inch pipeline, and the workaround pipeline.

SPLP objects to Complainant Set 1, No. 13 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

G. OBJECTION TO COMPLAINANT SET 1, NOS. 14-103.

Complainant Set 1, Nos. 14-103 state:

14. BIE in its Complaint at ¶ 28 alleges that "SPLP's procedures have since been revised." Identify each procedure that has been revised since the date of the Morgantown Incident.

15. For each said procedure set forth in your answer to No. 14 above, where applicable, describe what the previous procedure had been.

16. For each said procedure set forth in your answer to No. 15 above, identify all documents containing information showing on what date the procedure was revised.

17. Do you agree with BIE's allegation in ¶ 29 of its Complaint that, "any testing related to the adequacy of cathodic protection must consider the eight (8) inch and twelve (12) inch pipelines because they are located in the same right of way?"

18. If you do not agree entirely with BIE's allegation as set forth in No. 17 above, please explain in detail the reasons for your disagreement.

19. The BIE Complaint in ¶ 30 alleges that at station 2459+00, which is approximately 1,030 feet from the leak, SPLP's records indicated cathodic protection readings of -628 millivolts ("mV") in 2016 and -739 mV in 2015." Is this statement accurate?

20. If the statement noted above in No. 19 is not accurate, explain in detail how it is not.

21. In your Answer to ¶ 74 of the Amended Formal Complaint ("the Flynn Complaint") you refer to NACE SP0169-2007. Do you agree that the excerpt below, entitled 6.2 Criteria," is an accurate excerpt?

#### 6.2 Criteria

6.2.1 It is not intended that persons responsible for external control be limited to the criteria listed below. Criteria that have been successfully applied on existing piping systems can continue to be used on those piping systems. Any other criteria used must achieve corrosion control comparable to that attained with the criteria therein.

22. If your answer to No. 21 above is that the excerpt is not accurate, please explain.

23. Was the 6.2 Criteria provision in effect from 2015 at least through April 1, 2017?

24. For the period from the time ME1 became operational through the present, identify all methods that Sunoco has successfully applied to control external corrosion on the M1 pipeline.

25. Identify all documents in your possession that pertain to the methods noted in your answer to No. 24 above.

26. Identify all findings of corrosion on the ME1 pipeline.

27. Identify all documents in your possession that pertain to the findings of corrosion referred to in No. 26 above.

28. Identify all punctures, leaks and ruptures found on the ME1 pipeline.

29. Identify all documents in your possession that pertain to the punctures, leaks and ruptures identified in your answer to No. 28 above.
30. In your answer to ¶ 74 of the Flynn Complaint, you refer to "O&M Procedures." What are O&M Procedures?
31. For the period from the time ME1 became operational through the present, identify all O&M procedures that set forth criteria you use to assess external corrosion.
32. For the period from the time became operational through the present, identify all O&M procedures that describe methods you use to control external corrosion.
33. For the period from the time ME1 became operational through the present, identify all records containing information on actual steps taken to control external corrosion.
34. Is it your contention that, for the period from the time ME1 became operational through the present, Sunoco was not required to achieve a negative cathodic potential of at least -850 mV?
35. If your answer to No. 34 above "yes," identify each NACE alternative standard that made it unnecessary for you to achieve -850 mV potential.
36. For each NACE alternative standard set out in your answer to No. 35 above, explain what steps you took to meet the requirements of the standard.
37. Identify all records that reflect all the steps that you took to meet the requirements of each alternative standard identified in your answer to No. 35 above.
38. With respect to ¶ 32 of the BIE Complaint, BIE makes certain allegations as to how you performed side drain measurements at Station 2459+00. What is a side drain measurement?
39. What is the purpose of taking side drain measurements?
40. Is ¶ 32 of the BIE Complaint an accurate description of how you performed side drain measurements?
41. If your answer to No. 40 above is in the negative, please furnish a more accurate description.

42. Set forth each date on which you performed side drain measurements on MEI, the 12 inch pipeline and the workaround pipeline.
43. The BIE Complaint in ¶ 33 asserts that "several" of the side drain measurements indicate current was flowing away from the pipelines. How many of the side drain measurements disclosed currents flowing away from the pipelines?
44. With reference to ¶ 33 of the BIE Complaint, for each side drain measurement that you took, what were the actual quantitative measurements of the currents?
45. With reference to ¶ 33 of the BIE Complaint, what consideration was given to other interference sources, including but not limited to geological (e.g., high iron rocks)?
46. Do you agree that electrical current flowing away from a pipeline is a sign of corrosion?
47. If your answer to No. 46 above is in the negative, explain fully.
48. If you do not agree that electrical current flowing away from the pipeline is an indication that the cathodic protection system is not performing to specification, please explain why.
49. Is it your contention that in a multiple pipe right of way there is no interference of current magnitudes between pipes?
50. If "yes" to No. 49 above, please explain fully.
51. What is an "earth current technique?"
52. If it is your contention that side drain measurements are not an earth current technique, please explain fully.
53. Is it your contention that § 6.2.2.3.1 does not caution that an earth current technique is often meaningless in multiple pipe rights of way?
54. If your answer to No. 53 above is "yes," please explain fully.
55. In your answer to ¶ 74 of the Flynn Complaint, you stated:
- SPLP analyzed and documented that the testing it used, taken together, demonstrated that net protective current was flowing

toward both lines from the north and south, since the lines share the same CP system(s), any CP current accumulated on either line will remain on that line as it returns to it (sic) source, and there would not be a current exchange between the lines through the soil, as the resistance of the electrolyte to the pipe surface is much greater than the resistance of the metallic path through the pipe itself.

Identify all records containing or reflecting your analysis and documentation of the testing referred to above.

56. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, how many rectifiers were in the system being tested?

57. Identify the specifications for each rectifier noted in your answer to No. 56 above.

58. State what load was on each rectifier noted in your answer to No. 56 above.

59. How far down each line does each rectifier influence?

60. What is the per mile loss of cathodic protection from each rectifier or circuit?

61. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, what do you mean by "net protective current?"

62. Relative to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, explain in detail how you determined the net protective current.

63. With reference to the testing discussed in your answer to ¶ 74 of the Flynn Complaint, did your calculation include measurements of currents flowing away from the pipes?

64. Identify all records containing the data involved in the measurements of net protective current as described in your answer to ¶ 74 of the Flynn Complaint.

65. ¶ 35 of the BIE Complaint alleges that "SPLP's records concerning close interval potential surveys ("CIPS") of ME1, which were performed in 2009, 2013 and 2017, demonstrate that only "on" potentials were measured." If BIE's allegation is not entirely accurate, please explain fully.

66. With reference to ¶ 35 of the BIE complaint, did you also measure "off" potentials?

67. If your answer to No. 66 above is in the affirmative, identify all records that document the potentials that were measured.

68. ¶ 35 of the BIE Complaint alleges that "the CIPS do not contain accurate and reliable data needed to assess cathodic protection on the pipeline in that the CIPS do not align with footages and test station points." If this allegation is not entirely accurate, explain fully.

69. ¶ 35 of the BIE Complaint alleges further that "certain features, such as rectifiers, areas with parallel pipelines and overhead power lines are not identified in the records where such information is critical in the determination of the validity and accuracy of the test results." If this statement is not entirely accurate, explain fully.

70. Is it your contention that in determining the validity and accuracy of CIPS it is not necessary to account for the presence of rectifiers, parallel pipelines and overhead power lines?

71. If your answer to No. 70 above is "yes," please explain fully.

72. Is it your contention that it is not necessary to identify in your records of CIPS surveys the presence of rectifiers, parallel pipelines and overhead pipelines?

73. If "yes" to No. 72 above, please explain fully.

74. Identify each place in your records where you note the presence of rectifiers, parallel pipelines and overhead pipelines in connection with CIPS.

75. With respect to the requirements for external corrosion monitoring set out in 49 C.F.R. § 195.573, your answer to ¶ 74 of the Flynn Complaint states that "Regulations do not require annual ILI testing." For the period from when ME1 became operational until the present, identify all documents showing (a) each and every test that you did perform to monitor external corrosion control, and (b) the results of those tests.

76. In your response to ¶ 74 of the Flynn Complaint you write, "SPLP did conduct other tests to evaluate the cathodic protection status where necessary consistent with its procedures in place at

the time." Identify where in your records you set out your procedures to determine whether testing to evaluate cathodic protection status is necessary.

77. Identify where in your O&M Manual you describe corrosion control procedures.

78. You state in your answer to ¶ 74 of the Flynn Complaint that, "In some instances, SPLP also used Scope of Work documents to supplement its O&M procedures for specific tasks." What are Scope of Work documents?

79. Identify all documents that show Scope of Work documents were used to supplement O&M procedures?

80. State where you retain copies of Scope of Work documents for corrosion control procedures.

81. ¶ 36 of the BIE Complaint identifies records examined by BIE relative to its investigation of inspections using your In-Line Inspection ("ILI") tool. Identify all records relative to the ILI inspection you conducted in 2016 to detect anomalies and measure corrosion in the ME1 segment between Twin Oaks and Montello.

82. With respect to your response to No. 81 above, do you agree that the ILI tool failed and no data were available from the 2016 inspection?

83. If your answer to No. 82 above is in the negative, please explain fully.

84. Do you agree that you conducted another ILI inspection for the same Twin Oaks to Montello segment of ME1 in 2017?

85. Where are all the records of the additional ILI inspection in 2017?

86. What conclusions did you draw as to the cause of metal loss identified in the 2017 inspection?

87. Did you rule out corrosion as a cause or possible cause of the metal loss in connection with the 2017 inspection?

88. What steps if any did you take as a consequence of the metal loss findings from the 2017 inspection?

89. In your answer to ¶ 74 in the Flynn Complaint you state "SPLP's manual provides SPLP will create a list of segments

where CIPS should be utilized and where such testing is not practical and necessary the list will document the reasons. SPLP created and maintains this list." Where is this list located and retained?

90. Identify all records for the Morgantown line segment reflecting any inspections or maintenance performed on that segment.

91. Identify all records for the Morgantown line segment from prior to the Morgantown Incident reflecting a finding or decision that any type of testing is not practical or reasonable.

92. For the Morgantown line segment, identify all testing that showed whether adequate cathodic protection levels were met or not met prior to the Morgantown Incident.

93. In reference to your answer to ¶ 74 of the Flynn Complaint, identify all of the "several consecutive ILI reports with cathodic protection data" that you say SPLP compared to look for corrosion or corrosion growth.

94. The BIE Complaint in ¶ 41 alleges that Sunoco's procedures for compliance with § 195.402 "did not include any detail on how to accomplish the five CIPS metrics [required by § 195.173]. In response, you state in ¶ 74 of your answer to the Flynn Complaint that "[r]eview of 195.402 shows that there are not prescriptive standards of what details must be contained in an O&M manual." What is an O&M manual?

95. In reference to the quote cited in No. 94 above, what do you mean by "prescriptive standards?"

96. Do you agree that 49 C.F.R. § 195.402(a) states that an O&M manual requires an operator to "prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities...?"

97. If your answer is "yes" to No. 95 above, what is your understanding of the meaning of "written procedures for conducting" in this regulation?

98. Do you agree that 49 C.F.R. § 195.402(c) dictates that the O&M manual must include procedures for, inter alia, ". . .maintaining... the pipeline system?"

99. If your answer is "yes" to No. 98 above, is it your contention that "procedures for maintaining" means something



other than a description of how to obtain, evaluate and accomplish the five CIPS metrics set out in § 195.173?

100. If your answer is "yes" to No. 99 above, please explain fully.

101. The BIE Complaint in ¶ 38 alleges that your Manual procedure for § 195.571, relative to adequacy of cathodic protection, (a) fails to state any applications of or limitations on the criteria list, (b) fails to incorporate the precautionary notes of NACE SPOI 169-2007 at § 6.2.2.3 regarding use of earth current techniques in multiple rights of way, and (c) failed to require documentation. Is this allegation factually incorrect?

102. If the answer to No. 101 above is "yes," please explain why these things were not included.

103. For a period of five years prior to the date of the Morgantown Incident, identify all records of each analysis, check, demonstration, examination, inspection, investigation, review, survey and test performed in connection with your corrosion control measures.

SPLP objects to each and every one of these requests because they do not seek information relevant to this proceeding. Each of these requests pertains to BI&E's Morgantown Complaint against SPLP. Complainants have improperly attempted to incorporate that entire Complaint (which relates to events with no discernable effect on Complainants), into their Complaint. As explained in SPLP's Preliminary Objections, Complainants attempt to incorporate the BI&E Morgantown Complaint and/or the issues therein should not be allowed in this proceeding. Complainants also lack standing to make allegations regarding the BI&E complaint, which focuses on a pin-hole leak and alleged past non-conformity with integrity management and cathodic protection regulations. Complainants wholly fail to allege that the Morgantown incident or those past occurrences have in any way impacted them, let alone had the required direct, immediate, and substantial impact required for standing; those claims should be

dismissed from this proceeding and therefore discovery seeking information regarding those claims is irrelevant.

Moreover, BI&E's Morgantown Complaint has resulted in a settlement in principle with a Joint Petition for Settlement forthcoming that will allow for a public comment period for interested persons prior to the Commission deciding whether to approve that settlement. The settlement will promote public safety. Allowing Complainants' to essentially open litigation of that settled Complaint is against Commission policy. Commission policy encourages settlement. 52 Pa. Code § 5.231(a). Allowing a Complainant to essentially act as a private attorney general and litigate a complaint that the actual prosecutory entity brought against SPLP is improper and has a chilling effect on settlements. If SPLP is subject to litigation for the same claims it has settled with BI&E here, that takes away SPLP's incentives to settle cases and agree to terms that promote public safety where it is subject to litigation of those same claims before the same regulatory body regardless of such settlement. Complainants were not discernably affected by the events of the Morgantown Complaint. To the extent Complainants are curious concerning the BI&E Complaint and resolution thereof, they can submit comments to the Commission concerning the Joint Petition for Settlement at that docket.

The interrogatories Complainants propounded demonstrate their complete lack of understanding and knowledge regarding the facts, regulations, and law concerning the Morgantown Complaint, and shows why Complainants should not be allowed to essentially act as a private attorney general for these claims and incorporate them wholly into their Complaint. Moreover, the discovery propounded is in large part an attempt to annoy and harass SPLP as many of the requests seek information contained in SPLP's publicly available Answer to the Morgantown Complaint.

SPLP also objects to these requests for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

H. OBJECTION TO COMPLAINANT SET 1, NOS. 104-112

Complainant Set 1, Nos. 104-112 state:

104. Identify all records in yours possession, custody or control that relate in part or in whole to the Sinkhole Incidents.

105. Other than the sinkholes in the Sinkhole Incidents, have other sinkholes occurred along the routes of ME 1, the 12 inch pipeline and the workaround pipelines since 2014?

106. Identify the specific location of each such sinkhole listed in response to No. 105 above.

107. Identify when and how Sunoco first learned of each sinkhole identified in the answer to No. 106 above.

108. Identify who, if anyone, Sunoco notified about each sinkhole identified in the answer to No. 106 above.

109. With respect to your answer to No. 108 above, state when such notice of a sinkhole was given.

110. Identify what testing or studies were done as a result of each of the sinkholes identified in your answer to No. 106 above.

111. Identify any mitigating action taken in relation to the sinkholes identified in your answer to No. 106 above.

112. Identify any and all records that relate in whole or in part to the sinkholes identified in your answer to No. 106 above.

SPLP objects to Complainant Set 1, Nos. 104-112 because these requests do not seek information relevant to this proceeding. The Amended Complaint does not raise issues of subsidence events or geology. Complainant Set 1, Nos. 104-112 all seek information related to subsidence events and geology that are not relevant to this proceeding according to the

allegations raised in the Complaint and therefore are outside the scope of discovery allowed under the Commission's regulations.

SPLP also objects to these requests for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

I. OBJECTION TO COMPLAINANT SET 1, NOS. 113-118

Complainant Set 1, Nos. 113-118 state:

113. Identify all leaks, punctures and ruptures that have occurred.

114. Identify all leaks, punctures and ruptures that have occurred on the 12 inch line.

115. Identify all leaks, punctures and ruptures that have occurred on the workaround pipeline.

116. Identify all injuries, deaths and property damage associated with ME1.

117. Identify all injuries, deaths and property damage associated with the 12 inch line.

118. Identify all injuries, deaths and property damage associated with the workaround pipeline.

SPLP objects to Complainant Set 1 Nos. 113-118 because these requests are unduly burdensome and intended to annoy and harass where the information requested is already publicly available on PHMSA's website. These requests all seek information regarding incidents that SPLP is required to and does report to PHMSA. PHMSA compiles information from these reports and makes it publicly available in spreadsheet form available on its website. As this information is just as readily available to Complainants as Respondent, requests for this publicly available information is unduly burdensome, intended to annoy and harass, and thus is outside the scope of discovery allowable under the Commission's regulations.

To the extent these requests seek information beyond the time period for which PHMSA makes such data publicly available, SPLP objects to these requests as not calculated to discovery admissible evidence and unduly burdensome. A request for data back to the 1930's that Complainants have not shown is relevant to their Amended Complaint is a fishing expedition and requires unreasonable investigation. These requests are beyond the scope of allowable discovery under the Commission's regulations.

J. OBJECTION TO SET 1, NO. 123

Set 1, No. 123 states:

123. Is it your contention that PUC approval of the dissemination of the PAP in the Dinniman case was tantamount to approval of the content of the PAP?

SPLP objects to Set 1, No. 123 because it seeks a legal conclusion. Section 5.323 prohibits discovery of legal theories and conclusions. 52 Pa. Code § 5.323(a). This request by its terms seeks SPLP's legal conclusions and theories concerning the Commission's Orders in the *Dinniman* proceeding. Accordingly, this request is outside the scope of allowable discovery under the Commission's regulations.

K. OBJECTION TO SET 1, NOS. 127, 144, 155-162

Set 1, Nos. 127, 144, 155-162 state:

127. Sunoco has informed the public that a leak could be identified by a hissing sound. Can this sound be heard above regular traffic noise on SR 352 or other heavily travelled roads in Chester and Delaware Counties?

144. How close would a person have to be to an HVL leak in order to smell it?

155. Is the potential impact radius for an HVL leak or rupture any different from the potential impact radius of a natural gas leak or rupture?

156. Identify all data you considered in your answer to No. 155 above.

157. For what distances can HVLs move downwind or downhill while remaining in combustible concentrations?
158. How can HVLs be detected without specialized equipment?
159. How would HVLs dissipate/disperse following a leak?
160. How long would it take for this dissipation to occur?
161. How far could HVLs move while still in a combustible concentration?
162. An HVL leak may cause brown or dead vegetation. How can these conditions be detected in the winter?

SPLP objects to these requests because they are hypotheticals that all lack sufficient detail and facts for SPLP to be able to respond. Each question assumes a leak occurs and then seeks information regarding the consequences, results, or effect of such leak. However, consequences, results, and effects of a leak can vary based on a variety of factors, including but not limited to the specific type of product, the distance from the leak, the size of the leak, the amount of product in the pipeline at the time of a leak, the temperature, etc. Yet, the requests do not provide any of these details or a detailed enough scenario for SPLP to provide a response. Accordingly, SPLP objects to these requests because they lack sufficient detail for SPLP to be able to respond.

L. OBJECTION TO COMPLAINANT SET 1, NOS. 163-164

Complainant Set 1, Nos. 163-164 state:

163. What is your understanding of the term "pipeline integrity management program" ("PIMP") in relation to pipelines?
164. Identify all documents in which your PIMP is found.

SPLP objects to Set 1, Nos. 163-164 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

M. OBJECTION TO COMPLAINANT SET 1, NOS. 165-166

Complainant Set 1, Nos 165-166 state:

165. Identify all records reflecting planning for the location of ME pipelines in Chester and Delaware counties.

166. Identify all records reflecting planning for transportation of HVLs through Chester and Delaware counties.

SPLP objects to these requests because they are overly broad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. These requests for “all records” interpreted literally could lead to the production of hundreds of thousands of documents and thus are overbroad and unduly burdensome. Moreover, these requests are a fishing expedition because they are not calculated to lead to discovery of admissible evidence relevant to the Amended Complaint.

N. OBJECTION TO COMPLAINANT SET 1, NO. 169

Complainant Set 1, No. 169 states:

169. What consideration was given to the relative risks of locating valve stations near vulnerable populations such as schools, hospitals, senior residences, etc.?

SPLP objects to this request because it assumes a false premise and lack sufficient factual detail for SPLP to be able to respond. Complainant Set 1, No. 169 seeks information regarding SPLP decision-making based on “the relative risks of locating valve stations.” However, the request fails to define what “relative risks” or “vulnerable populations” Complainants assert exist regarding valve stations. As SPLP has stated in its Answer to the Amended Complaint, non-expert allegations concerning valve stations are over-stating assuming and overstating risks associated with valves.

O. OBJECTION TO COMPLAINANT SET 1, NOS. 173-177

Complainant Set 1, Nos. 173-177 state:

173. Identify all risk assessments, studies, reports, memos and other documents your possession, custody or control regarding the safety of ME1 and the workaround pipeline.

174. Identify all risk assessments, studies, reports, memos, test results and other documents in your possession, custody or control that have evaluated the consequences or probable consequences of the ignition of gaseous HVLs following their release from pipelines as a result of punctures, leaks and ruptures.

175. Identify all documents showing the locations of ME1 and ME2 & 2X in Chester and Delaware counties.

176. Identify all documents showing the depth of ME1 and ME2 & 2X below the surface in Chester and Delaware counties.

177. Explain how the determination was made to install pipelines at the depths noted in the documents identified in your answer to the above question.

SPLP objects to these requests as overbroad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. These “all documents” requests interpreted literally implicate tens of thousands of documents. Moreover, these requests are a fishing expedition, not calculated to lead to the discovery of admissible evidence. Accordingly, these requests are beyond the scope of allowable discovery under the Commission’s regulations.

P. OBJECTION TO COMPLAINANT SET 1, NOS. 178-180

Complainant Set 1, Nos. 178-180 state:

178. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, which Mariner East pipelines either ship or are planned to ship HVLs through the pipes located between her home and 233 Lenni Road?

179. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, what is the horizontal distance between the Higgins house and each Mariner east pipeline that either ships or is planned to ship HVLs?

180. With respect to the property owned by Allison Higgins at 237 Lenni Road, Middletown, Delaware County, for each pipeline



identified above, state at which depth the pipes are or will be below the surface.

SPLP objects to these requests because they do not seek evidence relevant to this proceeding. Each request seeks information regarding property allegedly owned by Allison Higgins. Ms. Higgins is not a Complainant in this proceeding nor is her property listed as the address of any of the Complainants in this proceeding. Complainants do not have standing to represent the interests of others. Accordingly, requests for information regarding Ms. Higgins property are not relevant to this proceeding and are not within the scope of allowable discovery under the Commission's regulations.

**Q. OBJECTION TO COMPLAINANT SET 1, NOS. 181-182**

Complainant Set 1, Nos. 181-182 state:

181. Identify copies of all cost estimates to install HVL leak detector and alarm systems for schools and children's play areas that are within the blast radius of the Mariner East pipelines.

182. If your answer to No. 181 is that you have not obtained any such estimates, explain why not.

SPLP objects to these requests because they do not provide sufficient detail for SPLP to provide an answer. These requests refer to a "blast radius" without defining such term. SPLP will not assume what Complainants are attempting to assert. Accordingly, SPLP does not have sufficient information to respond to this request.

**R. OBJECTION TO COMPLAINANT SET 1, NOS. 183-184**

Complainant Set 1, Nos. 183-184 state:

183. With respect to incidents in 2018 in which Aqua drilling struck a Mariner line or lines in Middletown, Delaware County, explain fully your understanding of why the incident occurred.

184. Identify all documents related to the incidents identified in your answer to No. 183 above.

SPLP objects to Set 1, Nos. 183-184 because they do not seek information relevant to this proceeding. The Amended Complaint does not raise allegations concerning the Aqua line hit that these requests seek information. Accordingly, these requests do not seek information relevant to this proceeding and are beyond the scope of allowable discovery under the Commission's regulations.

SPLP also objects to Set 1, Nos. 183-184 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

S. OBJECTION TO COMPLAINANT SET 1, NOS. 195-205

Complainant Set 1, Nos. 195-205 state:

195. Do you agree completely with Mr. Zurcher's statement as quoted in ¶ 62 of the Flynn Complaint?

196. If "no" to No. 195 above, please explain fully.

197. Identify all reports, test results, studies and other documents in your possession or control regarding weld records for ME1 in proximity to the April 1, 2017 Morgantown leak.

198. Identify all internal analysis and communication related to the determination that failed O-rings caused the leak in Morgantown April 1, 2017.

199. Why did Sunoco not detect the leak that occurred in Morgantown April 1, 2017 prior to it being discovered by a resident?

200. Quantify the size of the Morgantown leak noted in Flynn Complaint ¶ 65.

201. What was the cause of the Morgantown leak?

202. Explain why you did not prevent the Morgantown leak.

203. Did faulty O-rings play any role in the development of the Morgantown leak?

204. Identify all written statements you have made regarding the Morgantown leak.

205. Do accept as correct the findings of PHMSA in its accident report on the Morgantown leak?

SPLP objects to Set 1, Nos. 195-205 for the same reasons stated in Objection to Complainant Set 1 Nos. 14-103, which SPLP incorporates herein as if set forth in full. *Supra* Section II. G.

SPLP also objects to Set 1, Nos. 183-184 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

T. OBJECTION TO COMPLAINANT SET 1, NOS. 206-213

Complainant Set 1, Nos. 206-213 state:

**Beaver County Explosions**

206. Identify each factual allegation in 68 of the Flynn Complaint that you contend is inaccurate.

207. Who constructed the Rover pipeline that was involved in the Beaver County Explosions?

208. What company was operating the Rover pipeline at the time of the Beaver County Explosions?

209. When was the Rover pipeline placed in service?

210. What was the cause of the Beaver County Explosions?

211. Did geological features cause or contribute to the Beaver County Explosions?

212. Is the Zurcher quote in Flynn Complaint ¶ 71 inaccurate?

213. If your answer to No. 216 above is "yes," please explain.

SPLP objects to these requests because they do not seek information relevant to this proceeding. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to

matters that can be inquired into under Section 5.321. Section 5.321(c), in turn, provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Complainants do not have standing to raise issues regarding the incidents in Beaver County on the Revolution pipeline. That pipeline is not a public utility and the Commission does not have jurisdiction to hear a Complaint under section 701 concerning the Revolution pipeline.

Moreover, the Revolution pipeline was not constructed, owned, or operated by SPLP. The Revolution pipeline is a natural gas gathering line, not an HVL transmission line such as the pipelines at issue in this proceeding. The incidents that occurred regarding the Revolution pipeline are not relevant to this proceeding and thus discovery of such matters is beyond the scope of discovery allowed under the Commission's procedural rules.

U. OBJECTION TO COMPLAINANT SET 1, NOS. 214-216

Complainant Set 1, Nos. 214-216 state:

214. What is the range of leak sizes detected by Sunoco on the Mariner East pipelines?

215. What is the smallest leak Sunoco has detected on an HVL line?

216. What is the smallest leak Sunoco is equipped to detect on an HVL line during the course regular inspection and maintenance?

SPLP objects to these requests because they are vague, ambiguous, and do not provide enough factual detail for SPLP to be able to respond to them. They are overbroad and seek to inquire into matters beyond the time and geographic scope relevant to this proceeding. Each of these requests seek information regarding leak detection on SPLP's pipelines, including all HVL lines SPLP operates, since the time each pipeline has been in operation. This request is well

beyond the scope of what is relevant to this proceeding considering Complainant's do not have standing to raise claims outside of the geographic area for which they claim standing in Chester and Delaware Counties. *DiBernardino v. Sunoco Pipeline L.P.*, Order Granting In Part And Denying In Part Preliminary Objections To Amended Complaint at 11 (Order entered Dec. 21, 2018) (Barnes, J.). Moreover, the questions do not specify why Complainants mean by leak detection or regular inspection and maintenance. Accordingly, SPLP objects to these requests as overbroad, seeking information not relevant to this proceeding, and thus beyond the scope of discovery allowed under the Commission's regulations. SPLP also objects to these requests as vague, and ambiguous such that SPLP cannot respond to these requests.

V. OBJECTION TO COMPLAINANT SET 1, NOS. 219-221

Complainant Set 1, Nos. 219-221 state:

219. What is your actual rate of detecting pipeline cracks and corrosion, regardless of the means of detection?

220. Of the leaks that have been detected on Sunoco's ME1 and workaround pipelines, what percentage were first detected by Sunoco?

221. Out of all cracks and corrosion detected, what percentage is first detected by the public?

SPLP objects to these requests because they are vague, ambiguous, and do not provide enough factual detail for SPLP to be able to respond to them, they are overbroad and seek to inquire into matters beyond the time and geographic scope relevant to this proceeding. Each of these requests seek information regarding percentage or rate of crack and corrosion detection on SPLP's pipelines, including all HVL lines SPLP operates, since the time each pipeline has been in operation. This request is well beyond the scope of what is relevant to this proceeding considering Complainant's do not have standing to raise claims outside of the geographic area

for which they claim standing in Chester and Delaware Counties. Moreover, the questions do not specify why Complainants mean by leak detection or regular inspection and maintenance. Accordingly, SPLP objects to these requests as overbroad, seeking information not relevant to this proceeding, and thus beyond the scope of discovery allowed under the Commission's regulations. SPLP also objects to these requests as vague, and ambiguous such that SPLP cannot respond to these requests.

SPLP objects to Set 1, Nos. 219-221 for the same reasons stated in Objection to Complainant Set 1, No. 1, which SPLP incorporates herein as if set forth in full. *Supra* Section II. A.

W. OBJECTION TO COMPLAINANT SET 1, NO. 228

Complainant Set 1, No. 228 states:

228. What changes were made to Sunoco's PAP in response to any public safety concerns?

SPLP objects to Complainant Set 1, No. 228 because it is vague, ambiguous, and lacking sufficient detail for SPLP to respond to it. Complainant Set 1, No. 228 seeks a description of change made to SPLP's public awareness program "in response to any public safety concerns." The term "public safety concerns" is undefined, very broad, and therefore ambiguous as used in this request. SPLP will not assume what Complainants are attempting to ask. Accordingly, SPLP objects to this request because it is overbroad, vague, and lacking sufficient detail for SPLP to respond to it.

X. OBJECTION TO COMPLAINANT SET 1, NOS. 232-257

Complainant Set 1, Nos. 232-257 state:

232. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission

(including the BIE) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

233. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission (including the BIE) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

234. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a commissioner of, the Public Utility Commission (including the BIE) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

235. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

236. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

237. Other than persons identified in your answer to Nos. 232-234 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a commissioner, of the Public Utility Commission ((including the BIE) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

238. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental Protection, concerning your transportation or proposed transportation of HVLs in Pennsylvania.

239. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental

Protection, concerning the maintenance or repair of ME1 or the 12 inch pipeline.

240. Identify each person you engaged or retained for the purpose of communicating with any person employed by, or serving as a director of, the Department of Environmental Protection, concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch HVL pipelines.

241. Other than persons identified in your answers to Nos. 238 - 240 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning your transportation or proposed transportation of HVLs in Pennsylvania.

242. Other than persons identified in your answers to Nos. 238-240 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning the maintenance or repair of ME1 or the 12 inch pipeline.

243. Other than persons identified in your answers to Nos. 238-240 above, identify each person known or believed by you to have communicated with any person employed by, or serving as a director of, the Department of Environmental Protection concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

244. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

245. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

246. Identify each person you engaged or retained for the purpose of communicating with any person employed by the Office of Governor of Pennsylvania (including the Governor)



concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

247. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

248. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

249. Other than persons identified in your answers to Nos. 244-246 above, identify each person known or believed by you to have communicated with any person employed by the Office of Governor of Pennsylvania (including the Governor) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

250. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

251. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the maintenance or repair of ME1 or the 12 inch pipeline.

252. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

253. Identify each person you engaged or retained for the purpose of communicating with any elected officials (whether at the state, county or municipal level) concerning the obtaining of pipeline easements.

254. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state,

county or municipal level) concerning your transportation or proposed transportation of HVLs in Pennsylvania.

255. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the maintenance or repair of MEI or the 12 inch pipeline.

256. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the proposed construction of additional Mariner East pipelines, whether the 20 inch, the 16 inch, or any other HVL pipelines.

257. Other than persons identified in your answer to Nos. 250-253 above, identify each person known or believed by you to have communicated with any elected officials (whether at the state, county or municipal level) concerning the obtaining of pipeline easements.

SPLP objects to these requests because they do not seek information relevant to this proceeding and are not reasonably calculated to lead to the discovery of admissible evidence and unduly burdensome. Under 52 Pa. Code § 5.341(c), a party may propound interrogatories that relate to matters that can be inquired into under Section 5.321. Section 5.321(c), in turn, provides that a party is entitled to obtain discovery of any matter not privileged that is relevant to a pending proceeding and reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

Complainant Set 1 Nos. 232-257 all seek to have SPLP identify any person that has communicated with the two main regulatory bodies that SPLP deals with on an almost daily basis, as well as the Governor's office. None of that information is relevant to Complainant's claims or any cognizable claim under the Public Utility Code. This request is a fishing expedition and is unduly burdensome. SPLP has many employees, contractors, and outside representatives that have been communicating with these entities. Moreover, this request is not

limited by relevant geographic scope or time period. Accordingly, these requests are overbroad, unduly burdensome, and seek information that is not relevant and thus are beyond the scope of discovery allowed under the Commission's regulations.

Y. OBJECTION TO COMPLAINANT SET 1, NOS. 258-259

Complainant Set 1, Nos. 258-259 state:

258. Identify each person who participated in answering the above interrogatories.

259. For each person identified in your answer to No. 258 above, identify by number the interrogatories which that person assisted in answering.

SPLP objects to these requests as seeking information beyond what is required under the Commission's regulations concerning preparation of discovery responses and beyond what is allowable under the privilege for litigation preparation. The Commission's regulations broadly exempt privileged materials and documents from discovery. 52 Pa. Code §§ 5.321(c) and 5.323(a); *see also* 52 Pa. Code § 5.361(a)(3) (prohibiting discovery which relates to a matter which is privileged). The Commission's regulations only require SPLP to "Identify the name and position of the individual who provided the answer." 52 Pa. Code § 5.342(a)(2). SPLP will provide identification information consistent with the Commission's regulations.

Z. OBJECTION TO COMPLAINANT SET 1, NO. 260

Complainant Set 1, No. 260 states:

260. Identify all persons known, or believed to be known to you, with knowledge or information concerning any of the matters set forth in the Flynn Complaint and your Answer and New Matter to the said complaint.

SPLP objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Complainant Set 1, No. 260 requests that SPLP identify any person with any knowledge the Amended Complaint and Answer in this

proceeding. The Amended Complaint here is an attempt to hurl allegations against SPLP to see if anything sticks. That set of allegations is overbroad and not confined to matters for which Complainants have standing to raise. Accordingly, Complainants request here is over broad and not reasonably calculated to lead to the discovery of admissible evidence. Moreover, given the events, time, and geographic scope of allegations that Complainants have attempted to put at issue, identification of people with knowledge of such would involve hundreds, if not thousands of individuals. That is unduly burdensome for SPLP. Accordingly, this request is beyond the scope of allowable discovery under the Commission's regulations.

### **III. OBJECTION TO SET 1 REQUESTS FOR PRODUCTION OF DOCUMENTS**

Complainant Set 1, Requests for Production of Documents state as follows:

1. All documents identified in your responses to Interrogatories Nos. 1, 10 and 13.
2. All documents identified in your responses to Interrogatories Nos. 14, 25, 27, 29, 33, 37, 55, 64, 67, 75, 78, 79, 81, 90, 91, 103.
3. All documents identified in your responses to Interrogatories Nos. 104 and 112.
4. All documents identified in your response to interrogatory No. 164.
5. All documents identified in your responses to Interrogatories Nos. 165, 166, 173, 174, 175, 176, 181, 184, and **190**.
6. All documents identified in your responses to Interrogatories Nos. **192** and **194**.
7. All documents identified in your responses to Interrogatories Nos. 198 and 204.

SPLP has objected to each of the related interrogatories except Nos. **190**, **192**, and **194**.

SPLP incorporates its objections to each of the related interrogatories herein as if set forth in full.

#### IV. CONCLUSION

WHEREFORE, Sunoco Pipeline L.P. objects to Complainant Set 1, Instructions and Definitions including portions of the unlabeled instructions on page 1, Definitions B, E, F, P, Q, and Instruction No. 2. SPLP objects to Complainants Interrogatories, Set 1, Nos. 1, 3-9, 10-118, 123, 127, 144, 155-166, 169, 173-184, 195-216, 219-221, 228, 232-260. SPLP also objects to Complainants Set 1 Request for Production of Documents that correspond to Interrogatories to which SPLP has objected listed above, Set 1, Nos. 1-5 and 7.

Respectfully submitted,

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Thomas J. Sniscak, Attorney I.D. # 33891  
Kevin J. McKeon, Attorney I.D. # 30428  
Whitney E. Snyder, Attorney I.D. # 316625  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
(717) 236-1300  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[kjmckeon@hmslegal.com](mailto:kjmckeon@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

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*/s/ Robert D. Fox*  
Robert D. Fox, Esq. (PA ID No. 44322)  
Neil S. Witkes, Esq. (PA ID No. 37653)  
Diana A. Silva, Esq. (PA ID No. 311083)  
MANKO GOLD KATCHER & FOX, LLP  
401 City Avenue, Suite 901  
Bala Cynwyd, PA 19004  
Tel: (484) 430 5700  
[rfox@mankogold.com](mailto:rfox@mankogold.com)  
[nwitkes@mankogold.com](mailto:nwitkes@mankogold.com)  
[dsilva@mankogold.com](mailto:dsilva@mankogold.com)

Dated: March 11, 2019

*Attorneys for Respondent Sunoco Pipeline L.P.*

# ATTACHMENT C

## Whitney Snyder

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**From:** Michael Bomstein <mbomstein@gmail.com>  
**Sent:** Thursday, March 28, 2019 5:21 PM  
**To:** Whitney Snyder  
**Cc:** Diana Silva  
**Subject:** Re: M/C Summary 3.28.19 Flynn v SPLP Complainants Set 1 Discovery

Whitney,

Thanks for taking such good notes!

This accurately reflects our discuss. I now will be sharing this with others and after conferring with them will get back to you.

Have a good weekend.

MSB

On Thu, Mar 28, 2019 at 5:08 PM Whitney Snyder <[WESnyder@hmslegal.com](mailto:WESnyder@hmslegal.com)> wrote:

Michael,

Below is a summary of our March 28, 2019 meet and confer regarding Complainants' Set 1 Interrogatories and Requests for Production of Documents. Please respond with any edits you have regarding the accuracy of the description of this conversation and whether you have further considered any of our offers. SPLP very much appreciates your willingness to discuss and negotiate these discovery requests and looks forward to working with you further on these issues.

1. Complainants Interrogatories 1 and 10: SPLP offered to provide an explanation of the upgrades made and tests completed with accompanying documents that support the explanation, such as test results. You declined this offer.
2. Complainants Interrogatories 3-9: We will work with you on a template showing volumes for ME1 and ME2/12-inch pipeline. You agreed that you are seeking volume information for each pipeline since it was converted to HVL service. We will get back to you with a proposed template. You declined to withdraw interrogatories seeking the identity of the person taking delivery, the identity of shippers, and where those shippers sent the product (Nos. 4, 8, 9).
3. Complainants Interrogatories 13: We discussed SPLP's position on the overbreadth of this request considering that it is seeking all documents related to maintenance and upgrades of the pipelines since the 1930s. You declined to narrow this request.

4. Complainants Interrogatories 14-103, 197-205: We discussed that we will revisit these requests once you have had a chance to review SPLP's Answer to the Morgantown Complaint (which I provided you via email on this date) and the Joint Petition for Settlement in that matter, which SPLP expects to be publicly available on or about April 3, 2019.
5. Complainants Interrogatories 113-118: SPLP offered to provide the PHMSA publicly available data on SPLP pipeline incidents dating back to 1986, which would provide detailed information on the incident including whether an injury, death, or property damage occurred along with the incident report SPLP submitted to PHMSA. SPLP would identify which pipeline (ME1 or 12-inch) on which the incident occurred. You declined this offer.
6. Complainants Interrogatories 127, 144, 155-162: After further consideration, SPLP will provide a response to these requests.
7. Complainants Interrogatories 165-166: We discussed what the term "planning" means in the context of these requests. We believe the parties have agreed that "planning" means the consideration prior to installing the pipelines as to where the pipelines would be installed. However, the parties did not reach agreement concerning the "all records/all documents" nature of these requests.
8. Complainants Interrogatories 173: We discussed SPLP's position on the overbreadth of these requests. You are going to check whether 173 is limited to the time frame of SPLP's consideration of using ME1 for HVL service forward. We did not reach agreement concerning the "all documents" nature of these requests.
9. Complainant Interrogatories 175-177: We discussed SPLP's position on the overbreadth of these requests. We agreed that Complainants are seeking SPLP to produce maps showing the exact location of the ME1, ME2 and 12-inch pipelines and their depth.
10. Complainants Interrogatories 183-184: We discussed SPLP's position on the overbreadth of 184. SPLP offered to respond to 183 and for 184 provide a copy of the one call report submitted to the PUC instead of an "all documents" production. You declined this offer.
11. Complainants Interrogatories 195-196: SPLP will provide a response to these requests.
12. Complainants Interrogatories 232-257: We asked for clarification given the statements in your Motion to Compel that "Complainants have no response to this objection." We believe you have agreed to withdraw these requests at this time.



13. Complainants Interrogatories 258-260: We asked for clarification given the statement in your Motion to Compel of: "Agreed." We believe you have agreed to withdraw these requests at this time.

Thanks,

*Whitney E. Snyder*

*Hawke McKeon & Sniscak LLP*

[www.hmslegal.com](http://www.hmslegal.com)

100 N. Tenth Street  
Harrisburg, PA 17101  
717-236-1300  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

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