

BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Sunoco Pipeline, LP, for a Finding	:	
That The Situation of Structures to Shelter	:	
Pump Stations and Valve Control Stations is	:	Docket No. P-2014-2411966
Reasonably Necessary for the Convenience or	:	(consolidated with
Welfare of the Public in West Goshen	:	Docket No. P-2014-2411941, <i>et al.</i>)
Township, Chester County	:	

AMENDED PROTEST OF
CONCERNED CITIZENS OF WEST GOSHEN TOWNSHIP

Pursuant to 52 Pa. Code § 5.51, Concerned Citizens of West Goshen Township ("CCWGT") files this Amended Protest in response to the Amended Petition filed by Sunoco Pipeline, LP ("SPLP") on May 8, 2014.¹

1. CCWGT is an ad hoc association of residential homeowners each of whom owns and resides on property either adjacent to or within approximately 1,000 feet of the properties owned by SPLP on Boot Road, West Goshen Township, Chester County, where SPLP proposes to construct buildings. An amended list of the members of CCWGT is provided in Appendix A.

2. CCWGT continues to be represented by the undersigned attorney.

3. SPLP proposes to construct buildings to house a pump station SPLP calls the "Boot Station" (presumably because of their location on one or both of the properties SPLP owns on Boot Road) in West Goshen Township, Chester County, Pennsylvania.

4. The members of CCWGT own and reside on properties that will be directly and adversely affected by SPLP's proposed construction and operation of a pump station and

¹ The Commission's Procedural Rules provide for the filing of an Answer in response to a Petition. 52 Pa. Code § 5.61. The public notice for this proceeding, however, refers to the filing of "formal protests." 44 Pa. Bull. 3215 (May 24, 2014). An Answer is not required at this time, however, because CCWGT has filed Preliminary Objections that allege insufficient specificity of the Amended Petition. 52 Pa. Code § 5.101(e).

associated buildings at the Boot Station site. Based on information and belief, CCWGT avers that the facilities SPLP proposes to construct are noisy, will enable releases of potentially harmful air pollutants, will create safety concerns for those who live in close proximity to the site, and will harm highly sensitive wetlands and associated environments. All of these factors will cause the members of CCWGT direct harm by, for example, reducing the value of their properties, reducing their enjoyment of their properties, reducing or eliminating their ability to safely and comfortably use their outdoor space, and harming the natural environment in close proximity to their property, among others.

5. SPLP is seeking a Commission order to preempt local zoning and land use requirements, pursuant to Section 619 of the Municipalities Planning Code ("MPC"), 53 P.S. § 10619.

6. The Commission has held that a petition filed under Section 619 of the MPC must adequately address four major areas of inquiry. Specifically, the Commission has held:

[I]n deciding this type of case, consideration must be given to the following:

- A. Whether the Public Utility Commission has jurisdiction over the parties and subject matter pursuant to the Municipalities Code, 53 P.S. § 10619;
- B. Whether the proposed site is reasonably necessary for the convenience or welfare of the public;
- C. Environmental impact.

Pennsylvania American Water Company, Docket No. P-00062226 (Init. Dec. of ALJ Smolen), 2006 Pa. PUC LEXIS 91 (Oct. 25, 2006), finalized by operation of law, 2006 Pa. PUC LEXIS 105 (Nov. 17, 2006).

In addition, a Commission Policy Statement states that the Commission will consider the effect of a petition under Section 619 of the MPC on local comprehensive plans and zoning

ordinances. 52 Pa. Code § 69.1101. Such a consideration is required by Section 619.2 of the MPC. 53 P.S. § 10619.2 ("Commonwealth agencies shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for the funding or permitting of infrastructure or facilities").

7. SPLP's proposed construction of buildings at the Boot Station site fails all four requirements set forth by the Commission.

8. The Commission does not have jurisdiction over this matter. CCWGT addresses this issue in detail in its Further Preliminary Objections filed contemporaneously with this Amended Protest.

9. CCWGT avers, on information and belief, that the Boot Station site is not reasonably necessary for the convenience or welfare of the public.

A. First, SPLP is not a public utility, does not hold a certificate of public convenience and necessity to provide this service, and does not provide a service to or for the public. By definition, therefore, its facilities are not necessary for the convenience or welfare of the public.

B. Second, even if SPLP is found to provide a service necessary for the convenience or welfare of the public, there are alternate locations available. CCWGT believes that SPLP abandoned other, less-densely populated sites, that would serve the need as well as, if not better than, the Boot Station site because of public opposition.

10. SPLP fails to mention, let alone address, any issues associated with the environmental impact of the facilities it proposes to construct at the Boot Station site. Based on information and belief, CCWGT avers that the facilities SPLP proposes to construct will or may

enable releases of potentially harmful air pollutants and will or may harm highly sensitive wetlands and associated environments.

11. SPLP fails to address the requirements of local comprehensive plans and zoning ordinances, and how its proposed facilities relate to those local enactments. CCWGT avers that the facilities SPLP proposes to construct at the Boot Station site are not consistent with the zoning and land use plans enacted by West Goshen Township and/or Chester County. In particular, one of the sites owned by SPLP on Boot Road consists of 4.5 acres of vacant land that is zoned Residential and is directly adjacent to an existing residential development where CCWGT members reside. Construction of a pumping station and associated facilities on that site would be grossly inconsistent with local land use and zoning plans.

WHEREFORE, for the reasons set forth above and in its Preliminary Objections, CCWGT respectfully requests the Pennsylvania Public Utility Commission to determine that SPLP is not a "public utility corporation" for purposes of Section 619 of the MPC. Consequently, the Commission lacks any further jurisdiction over this matter, and the proceeding should be dismissed with prejudice.

In the alternative, CCWGT respectfully requests that the Commission refer this matter to an Administrative Law Judge for discovery, the receipt of testimony (including testimony at a

public input hearing in West Goshen Township), cross-examination of witnesses, and such other process as is required.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott J. Rubin". The signature is fluid and cursive, with the first name "Scott" and last name "Rubin" clearly distinguishable.

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(Pa. Supreme Court ID: 34536)

Counsel for CCWGT

Dated: June 9, 2014

VERIFICATION

I, Allen Ray Feinberg, a member of Concerned Citizens of West Goshen Township, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 6/4/14

Allen Ray Feinberg

Members of Concerned Citizens of West Goshen Township

(All addresses are in West Chester, PA 19380. All are in West Goshen Township, except as noted, and all are either immediately adjacent to, or within approximately 1,000 feet of, SPLP's land on Boot Road.)

Amanda and John Buffington 1008 E. Boot Road	Erin Morelli 1322 Mary Jane Lane
Drew & Kimberly McCorkell 1303 Mary Jane Lane	Leonard J Iacono 1324 Mary Jane Lane
Sharon Owen 1304 Mary Jane Lane	Masooda B. Siddiqui 1325 Mary Jane Lane
Allen Feinberg & Alexandra Alexander 1306 Mary Jane Lane	Linda Erfle 1237 Killern Lane
John & Mary Nescio 1307 Mary Jane Lane	Raymond and Holly Allen 1244 Killern Lane
Eric and Lizann Marchetti 1308 Mary Jane Lane	Georgine Guzzi 1303 Anderson Ave
James & Mary Meyers 1309 Mary Jane Lane	Cindy & Tim Nichols 1223 Hamlet Hill Drive
Phyllis Ruggiero 1311 Mary Jane Lane	Steve and Lynn Moose 1235 Hamlet Hill Dr.
Marcella and Mark Denisewicz 1312 Mary Jane Lane	Rosana I. Chiple 1130 Laurel Drive
Leonard Kelly 1313 Mary Jane Lane	Tom Pavletich 1132 Laurel Drive
Edna Mae Veit 1314 Mary Jane Lane	Jeff Perham 1221 Trafalgar Lane
Kevin and Krista Link 1315 Mary Jane Lane	Mike and Carol Burkardt 1246 Victoria Lane
Mark and Mary Jane Lorenz 1317 Mary Jane Lane	Joseph & Deborah Radzewicz 1248 Victoria Lane
Diane Watson Treon 1320 Mary Jane Lane	Christine & Ted Frain 1252 Victoria Lane

Anthony Natale III
1254 Victoria Lane

Derick Deangelo
1256 Victoria Lane


Keith Dickerson
1212 Culbertson Circle
(This property is in East Goshen Township
immediately across US 202)

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served this day a true copy of the foregoing document upon the parties listed below by electronic mail (where an email address is shown) and U.S. mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Jody Ross MD 437 Nye Road Hummelstown, PA 17036	Mary Leitch 526 Reed St Philadelphia, PA 19147 artbymal@live.com

Dated: June 9, 2014


Scott J. Rubin
Counsel for CCWGT