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REPLY TO:  
Center City

January 28, 2020

*Electronic Filing*

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

Re: Flynn, et al. v. Sunoco Pipeline L.P.,  
Docket No. C-2018-3006116 and P-2018-3006117  
**FLYNN COMPLAINANTS' MOTION TO  
RECLASSIFY ANSWERS TO INTERROGATORIES**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Flynn Complainants' Motion to Reclassify Answers to Interrogatories in the above referenced case.

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

Very truly yours,

  
MICHAEL S. BOMSTEIN, ESQ.

MSB:mik

cc: Per Certificate of Service

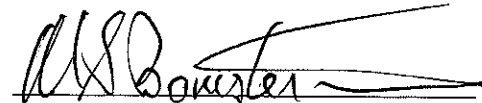
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Meghan Flynn	:	
Rosemary Fuller	:	
Michael Walsh	:	
Nancy Harkins	:	C-2018-3006116
Gerald McMullen	:	P-2018-3006117
Caroline Hughes and	:	
Melissa Haines	:	
	:	
	:	
v.	:	
	:	
Sunoco Pipeline, L.P.	:	

**NOTICE TO PLEAD**

To: Parties of Record

Complainants have filed a Motion to Reclassify Answers to Interrogatories in the above-captioned matter. Pursuant to regulations of the Pennsylvania Public Utility at 52 Pa. Code § 5.103, you are notified that a responsive pleading must be filed within 20 days of the date of service of this motion.



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Attorney for Complainants

**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	:	

**FLYNN COMPLAINANTS’  
MOTION TO RECLASSIFY ANSWERS TO INTERROGATORIES**

Flynn Complainants, by their attorney, Michael S. Bomstein, hereby move to reclassify certain answers provided by Sunoco in its Answers to Second Interrogatories that were marked by Sunoco as confidential/highly confidential and in support hereof aver as follows:

1. ALJ Barnes entered an Amended Protective Order (“the Order”) in this proceeding on June 6, 2019. The Order identified three categories of protected materials: “Confidential,” “Highly Confidential Protected Material,” and “Extremely Sensitive Materials.”
2. Flynn Complainants previously moved to reclassify overclassified Sunoco documents.
3. In that motion, Flynn Complainants alleged *inter alia* that Sunoco improperly classified its hazard assessments in order to conceal from the public its knowledge of the dangers posed by the Mariner East pipelines. The matter, however, was resolved prior to hearing.

4. In Flynn's Second Interrogatories, Sunoco was asked in Interrogatory No. 44 to furnish the timeline for the response to the November 11, 2019 gasoline leak event in Middletown. The interrogatory asked:

44. With respect to the event(s) involving the release of gasoline or other petroleum product(s) in the vicinity of the Tunbridge Apartment complex on or about Monday, November 11, 2019,,,

(1) Set forth a detailed timeline of the entire release event, for each event, including but not limited to time the release commenced, when Sunoco became aware of it, how Sunoco became aware of it, when Sunoco personnel were dispatched to the scene, when Sunoco personnel arrived at the scene, the time when Sunoco first spoke with Delaware County Emergency Services, when Delaware County first responders first arrived, when the release was contained.

5. Sunoco's response to Interrogatory No. 44 was as follows:

[BEGIN HIGHLY CONFIDENTIAL, CONFIDENTIAL SECURITY INFORMATION]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[END HIGHLY CONFIDENTIAL, CONFIDENTIAL SECURITY INFORMATION]

**DATE:** January 13, 2020

**BY:** Matthew Gordon

6. Subsequently, Sunoco furnished answers stamped “Highly Confidential, Confidential Security Information.”

7. In so marking the answers, Sunoco is once again refusing to furnish information to the public about an event with which the public is familiar and which is a matter of great concern to the public.

8. Sunoco's public position is that its pipelines are safe and that Sunoco has the ability to respond to pipeline accidents in a timely and meaningful manner.

9. Sunoco's own documents, however, demonstrate that its pipelines are not safe and it does not want the public to know that it does not respond to pipeline accidents in a timely and meaningful manner.

10. Paragraph 17 of the Order guarantees parties "the right to question or challenge the confidential or proprietary nature of Proprietary Information... If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating the designation is appropriate."

11. Through counsel, Flynn Complainants advised Sunoco by email that they believe the answers to Interrogatory 44(1) should be made public. (Ex. "A"). A telephone conference between counsel then took place on January 20, 2020 was unable to resolve the matter.

12. Sunoco has had more than the 5-day expedited opportunity to comment contemplated by paragraph 8(b) of the Order.

13. Paragraph 8(b) of the Order (relating to extremely sensitive materials) provides that the presiding officer may hold an *in camera* review of the discovery materials in question.

14. The allegedly ESM/CSI materials do not qualify as protected under the Public Utility Confidential Security Information Disclosure Protection Act or its implementing regulations. Sunoco cannot prove that re-classification of the records is likely to jeopardize public safety or

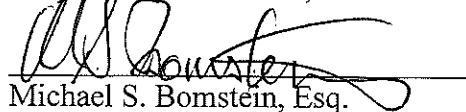
or likely to threaten public infrastructure or that the records contain confidential proprietary information or are trademarked.

15. Complainants believe and aver that, under the circumstances, it is incumbent upon Sunoco to demonstrate that its designations of the subject documents are compliant with the Order.

16. Complainants believe and aver that the ALJ has the duty and the authority to direct Sunoco to demonstrate that its designations have been appropriate.

WHEREFORE, Complainants request that Your Honor enter an Order (a) setting forth how Sunoco shall meet its burden to justify its designations; (b) setting the matter down for a closed hearing to take evidence, if necessary; and (c) granting such other and further relief as may be appropriate.

Respectfully submitted, .



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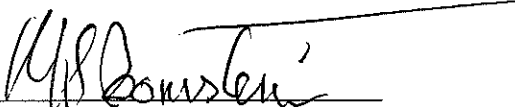
Dated: January 28, 2020



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the persons listed below as per the requirements of § 1.54 (relating to service by a party). The document also has been filed electronically on the Commission's electronic filing system.

*See attached service list.*

  
Michael S. Bomstein, Esq.

Dated: January 28, 2020

Ex. "A"

**Michael Bomstein** <mbomstein@gmail.com>  
to Whitney, Diana, Thomas, Bryce, Robert, Neil ▾

Whitney:

Thank you. I will be challenging the classification of this information. Do you wish to have a discussion about it prior to me filing a motion? Let me know.

MSB

---

**Whitney Snyder**

to me, Diana, Thomas, Bryce, Robert, Neil ▾

Sure – I'll give you call later this afternoon.

---

**Michael Bomstein** <mbomstein@gmail.com>  
to Whitney, Diana, Thomas, Bryce, Robert, Neil ▾

Okay.

I'm leaving around 4 today, so pretty much any time from 1:15 until then. MSB

---

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