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March 22, 2021

**Via Electronic Filing**

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

RE: Glen Riddle Station, L.P. v. Sunoco Pipeline L.P.; Docket No. C-2020-3023129;  
**SUNOCO PIPELINE L.P.’S MOTION TO (1) ENFORCE THE JANUARY  
28, 2021 ORDER GRANTING IN PART AND DENYING IN PART  
PRELIMINARY OBJECTIONS, (2) TO STRIKE TESTIMONY AND (3)  
REQUEST FOR EXPEDITED 7-DAY RESPONSE PERIOD**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Sunoco Pipeline L.P.’S Motion To (1) Enforce The January 28, 2021 Order Granting In Part And Denying In Part Preliminary Objections, (2) To Strike Testimony And (3) Request For Expedited 7-Day Response Period in the above-referenced proceeding. Copies have been served in accordance with the attached Certificate of Service.

This notice is served electronically pursuant to the COVID-19 Suspension Emergency Order dated March 20, 2020 and ratified March 26, 2020.

If you have any questions, please feel free to contact the undersigned counsel.

Respectfully submitted,

*/s/ Thomas J. Sniscak*

Thomas J. Sniscak  
Whitney E. Snyder  
Kevin J. McKeon  
Bryce R. Beard

*Counsel for Sunoco Pipeline L.P.*

BRB/das

Enclosures

cc: Honorable Joel Cheskis (via email [jcheskis@pa.gov](mailto:jcheskis@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:		
	:	Docket No.	C-2020-3023129
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

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**NOTICE TO PLEAD**

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Pursuant to 52 Pa. Code §§ 5.103 and 5.403, you are hereby notified that, if you do not file a written response to the enclosed Motion to Enforce within seven (7) days from service of this notice,<sup>1</sup> a decision may be rendered against you. Any Response to the Motion to Enforce must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Sunoco Pipeline, L.P., and where applicable, the Administrative Law Judge presiding over the issue.

File with:

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

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<sup>1</sup> This motion requests that the ALJ order an expedited response time of 7-days due to the expedited procedural schedule in this matter. Should the ALJ grant this request, the 20-day response time under 52 Pa. Code § 5.103(c) will be modified as ordered.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.	:	Docket No.	C-2020-3023129
	:		
v.	:		
	:		
SUNOCO PIPELINE L.P.	:		

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**SUNOCO PIPELINE L.P.’S MOTION TO (1) ENFORCE THE JANUARY 28, 2021  
ORDER GRANTING IN PART AND DENYING IN PART PRELIMINARY  
OBJECTIONS, (2) TO STRIKE TESTIMONY AND (3) REQUEST FOR EXPEDITED 7-  
DAY RESPONSE PERIOD**

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In accordance with 52 Pa. Code §§ 5.103 and 5.403, Sunoco Pipeline L.P. (“SPLP”), by its undersigned counsel, requests Your Honor grant this Motion to (1) Enforce the January 28, 2021 Order Granting in Part and Denying in Part Preliminary Objections and (2) to Strike portions of Complainant Glen Riddle Station, L.P.’s (“GRS” or “Complainant”) direct testimony that address matters over which the Commission has no jurisdiction. Absent a grant of this motion, SPLP will be required to address in its testimony issues Your Honor already has ruled are outside the Commission’s jurisdiction, needlessly consuming the resources of the parties, Your Honor, and the Commission.

In the alternative, if the Motion is denied, SPLP requests that the procedural schedule be amended to provide requisite due process to allow SPLP to retain additional subject matter experts for preparation of rebuttal testimony on the non-jurisdictional allegations to present a suitable defense to the various issues which were removed from this proceeding by the January 28 Order.

Finally, as SPLP’s rebuttal is due April 9, 2021, SPLP requests Your Honor order that any responses to this motion shall be filed within 7-days of service. In support, SPLP states as follows.

## I. INTRODUCTION AND SUMMARY OF ARGUMENT

1. On December 2, 2020, GRS filed a formal complaint with the Pennsylvania Public Utility Commission (“Commission”) against SPLP.

2. On December 23, 2020, SPLP filed preliminary objections in response to the complaint, alleging, *inter alia*, that the complaint raises issues over which the Commission lacks jurisdiction including Complainant’s request for the Commission to adjudicate the merits and application of the scope of SPLP’s permanent and temporary easement agreements, municipal land use ordinances, environmental laws, and other matters outside the Commission’s jurisdiction.

3. On January 28, 2021, Your Honor issued an order Granting in Part and Denying in Part SPLP’s Preliminary Objections. In doing so, the order made clear that the Commission has limited jurisdiction under 66 Pa C.S. §§ 101, *et seq* and thus lacks jurisdiction to make initial findings on any claimed violations of the scope of SPLP’s permanent and temporary easement agreements, municipal law, codes, or environmental regulations.

4. On March 15, 2021, GRS served its written testimony, GRS Statement Nos. 1-4, including, respectively, the testimony of Raymond Iacobucci, Stephen Iacobucci, Jason Culp, P.E., and Johanna Rincon.<sup>2</sup>

5. Despite Your Honor’s ruling on Preliminary Objections, portions of GRS’s direct testimony nonetheless raise and require that Your Honor make initial findings that SPLP’s construction at GRS’s property is in violation of scope of SPLP’s permanent and temporary easement agreements, various municipal laws, building standards, fire codes, traffic guidelines, noise exposure rules, and environmental regulations (including alleged hazardous leaks, storm water management, and air quality). *See* Attachment A - GRS Statement No. 2 with strikethrough;

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<sup>2</sup> GRS Statement No. 4 was served on March 16, 2021. The parties have agreed that any rebuttal to GRS Statement No. 4 may be extended by 1-day beyond SPLP’s April 9, 2021 deadline.

Attachment B - GRS Statement No. 3 with strikethrough. GRS's allegations are not supported in any way by rulings of a court or agency that *does* have jurisdiction to hear such claims, and Your Honor has already ruled that the Commission lacks such jurisdiction.

6. GRS is thus requesting Your Honor to adjudicate whether SPLP has violated permanent and temporary easement agreements, municipal law, building standards, fire codes, traffic guidelines, noise exposure rules, and environmental regulations and then determine that those alleged violations constitute inadequate or unsafe service under the Public Utility Code. The Commission lacks the jurisdiction to do so, as it possesses only the authority that the state legislature has specifically grant to it in the Public Utility Code. 66 Pa. C.S. §§ 101, *et seq.*

7. Absent an order precluding such testimony, SPLP will be forced to address it. To do so, SPLP will need to retain a multitude of subject-matter experts to prove that SPLP's activities are permissible under permanent and temporary easement agreements, municipal laws, noise protocol decibel levels, fire codes, traffic codes, and environmental regulations, all while under the pressure of an expedited procedural schedule.<sup>3</sup>

8. If SPLP is required to respond to these allegations under the existing compressed procedural schedule, SPLP will be deprived of its due process rights, as there is not enough time for SPLP to prepare its rebuttal to these additional and previously stricken issues, which would ultimately prejudice SPLP's defense.

9. Developing a record on issues over which the Commission lacks jurisdiction is a waste of resources of the parties, Your Honor, and the Commission.

10. In the event Your Honor does not preclude GRS's testimony on these issues, SPLP requests an extension of the procedural schedule as outlined below:

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<sup>3</sup> SPLP notes that GRS had 103 days to prepare and present its direct case to which SPLP was given 25 days to prepare its rebuttal testimony.

<b>EVENT</b>	<b>ORIGINAL</b>	<b>PROPOSED REVISED</b>
Glen Riddle Direct Testimony	March 15, 2021	
Glen Riddle Supplemental Direct Testimony (if any) <sup>4</sup>		April 9, 2021
Sunoco Rebuttal Testimony	April 9, 2021	May 5, 2021
Glen Riddle Surrebuttal	April 16, 2021	May 12, 2021
Hearings	April 26 and 27, 2021	May 24 and 25, 2021
Main Brief	May 14, 2021	June 11, 2021
Reply Brief	May 21, 2021	June 18, 2021

The Proposed Revised litigation schedule will allow SPLP to retain additional subject matter experts to prepare rebuttal testimony and present a suitable defense to the various issues SPLP reasonably believed Your Honor in the January 28 Order excluded from this proceeding as outside the Commission's jurisdiction.

## **II. LEGAL STANDARDS**

11. Under 52 Pa. Code § 5.403, ALJs are vested with the responsibility and authority to control the scope of the evidence admitted to the record and should eliminate proposed evidence and testimony that is either inadmissible or that relate to matters that are outside the scope of the Commission's jurisdiction consistent with due process:

- (a) The presiding officer shall have all necessary authority to control the receipt of evidence, including the following:
  - (1) ***Ruling on the admissibility of evidence.***

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<sup>4</sup> This event/date assumes Your Honor denies SPLP's Motion in Limine filed contemporaneously with this motion and permits GRS to file supplemental direct testimony, but also grants SPLP's alternative motion to extend the procedural schedule to accommodate that supplemental direct testimony and also afford SPLP an opportunity to respond to it.

- (2) ***Confining the evidence to the issues in the proceeding*** and impose, where appropriate:
  - (i) Limitations on the number of witnesses to be heard.
  - (ii) Limitations of time and scope for direct and cross examinations.
  - (iii) Limitations on the production of further evidence.
  - (iv) Other necessary limitations.**
- (b) **The presiding officer will actively employ these powers to direct and focus the proceedings consistent with due process.**

...

52 Pa. Code § 5.403 (emphasis added).

12. It is well settled under the Commission’s Rules and Regulations that the presiding ALJ has the authority to control the receipt of evidence in a proceeding. 52 Pa. Code § 5.403; *See also PA PUC v. Penn Estates Utilities, Inc.*, Dkt. No. R-00005031 et al., Opinion and Order (Order entered Feb. 9, 2001) (“This authority includes disposition of the admissibility of evidence as well as imposition of limitations on the scope of evidence to be presented on issues raised in a proceeding. As factfinder, the ALJ determines the direction and focus of a proceeding, consistent with due process”).

13. ALJs have utilized the authority granted by Section 5.403 to exclude evidence or testimony that is inadmissible, improper, or outside the scope of the issues in the proceeding. *See, e.g., Pa. PUC v. PPL Electric Utilities Corporation*, Dkt. Nos. R-2015-2469275, et al. (ALJ Colwell Sixth Prehearing Order issued July 14, 2015) (granting a motion in limine to exclude testimony on issues that were not properly within the scope of the proceeding); *Pa. P.U.C. v. Phila. Gas Works*, Dkt. No. M-00021612, 2002 WL 32063825 (Opinion an Order Dec. 19, 2002) (affirming ALJ’s grant of motion in limine to strike witness statement and certain exhibits in entirety); *Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Dkt. No. M-00001353, 2000 Pa. PUC LEXIS 59 at \*7-9 (Final Order entered

September 28, 2000) (affirming the decision of the Administrative Law Judge in that case to exclude certain evidence as “beyond the scope of the proceeding”).

14. It is well settled that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, et seq. Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977).

15. Your Honor has already addressed the issue of the Commission’s jurisdiction to make initial findings in this matter in the January 28, 2021 Order Granting in Part and Denying in Part SPLP’s Preliminary Objections which stated in pertinent part:

However, Sunoco is correct that the Commission’s jurisdiction is limited. As noted above, as a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, et seq. For example, the Commission has no jurisdiction to hear arguments regarding the scope and validity of an easement. Similarly, *the Commission generally lacks jurisdiction to adjudicate claims regarding violations of Municipal law, including parking spaces and fencing, the Governor’s or Health Department’s face covering mandates or environmental regulations that are beyond the scope of the Public Utility Code or a Commission order or regulation.* To the extent that Sunoco **may be found to have violated municipal law, face covering mandates or environmental regulations by a court that has jurisdiction to hear such claims**, or the easement pertains to a utility issue such as inspection of structures and water piping, **then such a finding may be used to demonstrate that Sunoco is also violating the Public Utility Code by providing unsafe service. The Commission,**



**however, lacks jurisdiction to make such an initial finding.** To the extent that Glen Riddle has raised those issues, Sunoco’s preliminary objection will be granted in part.

*Glen Riddle Station L.P. v. Sunoco Pipeline L.P.*, Docket No. C-2020-3023129, Order Granting in Part and Denying in Part Preliminary Objections at 7 (Order entered January 28, 2021) (emphasis added) (“January 28 Order”). In sum, Your Honor’s January 28 Order correctly describes the scope of the Commission’s jurisdiction in this proceeding and makes clear that the Commission cannot make initial findings of violations outside of its jurisdiction, but if a court that has jurisdiction to hear such claims has made a finding that SPLP violated the scope of SPLP’s permanent and temporary easement agreements, municipal law, environmental law, etc, then “such a finding may be used to demonstrate that Sunoco is also violating the Public Utility Code by providing unsafe service.” *Id.*

### III. ARGUMENT

#### A. **Portions Of Complainant’s Direct Testimony Requires Your Honor To Make Initial Findings On Alleged Violations Outside The Commission’s Jurisdiction.**

16. Portions of the direct testimony of Stephen Iacobucci (GRS Statement No. 2) and GRS’s engineer Jason Culp P.E. (GRS Statement No. 3) seek Your Honor to make initial findings on alleged violations far outside the Commission’s jurisdiction. Not a single one of these alleged “violations” by SPLP at the property are supported by the findings of a court or agency of competent jurisdiction to adjudicate such claims. Through its direct testimony, GRS seeks initial determinations that SPLP is in violation of its permanent and temporary easement agreements and boundaries, various municipal laws, building standards, fire codes, traffic guidelines, noise exposure rules, and environmental regulations which Your Honor clearly did not allow. *See*

January 28 Order. As described below, Your Honor should enforce the January 28 Order and not require the litigation of issues outside the Commission's jurisdiction.

- i. The Commission does not have jurisdiction to make initial findings that SPLP has violated OSHA, CDC, EPA noise exposure rules.

17. For the first time in direct testimony, GRS raises issues regarding the noise exposure from SPLP's construction activities at the site. See Attachment A at 6; Attachment B at 4-6. For example, Mr. Iacobucci raises issues with the noise from SPLP's construction activities not discussed in the Complaint. See Attachment A at 6. Further, Jason Culp, P.E. raises issues with SPLP's current sound mitigation strategy at the property (Attachment B, P4:3-20) then raises SPLP's alleged violations of various Occupational Safety and Health Administration (OSHA) National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), and The Environmental Protection Agency (EPA) noise exposure rules and standards. Attachment B, P5:7-P6:15. Indeed, Mr. Culp's final conclusion on SPLP's alleged noise violation states:

This puts the GRS residents and employees at an increased risk of hearing loss according to the NIOSH, CDC, and EPA (Information on Levels of Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety) studies and regulations and creates an unhealthy environment that could easily be avoided by Sunoco.

Attachment B, P6:12-15.

18. Of important note, GRS's Complaint contains no allegations, pleadings, or requested relief related to noise exposure. Therefore, this new issue was raised for the first time in this proceeding through the above referenced direct testimony. SPLP, therefore, had no reasonable notice that it would be required to defend against such allegations in this proceeding. Such matters

must be stricken, or SPLP must be allowed the necessary time to produce a suitable defense to these new allegations.

19. Lack of reasonable notice aside, GRS presented no evidence that a court or agency with jurisdiction of the alleged noise exposure violations, here OSHA, CDC, or EPA, has found that SPLP is in violation of their agency's rules and standards. Therefore, as no such finding was or can be presented from a competent tribunal, GRS seeks Your Honor to adjudicate whether SPLP's alleged noise exposure is a violation and make an initial finding that SPLP violated various OSHA, CDC, or EPA rules in order to then demonstrate SPLP is violating the Public Utility Code by providing unsafe service. The Commission lacks the authority to make such determination.

20. Further, SPLP's implementation of noise mitigation measures at the property through the installation of sound walls is not governed by the Public Utility Code. There are no requirements for SPLP to implement such noise control measures and doing so is a matter of managerial discretion outside the purview of the Commission. At most, SPLP must abide by local noise ordinances, of which Middletown Township has none.

21. Therefore, the Commission lacks the jurisdiction to make initial findings regarding SPLP's use of sound walls or the alleged noise exposure at the property, and in compliance with Your Honor's January 28 Order, SPLP should not be forced to litigate matters outside the Commission's jurisdiction.

- ii. The Commission does not have jurisdiction to make initial findings that SPLP's easement boundary creates a threat to safety, that the boundary violates PennDOT and FHWA guidelines by creating traffic hazards or pedestrian issues, or that SPLP's easement boundary violates the International Fire Code.

22. GRS next raises issues regarding SPLP's easement boundary marking, delineation, and barriers in that it allegedly violates PennDOT and FHWA guidelines by creating traffic

hazards or pedestrian issues and that the boundary allegedly creates violations of the International Fire Code. See Attachment A at 8-11, 13-14; Attachment B at 8-9, 13-14. For example, regarding the easement boundary, Jason Culp, P.E. raises issues with SPLP's temporary construction easement boundary in that GRS has lost a number of parking spaces (Attachment B at 8:7-19), that the boundary was not properly delineated (*Id.* at 9:1-5), and that the boundary creates unsafe driving conditions regarding drive aisles, increased traffic and pedestrian crossing issues (*Id.* at 8:20-9:1; 9:7-15). Mr. Culp further opines that SPLP allegedly has violated PennDOT and FHWA guidelines for signage and markings and pedestrian circulation. *Id.* at 9:17-10:18. Finally, Mr. Culp opines that SPLP is allegedly in violation of "at least three of the International Fire Code [*sic*]" regarding the boundary of the temporary construction easement involving sound walls, movable barriers, and emergency personnel ingress and egress. *Id.* at 13-14. Each of these claims challenges SPLP's right to utilize its easements consistent with their terms; by definition, GRS's allegations hinge, and would require the Commission to opine on, the scope or validity of the easement agreements.

23. GRS presented no evidence that a court or agency with jurisdiction over these allegations regarding the boundary of SPLP's temporary construction easement has found that SPLP is in violation of the easement agreement or any of a governing agency's rules and standards. Therefore, as no such finding was or can be presented from a competent tribunal, GRS seeks Your Honor and the Commission to adjudicate whether SPLP's conduct within its permanent and temporary easement boundary is in compliance with the underlying agreements, and whether the conduct violates various PennDOT or FHWA guidelines and/or the International Fire Code. GRS's direct would require Your Honor to make an initial finding on the scope and validity of SPLP's

easements in order to then demonstrate that SPLP is violating the Public Utility Code by providing unsafe service.

24. The Commission lacks jurisdiction to adjudicate the validity and scope of easements. In *Fairview Water Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 162 (Pa. 1985), the Pennsylvania Supreme Court held that the Commission does not have jurisdiction to determine the scope and validity of an easement. *See also Lasko v. Windstream Pa., LLC*, Docket No. C-2010-2217869 (Final Order dated April 1, 2011); *Perrige v. Metro. Edison Co.*, Docket No. C-00004110 (Order entered July 3, 2003); *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Order entered September 15, 1999); *Baker and Blume v. SPLP*, Docket No. C-2020-3022169, Initial Decision at 10-11 (Barnes, J) (ID entered Dec. 8, 2020). Despite Complainant's continuing invitation to make such findings on the scope of SPLP's permanent and temporary easement boundaries and delineations, the Commission cannot do so.

25. The Commission also lacks jurisdiction to adjudicate compliance with municipal ordinances, fire codes, or Complainant's preferences on the composition, location, or delineation of the temporary easement boundary. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977) (As a creation of the legislature, the Commission possesses only the authority that the Commonwealth's legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, et seq. The Commission's jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom.).

26. Therefore, the Commission lacks the jurisdiction to make initial findings regarding SPLP's permanent and temporary easement agreements and boundary, its delineation, PennDOT and FHWA violations, various fire code concerns, or Complainant's preference and in compliance

with Your Honor's January 28 Order, SPLP should not be forced to litigate matters outside the Commission's authority.

- iii. The Commission does not have jurisdiction to make initial findings regarding alleged hazardous leaks, stormwater management, and air quality under the jurisdiction of the Pennsylvania Department of Environmental Protection.

27. GRS further raises issues regarding SPLP's alleged hazardous leaks, stormwater management, and air quality impacts<sup>5</sup> at the property. See Attachment A at 11-13, 14; Attachment B at 10-12. In particular, regarding allegedly hazardous materials, Jason Culp, P.E. raises issues that "GRS has observed several small releases of hydraulic oil leaks from equipment as well as apparent overflow from drill cutting plants," (Attachment B at 10:20-21), that SPLP is important fill material with "no manifest" (*Id.* at 11:1-3) and that GRS was not provided information for "safety and health-related purposes" (*Id.* at 11:4-5). Further, Mr. Culp raises issues with SPLP's stormwater management and erosion and sediment control at the property as well as future restoration of the easement space, citing various environmental and storm water best management practices. *Id.* at 11:7-12:22. Finally, while wholly unsubstantiated in the direct testimony, complainants allege, for the first time, new concerns regarding air quality. Attachment A at 14:15.

28. GRS presented no evidence that a court or agency with jurisdiction over these environmental allegations regarding alleged leaks, stormwater management, and air quality has found that SPLP is in violation of any relevant environmental laws or regulations. Therefore, as no such finding was or can be presented from a competent tribunal, GRS seeks Your Honor to adjudicate whether SPLP has violated various environmental laws or regulations, subject to the jurisdiction of the Pennsylvania Department of Environmental Protection and Township

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<sup>5</sup> GRS's complaint in the matter contained no reference to any air quality concerns. Therefore, even though the direct testimony did not substantiate GRS's alleged air quality concerns, SPLP had no reasonable notice of such allegations in this proceeding.

stormwater management and make an initial finding in order to then demonstrate SPLP is violating the Public Utility Code by providing unsafe service.

29. The Commission lacks jurisdiction over Complainant's allegations regarding environmental laws, issues, and permitting obligations. *Pickford v. Pa. Pub. Util. Comm'n*, 4 A.3d 707, 712-14 (Pa. Cmwlth. 2010) (holding while framed as a complaint about reasonableness under 66 Pa. C.S. § 1501, claims regarding DEP and EPA determinations were outside scope of Commission's jurisdiction and disallow collateral attack on DEP's decision); *see also Baker and Blume v. SPLP*, Docket No. C-2020-3022169, Initial Decision at 11-12 (Barnes, J) (ID entered Dec. 8, 2020) ("The Commission does not permit or regulate the environmental permitting process for SPLP's construction. Those permits are sought, obtained, modified, and enforced by the Department of Environmental Protection (DEP). Therefore, the Commission lacks jurisdiction over such matters.").

30. Therefore, the Commission lacks the jurisdiction to make initial findings regarding whether SPLP's is in violation of environmental laws regarding alleged hazardous leaks, stormwater management, and air quality concerns and in compliance with Your Honor's January 28 Order, SPLP should not be forced to litigate matters outside the Commission's authority.

**B. Issues Requiring Your Honor To Make Initial Findings Of Alleged Violations Outside The Commission's Jurisdiction Should Be Removed From This Proceeding Pursuant to the January 28 Order.**

31. Given the expedited nature of this proceeding, it is of a heightened importance to only require the parties, Your Honor, and the Commission to litigate issues over which the Commission has the jurisdiction and as to which the Commission may make findings Such matters are limited to the authority granted to the Commission in the Public Utility Code. 66 Pa. C.S. § 101, *et seq.* The Commission is not a general tribunal for resolution of claims outside the Commission's legislative purview under the guise that their concerns involve the "safety" of a

public utility's operations. Indeed, as presented in the direct testimony, many of GRS's alleged concerns are nothing more than concocted and exaggerated allegations regarding SPLP's use and compliance with its easements over Complainant's property and the activities that have been ongoing predating the filing of the instant complaint.

32. The three categories of testimony as described above including: (1) noise complaints or that SPLP is in alleged violation of various OSHA, CDC, or EPA noise exposure rules raised for the first time in direct testimony; (2) that SPLP's temporary easement boundary, delineation, and sound walls create a threat to safety or violate various PennDOT, FHWA, or International Fire Code guidelines; and (3) that SPLP has allegedly violated various PADEP and/or Township administered environmental laws and regulations, are the exact claims previously excluded by Your Honor. The topics have no place in a Commission proceeding unless a court or agency of competent jurisdiction already has ruled that SPLP has violated those laws, rules, or guidelines. To be sure, in previous matters before the Commission, ALJs have allowed such evidence of findings by courts and agencies that have jurisdiction over such matters, so long as the admission comports with due process to allow SPLP the opportunity to respond. See *Flynn et al. v. Sunoco Pipeline L.P.*, Docket No. C-2018-3006116 et al, Briefing Order (Order entered October 23, 2020) (ALJ Barnes allowing the admission of an Administrative Order of the Department of Environmental Protection entered September 11, 2020 presented for the first time at hearing, but allowing SPLP to file a written response consistent with due process.) GRS, however, has offered no such evidence here.

33. Complainant's testimony flouts Your Honor's January 28 Order, seeking exactly what Your Honor has stated the Commission cannot do – make initial findings on SPLP's permanent and temporary easement agreements and boundaries, newly raised noise exposure



allegations, and environmental allegations and then use those findings to demonstrate that SPLP has violated the Public Utility Code by providing unsafe service. SPLP is not aware that any of these allegations have been brought before tribunals or agencies of competent jurisdiction, let alone that any competent tribunal or agency found SPLP in violation of their laws and regulations regarding construction at the property.

34. If SPLP is required to respond to these allegations over which the Commission has no jurisdiction to make initial findings, as Your Honor previously ruled, under the existing compressed procedural schedule, SPLP will be deprived of its due process rights, as there is not enough time for SPLP to prepare its rebuttal to these issues, which would ultimately prejudice SPLP's defense. At a minimum, SPLP must retain multiple experts to prepare testimony to address GRS's non-jurisdictional allegations: an acoustics and noise exposure expert to opine on OSHA, CDC, and EPA noise rules and the newly raised issues in direct testimony; a traffic safety expert; a surveyor/property expert to opine on SPLP's permanent and temporary easement agreements and boundaries; a municipal and fire code expert to opine on the International Fire Code; an emergency response expert to opine on PennDOT and FHWA rules; a stormwater engineering expert; and an environmental hazards expert. With 18 days remaining before SPLP's testimony is due, and given that SPLP had no reason to anticipate GRS's testimony on these issues in light of the January 28 Order excluding these issues and the underlying Complaint, requiring SPLP to respond under the present time constraints would be a violation of due process.

35. Due process is not simply a procedural regulation that Your Honor can waive. Inability to mount a suitable defense has a substantive effect. All parties have a right to due process and the Commission is bound by due process requirements:

Due process in matters before the Commission requires that a party be afforded reasonable notice of the nature of the allegations against it so that the party can prepare a suitable defense.

*Pocono Water Co. v. Pa. Pub. Util. Comm'n*, 630 A.2d 971, 973 (Pa. Cmwlth. 1993) (citing *Duquesne Light Co. v. Pa. Pub. Util. Comm'n*, 507 A.2d 433 (Pa. Cmwlth. 1986)).

36. The cure for Complainants actions is simple: Your Honor should rule, consistent with the January 28 Order, that the above-identified testimony, delineated by strikethrough as identified in Attachment A and Attachment B, is outside the Commission's jurisdiction absent evidence that competent tribunals have already concluded that SPLP has in fact violated a law, regulation, rule, guideline or easement agreement, and therefore must be removed and stricken from the proceeding. This testimony includes:

**Attachment A – GRS Statement No. 2**

Page 2:14-15 – issues regarding noise levels not raised in the Complaint

Page 4:17-5:2 – discussing the impact of SPLP's temporary easement boundaries and delineation

Page 6:3-19 and GRS exhibits 33, 5, 6 – discussing noise allegations not raised in the Complaint

Page 8:5-7 and 8:15-16 – discussing the terms of SPLP's temporary easement and its impact on parking and access

Page 10:6-8 – discussing marking of SPLP's temporary easement boundary

Page 11:9-12 – discussing lay opinions regarding environmental laws and violations

Page 14:1-10 – discussing the sound wall boundary of the temporary easement and alleged fire hazards

**Attachment B – GRS Statement No. 3**

Page 4:1-6:15 and GRS Exhibits 5, 33, 27, 6 – discussing noise exposure, OSHA, CDC, and EPA rules, and impacts not raised in the Complaint

Page 8:12-19 and 8:22-9:5 and GRS Exhibit 28 – discussing impact of SPLP’s temporary easement boundaries, marking, and delineation

Page 9:17-18 – discussing temporary easement delineation and markings

Page 10:10-14 and GRS Exhibit 29 – discussing alleged violations of PennDOT and FHWA guidelines

Page 11:13-12:22 and GRS Exhibit 34, 18 – discussing stormwater management issues and environmental remediation

Page 13:11-14:20 and GRS Exhibit 20, 30 – discussing International Fire Code alleged violations regarding SPLP’s temporary easement boundary and delineation

37. SPLP requests that Your Honor exercise the necessary authority to control the receipt of evidence and direct and focus the proceedings consistent with due process. 52 Pa Code § 5.403. In doing so, SPLP requests that Your Honor strike and rule that SPLP need not respond to the above-described testimony and allegations to which the Commission lacks jurisdiction, and no competent tribunal or agency has previously found SPLP in violation of any law or regulation.

38. In the alternative, should these matters not be removed from the case and SPLP be required to prepare a suitable defense to these non-jurisdictional allegations, consistent with due process SPLP requests the previously proposed schedule (*supra* paragraph 10) be adopted in this matter to allow SPLP the time to retain the numerous subject matter experts needed to respond to the allegations and to prepare a suitable defense to the claims of which, upon the January 28 Order, SPLP did not have reasonable notice it would be required to defend.

#### **IV. REQUEST FOR EXPEDITED SEVEN DAY ANSWER PERIOD**

39. SPLP drafted and filed this Motion within six days of the of the complete service of Complainant’s direct testimony which requests Your Honor to make initial findings on whether

SPLP is in violation of the permanent and temporary easement agreements and boundaries, municipal laws, noise exposure standards, fire codes, parking and pedestrian impacts, and environmental laws and regulations. Further, Complainants were on notice by Your Honor's January 28, 2021 Order that the Commission lacks jurisdiction to make initial findings of violations of the permanent and temporary easement agreements and boundaries, municipal laws, noise exposure standards, fire codes, parking and pedestrian impacts, and environmental regulations. Given that SPLP's Rebuttal testimony is due on April 9, 2021, a mere 18 days after the service of this motion, a decision granting this Motion to Enforce Your Honor's previous ruling and strike testimony will save significant resources of the parties, Your Honor, and the Commission, SPLP requests Your Honor order Complainant to file an Answer to this this Motion within seven days of service pursuant to 52 Pa. Code § 5.103(c).<sup>6</sup>

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<sup>6</sup> 52 Pa. Code § 5.103(c) provides: (c) *Response to motions*. A party has 20 days from the date of service within which to answer or object to a motion, **unless the period of time is otherwise fixed by the Commission or the presiding officer**. (emphasis added).

## V. CONCLUSION

WHEREFORE, Sunoco Pipeline, L.P. respectfully requests that Your Honor:

- (1) Order Answers to this Motion be filed within seven days;
- (2) Grant this Motion to Enforce Your Honor's January 28, 2021 Order granting in part SPLP's preliminary objections;
- (3) Strike the testimony and exhibits identified in Attachment A and B as described in Paragraph 36 above and rule that SPLP need not prepare a suitable defense to address matters never plead or outside the Commission's jurisdiction to make initial findings of violations.

In the alternative to the above, SPLP would respectfully request that Your Honor:

- (1) Extend the procedural schedule as proposed, consistent with due process, to allow SPLP the time to retain subject matter experts and prepare a suitable defense to these new issues or allegations outside the Commission's jurisdiction.

Respectfully submitted,

/s/ Thomas J. Sniscak

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Date: March 22, 2021

# **ATTACHMENT A**

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P.,	:	DOCKET NO. C-2020-3023129
Complainant,	:	
	:	
v.	:	
	:	
SUNOCO PIPELINE L.P.,	:	
Respondent.	:	

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**DIRECT TESTIMONY OF  
STEPHEN IACOBUCCI  
ON BEHALF OF  
GLEN RIDDLE STATION, L.P.**

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Dated: March 15, 2021

GRS Statement No. 2

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**DIRECT TESTIMONY OF  
STEPHEN IACOBUCCI**

**I. INTRODUCTION AND BACKGROUND**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

**A.** My name is Stephen Iacobucci. My business address is One Raymond Drive – Suite Two, Havertown, PA 19083.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

**A.** I am a principal of AJI Properties Management LLC, which has a management contract with Glen Riddle Station, L.P. (“GRS”), and have been since 2018.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EMPLOYMENT EXPERIENCE.**

**A.** I have over 12 years of residential property operations experience through AJI Properties & Aquinas Realty Partners. My experience is in suburban and urban property management; student housing; and market rate rentals. I also have experience in marketing, lease-up, leasing, property maintenance, property management, and asset management. I have a Master of Professional Studies degree in Real Estate Finance from Georgetown University and a Bachelor of Science degree in Business Management from St. Joseph’s University

**Q. HAVE YOU PREVIOUS TESTIFIED BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION (“PUC” OR “COMMISSION”)?**

**A.** No.

**Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**



1    **A.**    I am appearing on behalf of GRS in this proceeding. This proceeding concerns the impact  
2           of the work (the “Pipeline Project”) being performed by Sunoco Pipeline, L.P. (“Sunoco”)  
3           on the Glen Riddle Station Apartments in Middletown Township, Delaware County,  
4           Pennsylvania, Tax Parcel ID No. 27-00-00780-00 (the “Property”), the residents who live  
5           at the Property (the “GRS Residents”), and the GRS employees who work at the Property  
6           (the “GRS Employees”).<sup>1</sup>

7    **Q.    PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY AND**  
8    **SUMMARIZE THE KEY POINTS.**

9    **A.**    I will testify regarding the impact of the work being performed by Sunoco on the Property  
10           on GRS, the GRS Residents, and the GRS Employees. My testimony will focus on the  
11           Safety Issues set forth in the Complaint (as identified therein) and how Sunoco’s failure to  
12           communicate effectively with GRS regarding the Safety Issues has and continues to  
13           exacerbate dangerous conditions (the “Communication Failures”) at the Property. The  
14           Safety Issues follow, without limitation: ~~unsafe levels of noise at the property caused by~~  
15           ~~Sunoco’s work (the “Noise Issues”);~~ unsafe vibrations and shaking of buildings caused by  
16           Sunoco’s work and Sunoco’s failure to provide information regarding its structural  
17           assessment of the Property (the “Structural Issues”); dangerous parking conditions and  
18           traffic patterns created by Sunoco’s work (the “Parking Lot Issues”); dangerous pedestrian  
19           crossings created by Sunoco’s work (the “Pedestrian Crossing Issues”); dangerous fire  
20           hazard conditions caused by the installation of the sound walls at the property (the “Fire  
21           Hazard Issues”); dangerous conditions at the Property resulting from Sunoco’s failure to

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<sup>1</sup> All terms not otherwise defined herein have the meaning ascribed to them in the Direct Testimony of Raymond Iacobucci.

1 adequately mark and partition its work area and the alarming message sent by Sunoco  
2 regarding the same (the “Signage/Warning Issues”); and dangerous conditions arising from  
3 potentially hazardous leaks (the “Hazardous Leak Issues”).

4 **Q. PLEASE DESCRIBE THE COMMUNICATIONS WITH SUNOCO PRIOR TO**  
5 **NOVEMBER 2020.**

6 **A.** For many months prior to November 2020, we requested some of the most basic  
7 information regarding its planned work at the Property, including, among other things,  
8 work schedules, details of the installation of Sound Walls, and safety protocols. This  
9 information was critical to allowing us to inform our residents what the impact of Sunoco’s  
10 work would have on their daily lives and help us to provide for the safety of our residents  
11 and to allow them to reasonably use and enjoy their leased property. We expressed the  
12 importance of this information to Sunoco. Yet, Sunoco failed to provide any meaningful  
13 information and, if anything, expressed indifference to the safety concerns we expressed.  
14 Exhibits **GRS-7** and **GRS-101** summarize and illustrate some of these attempts at  
15 communication largely ignored by Sunoco.

16 **Q. PLEASE DESCRIBE THE NOVEMBER 18, 2020 MEETING WITH SUNOCO.**

17 **A.** Finally, on November 18, 2020, after numerous requests from us for safety information,  
18 we met with representatives of Sunoco at the Property to discuss Sunoco’s plans for the  
19 Project and the related impacts. At the meeting, Sunoco stated that no work would begin  
20 at the Property until after Thanksgiving and that Sunoco could only give us a general work  
21 plan that raised serious safety concerns with us, while failing to provide any meaningful  
22 information pertaining to our safety concerns or plans for the project. For example, at the  
23 meeting, Sunoco stated that it planned to install the Sound Walls, which are 32 ft. in height,

1 approximately 5 ft. from our apartment buildings. This plan would create a serious (and,  
2 frankly, obvious) fire hazard by blocking the means of ingress and egress from the  
3 residential apartment buildings in the event of a fire, creating a fire trap. Our counsel wrote  
4 to Sunoco regarding this very serious concern, but was not provided a meaningful response,  
5 only argument that if Sunoco wanted – it could place the sound walls as close as 5 ft. from  
6 the windows of GRS Residents. At this time, GRS also began reaching out to Middletown  
7 Township to address its egress concerns.

8 The communication from our counsel to Sunoco regarding this concern is Exhibit **GRS-**  
9 **102.**

10 In the week leading up to Thanksgiving, Sunoco accelerated its work at the Property by  
11 beginning destructive testing or “pot holing,” which in turn created additional safety  
12 concerns concerning safe flow of traffic on and near the Property. When the traffic safety  
13 plan was discussed at the November 18 meeting, Sunoco stated that it would use a  
14 “common sense” approach, which was not sufficient to resolve our concerns regarding the  
15 safe flow of traffic and the operation of large vehicles and machinery on the Property.  
16 Sunoco, again, ignored our request for information on how it would handle parking, traffic  
17 and the related safety concerns. ~~On November 25, 2020, before dawn, Sunoco~~

18 ~~implemented an unsafe parking and traffic plan. Sunoco demanded that we move our~~  
19 ~~residents’ vehicles and storage units, prohibiting parking in certain large portions of our~~  
20 ~~parking lots. This demand came while Sunoco was still refusing to provide us with the~~  
21 ~~important details of its planned work and addressing our valid safety concerns. The plan~~  
22 ~~at the time was for Sunoco to take about 50-60 of our parking spaces. By Township Zoning~~  
23 ~~Ordinance, Exhibit **GRS-22**, we are required to provide a minimum of 248 parking spaces~~

1 ~~on the Property and Sunoco's taking of the 50-60 parking spaces would put us in violation~~  
2 ~~of the Township Zoning Ordinance.~~

3 Communications from our counsel to Sunoco's counsel asking Sunoco to address our  
4 safety concerns prior to the start of work on the property are Exhibit **GRS-103** and  
5 additional communications seeking information about the parking issues are Exhibit **GRS-**  
6 **104**. Again, Sunoco did not meaningfully respond.

7 **Q. PLEASE DESCRIBE THE COMMUNICATIONS WITH SUNOCO FOLLOWING**  
8 **THE NOVEMBER 18, 2020 MEETING.**

9 **A.** The communication failures with Sunoco became increasingly more exigent after the  
10 November 18, 2020 meeting. GRS contacted Sunoco regularly, both through counsel and  
11 directly, attempting to gain basic information regarding Sunoco's safety practices on the  
12 property.

13 In addition to some of the specific communication failures set forth below, Exhibits **GRS-**  
14 **103, GRS-105, GRS-107, GRS-109, GRS-111, and GRS-112** illustrate general ongoing  
15 communication failures by Sunoco. **GRS-113** is a follow-up letter that that our counsel  
16 sent to counsel for Sunoco following a meeting that we understood was intended to address  
17 our safety concerns.

18 It has become apparent to us that Sunoco does not appreciate the communication  
19 requirements imposed upon it by the Pennsylvania Public Utility Code, particularly those  
20 as to communications with persons impacted by its work at the Property. [GRS-  
21 102.] Sunoco's own legal counsel himself claimed that Sunoco has no obligation to  
22 communicate with GRS or its residents and that its willingness to do so is only as a "good  
23 neighbor." These communication failures by Sunoco have increased the safety problems

1 at the worksite and caused an unnecessary and easily avoidable increase in the risk of harm  
2 to GRS's residents and employees and the GRS property itself.

3 **Q. ~~PLEASE DESCRIBE THE NOISE ISSUES.~~**

4 **A. ~~In the past few months, the noise levels associated with Sunoco's Pipeline Project on the~~**  
5 ~~Property have escalated to unsafe levels. We have consistently obtained noise readings in~~  
6 ~~the 80s, 90s, and over 100 decibels directly outside and, in some cases, inside GRS~~  
7 ~~Resident homes. Sound measurements were taken on the device depicted in **GRS-33** and~~  
8 ~~BAFX3608 Digital Sound Level Meter.~~  
9 ~~Exhibit **GRS-5** illustrates the noise level readings taken by GRS at the Property. **GRS-5**~~  
10 ~~is comprised of videos taken by Michael Marquardt a GRS representative, at my direction.~~  
11 ~~GRS recorded the videos within the past three months.~~  
12 ~~GRS Residents, many of whom work from home because of the COVID-19 pandemic,~~  
13 ~~have complained that the noise levels adversely affect their work and the school work of~~  
14 ~~their children. Other shift workers, including frontline workers in the healthcare industry,~~  
15 ~~as well as other critical services, have struggled to obtain the rest they need as a result of~~  
16 ~~the unsafe noise levels in their homes.~~  
17 ~~Although GRS Residents frequently voice their concerns verbally, to either GRS~~  
18 ~~Employees or me, Exhibit **GRS-6** illustrates some of the GRS Resident complaints that we~~  
19 ~~have received pertaining to noise.<sup>2</sup>~~

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<sup>2</sup> **GRS-6** contains videos. We have attached screen shots of the videos to the filing, and the full videos will be sent to Judge Cheskis and opposing counsel via a share site.

1 **Q. PLEASE DESCRIBE THE STRUCTURAL ISSUES.**

2 Sunoco has failed to communicate with GRS and ensure the safety of the structures within  
3 GRS Residents live and work and GRS Employees work. In November, we learned that  
4 Sunoco's studies pertaining to the impact that the vibrations from Sunoco's work on the  
5 Project may have on the Property, including the structures housing our residents and water  
6 pipes proximal to the Pipeline Work, would likely not be completed and reviewed prior to  
7 the commencement of the work on the Project. Sunoco has, to date, failed to provide us  
8 with those studies, despite our requests.

9 Exhibit **GRS-7** illustrates our failed attempts to obtain that important safety information.  
10 We did not receive a meaningful response.

11 Once Sunoco commenced its work, GRS's concerns grew. GRS has experienced walls and  
12 ceilings cracking in several of residential units. Residents have complained about the  
13 strong vibrations as recently as March 11, 2021, with one resident writing to inform me  
14 that her "entire apartment has been vibrating, its happened before during different hours  
15 but for two days straight, its constant from 7:30 am- 8 pm sometimes." She contacted me  
16 saying that due to these vibration issues and other issues from Sunoco's Pipeline Project,  
17 including a spotlight in her son's window past his bedtime, her son has had to spend days  
18 at a time away from the Property.

19 Exhibit **GRS-8** illustrates this resident's concern. Exhibit **GRS-26** illustrates and  
20 additional resident concern pertaining to vibrations. Exhibit **GRS-9** illustrates the cracking  
21 in the residential buildings on the Property.

1 **Q. PLEASE DESCRIBE THE PARKING LOT ISSUES.**

2 To the best of my knowledge, there were between 95-105 parking spaces on the western  
3 side of the Property. The western side services three buildings. There were between 120-  
4 131 parking spaces on the eastern side of the Property. The eastern side services two  
5 buildings. ~~Sunoco's work on the Pipeline Project at the Property has reduced these parking~~  
6 ~~spaces significantly. The greatest issue posed by the reduction, however, is the lack of~~  
7 ~~communication from Sunoco regarding when parking spaces will become unavailable.~~

8 In addition to the work on our Property, Sunoco is also working on a neighboring apartment  
9 complex, Tunbridge. Tunbridge had to allow Sunoco to take a majority of their parking  
10 area to complete their work, which has caused certain GRS employees and GRS residents  
11 to park in less safe locations. Due to its location, Glen Riddle Road, a PennDOT roadway,  
12 does not have sidewalks or lighting, which would put our residents at unnecessary risk  
13 while walking to and from their parked vehicles and their apartments. We repeatedly  
14 notified Sunoco of this concern, but Sunoco failed to substantively respond.

15 ~~Additionally, Sunoco failed to mark the boundaries of the access road to the Property~~  
16 ~~adequately and accurately.~~ This had resulted in a number of "near miss" accidents, both  
17 on the Property and on Glen Riddle Road, the PennDOT roadway.

18 Exhibit **GRS-10** illustrates one of the photographed traffic concerns. These photographs,  
19 along with all others, unless specified otherwise, were taken by Michael Marquardt a GRS  
20 representative, at my direction.

21 Exhibit **GRS-23** are resident complaints concerning, among other things, that residents  
22 have had to begin parking in the roadway, and that Sunoco has even blocked off handi-  
23 capped parking spots, among others, creating obvious safety concerns.

1 Sunoco's lack of any traffic plan also added to the issue of caused an emergency vehicle  
2 to be unable to access the Property.

3 Exhibit **GRS-110** illustrates our counsel's efforts to obtain cooperation from Sunoco after  
4 the blockages caused an emergency to be unable to access the Property and other  
5 emergency vehicles to struggle to access the Property. Exhibit **GRS-112** also illustrates  
6 our counsel's efforts to obtain cooperation from Sunoco with respect to the barricades.

7 Sunoco's use of barricades has caused blockages, access, and traffic issues in the GRS  
8 parking lots.

9 Exhibit **GRS-11** illustrates this blockage and our counsel's attempt to obtain information  
10 regarding the same.

11 Finally, there are many school-aged children living at GRS. Due to the layout of Sunoco's  
12 work in the parking lot at GRS, school buses have been obstructed, at times, from having  
13 safe access to the Property. This has resulted in situations where children have not had an  
14 appropriate and safe place to wait for the school bus and be dropped off by the school bus.

15 Exhibit **GRS-12** illustrates this school bus access issue.

16 Exhibit **GRS-23** contains a resident complaint regarding a child missing the school bus due  
17 to inability to find where the bus was forced to stop and explaining that the complainant's  
18 wife had to run into the street and flag down the school bus so that her child did not miss  
19 school.

20 Exhibit **GRS-108** illustrates our counsel's efforts to obtain information from counsel for  
21 Sunoco on this issue. GRS's counsel did not receive any meaningful response to its  
22 communication.

23



1 **Q. PLEASE DESCRIBE THE PEDESTRIAN CROSSING ISSUES.**

2 The GRS Property is comprised of two main areas, the eastern and western sides of the  
3 property. Prior to Sunoco's work on the Pipeline Project at the Property, the GRS residents,  
4 including children, could cross between the sides for exercise, visiting friends, and to  
5 access the pool/playground facilities. That access has been removed. ~~This has led some  
6 GRS residents, including children, to enter Sunoco's often poorly marked work areas to  
7 cross the Property. Sunoco has failed to address GRS's requests for a safe pedestrian access  
8 across the Property.~~

9 Exhibit **GRS-14** depicts the loss of pedestrian access across the Property.

10 **Q. PLEASE DESCRIBE THE SIGNAGE/WARNING ISSUES.**

11 Sunoco failed to appropriately rope or fence off its work areas and, in some instances,  
12 failed to mark work areas to advise our residents of the existence of a work area. Sunoco  
13 marked certain "work areas" in such a way that it posed egress problems for the GRS  
14 residents, including the Property's elderly residents who face additional difficulties in  
15 traversing around these hazards. On Friday, November 27, 2020, Sunoco left hazardous  
16 portions of its work area unenclosed for the entirety of the weekend presenting potential  
17 trip hazards for our residents. Although Sunoco has since attempted to mark and rope off  
18 its work areas, like many of its attempted "corrections," this has come only after Sunoco's  
19 failures endangered GRS residents and GRS employees and GRS has had to ask repeatedly  
20 for Sunoco's cooperation and assistance. Again, the lack of transparency regarding its  
21 work on the Pipeline Project at the Property, and communication regarding its plans, has  
22 caused and continues to cause hazardous conditions at the Property

1 Exhibit **GRS-14** illustrates the hazardous conditions caused by Sunoco's failure to  
2 adequately mark its work areas.

3 **Q. PLEASE DESCRIBE THE HAZARDOUS LEAK ISSUES.**

4 On November 27, 2020, a hydraulic line on one of Sunoco's trucks broke, resulting in a  
5 leak at the Property. Sunoco did not notify us of the November 27, 2020 leak and we only  
6 discovered a potential problem, when Sunoco's workers appeared to run toward the work  
7 site with what appeared to be spill kits. We asked Sunoco's workers on site for information  
8 as to what was occurring on the Property, but they refused to respond and refused to  
9 respond to our counsel's requests for information about the spill while on site. ~~On~~  
10 ~~information and belief, the leak from Sunoco's truck constitutes a spill, release, discharge,~~  
11 ~~and/or disposal into the environment that creates potential liability under the environmental~~  
12 ~~laws of the Commonwealth of Pennsylvania.~~ In accordance with Sunoco's PPC Plan, upon  
13 the occurrence of a spill of a "hazardous material," Sunoco must evaluate the spill, notify  
14 the Pennsylvania Department of Environmental Protection ("PADEP") of impacted soils  
15 that threaten pollution to surface or groundwater, and take corrective action measures with  
16 respect to any impacted area. Despite the leak, Sunoco did not notify GRS whether it  
17 notified PADEP of the incident. Although Sunoco provided some basic information about  
18 what it alleged the leak to be, Sunoco failed to provide GRS any detail of the leak, including  
19 the type and quantity of the substance, whether it impacted the Property, the extent of the  
20 impact, any containment or corrective action measures employed to address the leak, and,  
21 most importantly, whether the leak posed any threat to our residents. Instead, in its  
22 response to GRS's request for information, counsel for Sunoco tersely noted that the leak

1 “has been cleaned up according to project protocol and all required notifications have been  
2 made. There is no safety concern whatsoever.”

3 Exhibit **GRS-106** demonstrates the communications on the issue.

4 Counsel for Sunoco provided no further response nor additional information to our counsel  
5 beyond its initial conclusory remarks. Further, in an apparent effort to obscure the leak  
6 from us, Sunoco erected a fence made with black tarp to hide their work, if any, at the leak  
7 site from public view.

8 Sunoco failed to produce a damage report to GRS – including the substance leaked and the  
9 amount of the leak. In fact, in response to GRS’s request for the damage report, counsel  
10 for Sunoco claimed to be unaware of Sunoco’s damage reporting obligations. Sunoco’s  
11 failure to provide adequate information to us regarding the leak, timely or otherwise,  
12 deprives us of the ability to assure its residents that the leak did not pose a threat to health,  
13 safety, or the environment. Sunoco’s failure to provide adequate information to us  
14 regarding the leak, including the type and quantity of material leaked, whether Sunoco  
15 notified PADEP of the leak, whether the leak impacted the environment, and any  
16 containment or corrective action measures taken to address it could potentially cause a  
17 hazard for the GRS Residents and GRS Employees.

18 Exhibit **GRS-15** illustrates the hydraulic leak.

19 Since November 2020, GRS has experienced additional potential releases/leaks at the  
20 Property resulting from Sunoco’s Pipeline Project. As recently as last week, fluid and  
21 debris have been flowing from under the barricades and Sound Walls surrounding portions  
22 of the Temporary Easement, through our parking lots and into the storm drains. Again,  
23 despite our requests, Sunoco has failed to communicate what this substance is, much less

1 whether it contains any sort of volatile chemicals or anything that could cause safety hazard  
2 to the GRS residents or GRS employees or the GRS property itself. This frustrates any  
3 efforts we may need or desire to undertake for safety.

4 Exhibit **GRS-16** illustrates the recent leaks flowing from under the barricades and Sound  
5 Walls surrounding portions of the Temporary Easement.

6 Exhibit **GRS-17** illustrates a recent leak of an identified material that Sunoco was  
7 attempting to clean up early in the morning.

8 **Q. PLEASE DESCRIBE THE FIRE HAZARD ISSUES.**

9 **A.** We received a copy of the Sound Wall Plan through counsel to Sunoco for the first time  
10 on January 11, 2021. This was after Sunoco started construction of the Sound Walls in  
11 November 2020.

12 GRS had been requesting that Sunoco provide the Sound Wall Plan, among other things,  
13 for several months prior to November with no results. The Sound Wall Plan that GRS  
14 finally received in January 2021 (after they were constructed) was comprised of two  
15 renderings, one concerning the layout of the Sound Walls during the day and a second  
16 concerning the reconfiguration of the Sound Walls at night. We were not provided an  
17 opportunity to review the Sound Wall Plan or provide comment on it.

18 Exhibit **GRS-19** is the Sound Wall Plan we received from Sunoco in January.

19 After GRS learned of the Sound Wall Plan, I created a diagram showing the placement of  
20 the Sound Walls in relation to the layout of the Property, which is Exhibit **GRS-20**.

21 Exhibit **GRS-21** is a photograph of the Sound Walls that I marked up to indicate the  
22 purportedly “movable” sections of the Sound Walls.

1 ~~The placement of the Sound Walls creates a fire hazard. The apartment buildings~~  
2 ~~comprising the Property were built almost fifty years ago without a fire sprinkler system~~  
3 ~~since such a system was not required at that time. Because of this, GRS is particularly~~  
4 ~~sensitive to and vigilant about fire safety and compliance with the International Fire Code.~~  
5 ~~As stated before, the original plan was for Sunoco to place the Sound Walls approximately~~  
6 ~~5 ft. from the residential apartment buildings, which would have created an unreasonably~~  
7 ~~dangerous condition. As a result of the placement of the Sound Walls, fire trucks have not~~  
8 ~~been able to get onto the Property for emergency calls and then have difficulty safely~~  
9 ~~exiting the Property once they gain access. Additionally, the Sound Walls pose additional~~  
10 ~~difficulties with respect to ingress and egress to each of the buildings on the Property.~~

11 **Q. IN ADDITION TO WHAT YOU HAVE ALREADY TESTIFIED TO, HAS**  
12 **SUNOCO'S WORK ON THE PIPELINE PROJECT AT THE PROPERTY RAISED**  
13 **ANY OTHER SAFETY CONCERNS?**

14 **A.** Yes. Other resident concerns regarding safety have included, without limitation, the  
15 following: ~~respiratory concerns regarding air quality (GRS-24)~~; blocked access to trash  
16 receptacles (**GRS-25**); and cloudy water and more vibration concerns (**GRS-26**).

17 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

18 **A.** Yes. However, I reserve the right to supplement my testimony as additional issues arise  
19 during the course of this proceeding. That supplementation will likely include evidence  
20 we just received from Sunoco but, due to the timing of its receipt, cannot include today.<sup>3</sup>

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<sup>3</sup> Sunoco made a production of 15G to counsel for GRS end of day on Tuesday. Sunoco made its production as a PDF-only production requiring GRS counsel's team to have to convert all PDFs to load files to review them efficiently. This took several days to complete. As such, GRS has not been able to review and digest the production from Sunoco by the time of this filing and reserves the right to supplement all testimony as part of its Rebuttal.

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

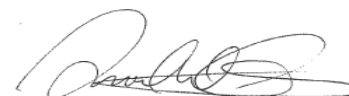
GLEN RIDDLE STATION, L.P., : DOCKET NO. C-2020-3023129  
Complainant, :  
 :  
v. :  
 :  
SUNOCO PIPELINE L.P., :  
Respondent. :

**CERTIFICATE OF SERVICE**

I hereby certify that, on March 15, 2021, I served a true and correct copy of the foregoing Direct Testimony of Stephen Iacobucci upon the persons listed below and by the methods set forth below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Email**

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Whitney E. Snyder, Esquire  
Kevin J. McKeon, Esquire  
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Samuel W. Cortes, Esquire

# **ATTACHMENT B**

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GLEN RIDDLE STATION, L.P., : DOCKET NO. C-2020-3023129  
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SUNOCO PIPELINE L.P., :  
Respondent. :

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**DIRECT TESTIMONY OF  
JASON CULP, P.E.  
ON BEHALF OF  
GLEN RIDDLE STATION, L.P.**

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Dated: March 15, 2021

GRS Statement No. 3



**DIRECT TESTIMONY OF  
JASON CULP, P.E.**

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**I. INTRODUCTION AND BACKGROUND**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

**A.** My name is Jason Culp, P.E. My business address is 116 East King Street, Malvern, PA 19355.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

**A.** I am Vice President of Uzman Engineering and have been employed in this position since January 2018.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EMPLOYMENT EXPERIENCE.**

**A.** I attended and graduated from Penn State University in 2008 and am a licensed professional engineer with experience addressing fire safety, site design issues, structural and geotechnical related design and construction observation throughout the Delaware Valley. My CV is Exhibit **GRS-31**.

**Q. HAVE YOU PREVIOUS TESTIFIED BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION (“PUC” OR “COMMISSION”)?**

**A.** No.

**Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

**A.** I am appearing on behalf of Glen Riddle Station, L.P. (“GRS” or “Glen Riddle”) in this proceeding. I have been asked to specifically testify as to our evaluation of the safety conditions at GRS’s Property as it relates to the work undertaken there by or on behalf of Sunoco Pipeline, L.P. (“Sunoco”).

1 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY AND**  
2 **SUMMARIZE THE KEY POINTS.**

3 **A.** The purpose of my testimony is to highlight the life safety and public welfare concerns as  
4 it relates to the work ongoing and planned at the Glen Riddle Station Apartments by or on  
5 behalf of Sunoco. We have identified significant safety concerns relative to not only the  
6 work itself but also the design and scope of the construction project. A number of key  
7 safety issues have been brought to Sunoco's attention as set forth in the direct testimony of  
8 Stephen Iacobucci and Raymond Iacobucci.<sup>1</sup> My testimony will address these safety issues  
9 and demonstrate how alternative designs and similar reasonable modifications would  
10 obviate, mitigate, minimize or at least work around these safety concerns.

11 **II. DESCRIPTION OF THE PROPERTY**

12 **Q. PLEASE DESCRIBE THE PROPERTY GENERALLY.**

13 **A.** The property is an approximately 11-acre parcel with 5 apartment buildings of masonry  
14 and precast plank construction with related infrastructure including pool, parking areas and  
15 drive aisles spread out across the site. The drive aisles create a loop that connect at the top  
16 and convey down to the two access entrances near each side of the property. The site is  
17 approximately 50% pervious and 50% impervious steeply sloping from North to South. In  
18 general, the site has fairly large expanses of green/open lawn space (in comparison to a  
19 denser development or urban type development). The work area bisects the property in  
20 two halves (East half with two buildings and West half with three buildings) and the sound  
21 walls limit pedestrian and vehicle access to either half.

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<sup>1</sup> All terms not otherwise defined herein have the meaning ascribed to them in the Direct Testimony of Stephen Iacobucci and Raymond Iacobucci.

1 **III. THE SAFETY ISSUES**

2 ~~Q. PLEASE DESCRIBE THE NOISE ISSUES.~~

3 ~~A. Glen Riddle requested to be provided with a sound mitigation plan designed by a~~  
4 ~~professional engineer or a similarly qualified professional. What was provided by Sunoco,~~  
5 ~~as I understand it after many requests, was a sound wall plan that showed the layout and~~  
6 ~~panel type to be installed with little guidelines or details as far as the structural support,~~  
7 ~~sound mitigation effectiveness or quantitative goals or similar calculations that would show~~  
8 ~~the mitigation effectiveness based on the sound wall type. Additionally, this plan provided~~  
9 ~~no information as to the anticipated sound sources (generator, excavators, drilling~~  
10 ~~equipment etc.) and any run time limits or similar. Website links were provided to GRS~~  
11 ~~by Sunoco to review, on its own, the sound wall products which fall in to two categories,~~  
12 ~~movable and non-movable with various sound damping fabrics/assemblies. No product~~  
13 ~~cut sheets and/or calculations have been provided even though GRS requested them.~~  
14 ~~Through my review of the website links GRS received from Sunoco, it appears that there~~  
15 ~~is different sound reduction provided by the sound walls depending on the sound~~  
16 ~~frequency. Again, no sound source data has been provided, though it was requested, and~~  
17 ~~as a whole, no sound mitigation strategy with calculations or similar has been provided to~~  
18 ~~GRS or myself to demonstrate the effectiveness of the sound walls, if any, based on the~~  
19 ~~sound sources themselves. Any professional engineer or at least an audio specialist is~~  
20 ~~reasonably expected provide calculations and design for this use.~~  
21 ~~As no mitigation strategy, goals or limits have been provided to GRS, discrete samplings~~  
22 ~~by myself and GRS have been conducted at various locations both indoors and outdoors~~  
23 ~~around the site. These readings have averaged in the high 60 decibels with spikes over 90~~

1 ~~and 100 decibels observed in shorter intervals. Certain of these readings are readings are~~  
2 ~~part of GRS-5. Exhibit GRS-33 is a photograph that I took of the equipment that I provided~~  
3 ~~to GRS for measuring decibels. Additionally, the sound mitigation wall installation itself~~  
4 ~~allowed routinely elevated noise levels for several weeks while these were installed (no~~  
5 ~~provisions or sequencing noted this intermediary issue of wall installation sound~~  
6 ~~abatement).~~

7 ~~Based on Occupational Safety and Health Administration (OSHA) National Institute for~~  
8 ~~Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), and The~~  
9 ~~Environmental Protection Agency (EPA) (Information on Levels of Noise Requisite to~~  
10 ~~Protect Public Health and Welfare with an Adequate Margin of Safety) studies and~~  
11 ~~regulations, which provide guidance regularly relied on by professional engineers~~  
12 ~~monitoring noise at construction sites, noise issues fall in to two categories: (1) annoyance~~  
13 ~~level and speech interruption level; and (2) hearing loss levels. The NIOSH and CDC~~  
14 ~~guidelines are primarily based on worker safety as these guide the OSHA standards (OSAH~~  
15 ~~1910.95 Occupational noise exposure) for worker safety.~~

16 ~~These studies and regulations are GRS-27. OSHA regulations (1910.95 Occupational~~  
17 ~~Health and Environmental) limit occupation limit noise to an average 85 decibels over an~~  
18 ~~8 hour period. Any greater requires noise protection or mitigation. As this is for~~  
19 ~~occupations it is actually more permissive (the workers can wear hearing protection and~~  
20 ~~are being contracted to be in that environment). The EPA standard recommends limits for~~  
21 ~~the general population. These limits are lower (75 decibels for 8 hour exposure) as they~~  
22 ~~are for the general public and were recommended to be utilized in setting limits in public~~  
23 ~~spaces such as noise ordinance etc. The limits are also set assuming a 24 hour period (70~~

1 ~~decibel average over 24 hour period). The limits are set assuming that a person in the~~  
2 ~~public may have a job where noise exposure is an issue for the 8 hour work day. The work~~  
3 ~~hours at the site along with the elevated noise levels pose a risk and a general nuisance to~~  
4 ~~the residents especially where they may come home. This is particularly exacerbated~~  
5 ~~during periods where kids and adult residents have been home during quarantines and~~  
6 ~~school virtual settings. Exhibit **GRS-6** illustrates certain resident complaints that I have~~  
7 ~~reviewed concerning noise levels at the Property.~~

8 ~~In my professional opinion, the sound mitigation measures undertaken by Sunoco have not~~  
9 ~~been effective and have created a situation that negatively affects those living and working~~  
10 ~~at GRS's Property. They are allowing for unhealthy levels of sound to permeate the~~  
11 ~~residences and offices at the Property as demonstrated by the sound readings and resident~~  
12 ~~complaints. This puts the GRS residents and employees at an increased risk of hearing loss~~  
13 ~~according to the NIOSH, CDC, and EPA (Information on Levels of Noise Requisite to~~  
14 ~~Protect Public Health and Welfare with an Adequate Margin of Safety) studies and~~  
15 ~~regulations and creates an unhealthy environment that could easily be avoided by Sunoco.~~

16 **Q. PLEASE DESCRIBE THE STRUCTURAL ISSUES.**

17 **A.** Sunoco performed pre-construction video and audio surveys of the existing conditions but  
18 failed to provide the final report of these studies so that GRS has all of the information and  
19 Sun then may selectively provide the data at the culmination of the project. It is important  
20 that GRS was to be provided this information so that further study could be requested or  
21 performed on GRS's on accord so that quantifying of any conditions may have been  
22 performed prior to work commencing. For instance if a crack was noted within the  
23 foundation then crack gauges could have been installed (GRS would provide at their own

1 expense if not agreed to by Sun) to ensure the conditions did not worsen following the  
2 work being completed.

3 GRS has been informed that seismic studies have been conducted during the work and that  
4 should vibrations above the safe threshold occur then work will stop and adjustments will  
5 be made. To date, no data or readings have been provided to GRS, though GRS has  
6 requested them. More importantly, the threshold for what is a safe vibration has not been  
7 provided to GRS so that we may review this and determine if it is acceptable. In fact,  
8 vibrations can affect soil conditions such that settlement occurs over a time period well  
9 after the work has been completed and the work in general may affect groundwater  
10 conditions that may result in an acceleration of consolidation settlement or similar that may  
11 have an adverse effect on the building foundations. It is reasonable to expect that third  
12 party reports and similar information will be provided to GRS of not only the safe threshold  
13 of vibrations but also the ongoing vibration study reports or data. At this point, the  
14 contractor is simply self certifying (without any actual reporting) that the vibrations are  
15 below tolerable limits (of which we have not been told what is deemed tolerable).

16 There is also a question on the sound walls themselves as for their structural capacity.  
17 Signed and sealed design documents with details and calculations are a standard  
18 requirement for thin, narrow structures that are over 30 feet in height. Structural  
19 calculations for both the wall foundations and the wall structural elements above grade  
20 should be provided by Sunoco. These would include wind loads, soil assumptions, and  
21 other similar information. A failure of these walls may cause damage to the buildings if  
22 they were to tip over or in an extreme case could cause injury or death. Further, as the  
23 walls have been constructed already, there is no third party documentation or observation

1 that the walls, as constructed meet whatever design plans and calculations required as much  
2 of the work is now below grade. In my professional opinion, this creates an unreasonable  
3 and easily avoidable threat to safety at the GRS property. Exhibit **GRS-21** is a photograph  
4 showing the sound walls, and **GRS-32** shows the proximity of the sound walls to the  
5 residential structures.

6 **Q. PLEASE DESCRIBE THE PARKING LOT ISSUES.**

7 A. The work has caused removal of 50 to 60 parking spots and also prevented adequate turn  
8 around room at the upper portions of the property (60 foot cul de sac or other T shape,  
9 hammerhead turn around or loop is a typical requirement of site planning of townships  
10 including Middletown). Additionally, the neighboring property – Tunbridge Apartments  
11 – has lost twice the number of spaces from Sunoco’s work, which results in GRS being  
12 subject to overflow from the neighboring property. ~~Improper mark out of the temporary  
13 construction easement appeared to further impede the parking spaces and in fact reduced  
14 the drive aisle to less than 16 feet in a location with an over 12.5% grade and tight turning  
15 radius, which made it difficult to navigate and also reduced site distance. This improper  
16 mark out was only corrected after I insisted that the markout was incorrect despite Sunoco  
17 ensuring that their surveyors had correctly delineated the easement area. The work area  
18 was in fact almost 20 feet from the originally staked location. **GRS-28** is the original  
19 incorrect survey done by Sunoco.~~

20 There is also an issue regarding the drive aisles. Because the parking density is much  
21 tighter following the removal of spaces the drive aisle are busier and have reduced site  
22 distance than the pre-existing condition. ~~Additionally, no mark out or signage has been  
23 installed by Sunoco that would direct construction traffic from maintaining their travels~~

1 ~~within the designated access easements. Without marking out the outside boundary of the~~  
2 ~~access easement, it is impossible for the drivers to ensure they stay within the permitted~~  
3 ~~boundary and impossible to GRS to ensure the construction traffic stays within its~~  
4 ~~permitted boundary, i.e., it is unenforceable. This, too, in my professional opinion, creates~~  
5 ~~an unreasonable and easily avoidable threat to safety.~~

6 **Q. PLEASE DESCRIBE THE PEDESTRIAN CROSSING ISSUES.**

7 **A.** The sound walls impacted the normal pedestrian access across the site including the drive  
8 aisles being closed between each property half (East and West) and in fact closed sidewalks  
9 and forced people to park where not easily accessible. Additionally, with the increase in  
10 construction traffic there is a greater risk to pedestrians crossing areas where there was no  
11 previously existing access. The work has changed the pedestrian traffic to less desirable  
12 patterns which require pedestrians to walk across steep grades of lawn area etc. A  
13 pedestrian access walkway, which has been requested by GRS, is absolutely required for  
14 safe pedestrian access. Thus far, Sunoco has not provided this. This, too, in my  
15 professional opinion, creates an unreasonable and easily avoidable threat to safety.

16 **Q. PLEASE DESCRIBE THE SIGNAGE/WARNING ISSUES.**

17 **A.** GRS and I, on behalf of GRS, have requested better visual mark ~~out of the access roads~~  
18 ~~and greater flaggers and signage provided to delineate the access easements,~~ particularly  
19 in the parking areas where kids and elderly frequent, many times without properly looking  
20 before crossing these areas. There should be a greater visual deterrence to slow any  
21 pedestrian traffic from crossing in to the work area zones. Sunoco's general response to  
22 this has been that the area is a parking lot and thus people should be looking before crossing  
23 the drive aisle or similar. In my experience, traffic design is meant to capture the least



1 common denominator. Traffic design is not based upon a professional driver with perfect  
2 weather conditions and optimum equipment. In the same way that cross walks use  
3 graphical icons more easily understood versus “walk” or “stop” signage this site must  
4 incorporate better controls catered to all pedestrians to mitigate any accidents that may  
5 occur. Prior to this construction, the site was not frequented by large construction trucks  
6 with limited site lines or similar on a regular basis and most of the traffic was from residents  
7 familiar with where kids may be or where typical pedestrian crossings may happen. Due  
8 to the increase construction traffic, the completely different pedestrian circulations, etc., it  
9 is imperative that a traffic circulation plan with good signage and visual deterrents be  
10 provided. ~~PennDOT and FHWA have guidelines on pedestrian circulation, signage etc.~~  
11 ~~that clearly have not been consulted for the project.~~

12 ~~The referenced PennDOT and FHWA guidelines are Exhibit GRS-29. In my professional~~  
13 ~~opinion, these guidelines should be followed at GRS’s property and the failure to do so is~~  
14 ~~both unreasonable and unsafe.~~

15 If a plan were to be provided by Sunoco, then GRS could better inform the residents as  
16 well as work off whatever initial plan to provide safe conveyance. This is another instance  
17 where Sunoco’s failure to communicate has put the safety of the GRS’s residents and  
18 employees in jeopardy.

19 **Q. PLEASE DESCRIBE THE HAZARDOUS LEAK ISSUES.**

20 **A.** GRS has observed several small releases including hydraulic oil leaks from equipment as  
21 well as apparent overflow from drill cutting plants. GRS has not been provided any release  
22 reporting documentation for these occurrences.

1           Additionally, it has been witnessed that Sunoco has been importing fill material (soil  
2           aggregate or similar) with no manifest, chain of custody or clean fill certification being  
3           provided that would indicate the material is not hazardous or been subjected to a release.  
4           In my professional opinion, this data is regularly provided for safety and health-related  
5           purposes.

6   **Q.   PLEASE DESCRIBE THE STORM WATER MANAGEMENT ISSUES.**

7   A.   Erosion and sedimentation controls are in place on the site, however, due to the filling of  
8       slopes and ground as well as installation of barriers (sound walls) stormwater patterns have  
9       likely changed. No pre-existing conditions versus construction conditions grading plans  
10      (and thus any altered watersheds or drainage paths could not be reviewed) have been  
11      provided to GRS and in fact there is large fills for construction platforms that have  
12      including retaining wall construction and similar that appears to have no design nor any  
13      third party oversight. ~~Additionally, the site is to be restored to previous ground cover,~~  
14      ~~however, no considerations or remediation have been presented to GRS that suggest the~~  
15      ~~soil conditions will be amended to their previous non compacted conditions. It is typical~~  
16      ~~to expect construction traffic and activities to significantly compact the existing ground,~~  
17      ~~especially in areas where fill has been placed and compacted. This compactive effort may~~  
18      ~~reduce infiltration and runoff absorption significantly and no provisions for this~~  
19      ~~remediation has been provided. The Pennsylvania BMP manual for Stormwater, Exhibit~~  
20      ~~GRS-34, recognizes the effect that construction has on the runoff absorption and has~~  
21      ~~provisions for amending this conditions with various BMP (best management practices)~~  
22      ~~methodologies that could be incorporated. Failure to properly repair this ground~~

1 ~~compaction will cause unnecessary drainage issues, poor lawn conditions and similar~~  
2 ~~avoidable conditions.~~

3 ~~On November 28, 2020, Sunoco covered certain storm drain grates on the Property in an~~  
4 ~~apparent attempt to manage storm water from the Property into the local storm sewer~~  
5 ~~system. Sunoco's current management of storm water at the Property associated with its~~  
6 ~~activities has already resulted in, and will continue to result in, discharges of storm water~~  
7 ~~onto the Property that cause avoidable erosion and storm water damage. Additionally, this~~  
8 ~~work may prevent stormwater conveyance from the subject property where these barriers~~  
9 ~~are installed or where grading has prevented, increased or decreased the expected drainage~~  
10 ~~amounts, rate and paths.~~

11 ~~Exhibit **GRS-18** illustrates some of the storm water issues.~~

12 ~~No provisions or demonstrations of the pre-existing drainage methods, patterns etc. as it~~  
13 ~~relates to the temporary grading, structure installation (sound walls, silt sock etc.) have~~  
14 ~~been provided. For example, the sound walls have been installed such that runoff overland~~  
15 ~~and from any roof downspouts may back up against the sound walls barrier with inadequate~~  
16 ~~conveyance. This would result in flooding of units, deterioration of ground conditions and~~  
17 ~~cover and accelerated deterioration of infrastructure in areas outside of the work zone.~~

18 ~~Sunoco's current management of storm water at the Property will likely create safety~~  
19 ~~hazards for the Property residents, especially as colder weather results in icing. Sunoco~~  
20 ~~may not disregard the current impact of its storm water management on the Property and~~  
21 ~~its residents simply because it may, at some future undetermined time, apply site restoration~~  
22 ~~measures.~~

23

1 **Q. PLEASE DESCRIBE THE FIRE HAZARD ISSUES.**

2 **A.** Prior to GRS's objection, Sunoco planned to locate its sound walls as little as 5 feet from  
3 the residences. At 35 feet tall, this would have prohibited access via ladder rescue to the  
4 upper and mid levels from bedrooms. Typical residential code requires egress windows to  
5 be installed in bedrooms areas (at a minimum) so that emergency personnel (fire fighters)  
6 can access these dwellings for rescue when the typical access is blocked or similar. I  
7 initially highlighted this concern in late November when the work was planned to start.  
8 Had this not been highlighted then, the walls would have been installed with no access for  
9 emergency personnel, putting the GRS residents and employees and the GRS Property  
10 itself at an unnecessary and unacceptable risk.

11 ~~Further, the Sunoco plan (the "Plan") violates at least three of the International Fire Code.~~  
12 ~~The Plan violates Section D106 because it deprives the GRS property and those who live~~  
13 ~~there and access it of two separate and approved fire apparatus access roads in violation of~~  
14 ~~Section D106 of IFC to all areas/buildings on the site. The failure of the Plan to allow for~~  
15 ~~two separate fire apparatus roads with access roads is evident from the diagram attached.~~  
16 ~~[GRS-20.] This violation of D106 of the IFC is particularly serious at the GRS property~~  
17 ~~because the GRS property does not have fire sprinklers and uninterrupted ingress and~~  
18 ~~egress for emergency vehicles is of paramount concern. The "movable" sections of the~~  
19 ~~sound walls violate Section D103.5 of the IFC pertaining to fire apparatus access road~~  
20 ~~gates. The "movable" sections of the sound walls identified in the Plan are not "gates."~~  
21 ~~Instead, the "movable" sections of the sound walls identified in the Plan can be moved only~~  
22 ~~manually and only by multiple people. In any event, on the other side of these "movable"~~  
23 ~~sections of the sound walls are trenches that require some type of bridging or covering for~~

1 emergency vehicles to access the GRS property. Further, these “movable” sections of the  
2 sound walls exist only on the eastern side of the property—the western side lacks even a  
3 “movable” section to allow for emergency vehicle access. This violation, too, is of  
4 paramount concern at the GRS property because it interrupts ingress and egress for  
5 emergency vehicles. The western side of the property does not have the turnaround space  
6 required by Section D103.4 (figure 103.1) of the IFC. In fact the movable gate on the  
7 eastern side is only in place to allow for a cumbersome turn around of emergency vehicles.  
8 Technically this turn around space does not even meet the requirements of D103.4. If there  
9 was a movable gate installed on both sides of the sound wall it would solve both the D106  
10 violation by ensuring two access points are viable and would negate the D103.4  
11 requirement as no turnaround space would be required as the community loop would be  
12 restored. This violation allows for the possibility that emergency vehicles, like fire trucks,  
13 will not maneuver as necessary in the time of an emergency. The foregoing violations are  
14 serious and put lives in immediate danger. As highlighted above, there exists an alternative  
15 design that would not violate the code requirements of IFC by incorporating this movable  
16 gate. It is unclear why Sunoco would not incorporate this alternative when it is deemed  
17 easily possible. In my professional opinion, Sunoco’s failures in this regard have created  
18 an unacceptable and unreasonable threat to the safety of the lives of those living and  
19 working at the GRS Property and to the GRS Property itself.  
20 The referenced sections of the IFC are attached as Exhibit **GRS-30**.

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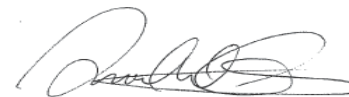
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**CERTIFICATE OF SERVICE**

I hereby certify that, on March 15, 2021, I served a true and correct copy of the Direct Testimony of Jason Culp, P.E., upon the persons listed below and by the methods set forth below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Email**

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Samuel W. Cortes, Esquire

**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).

**VIA ELECTRONIC MAIL ONLY**

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*/s/ Thomas J. Sniscak* \_\_\_\_\_

Thomas J. Sniscak, Esq.  
Whitney E. Snyder, Esq.  
Kevin J. McKeon, Esq.  
Bryce R. Beard, Esq.

Dated: March 22, 2021