



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

E-FILED
07/25/2017
PENNSYLVANIA ENVIRONMENTAL HEARING BOARD

**CLEAN AIR COUNCIL, THE DELAWARE
RIVERKEEPER NETWORK, AND
MOUNTAIN WATERSHED ASSOCIATION,
INC.**

v.

EHB Docket No. 2017-009-L

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION and SUNOCO PIPELINE, L.P.,
Permittee**

ORDER

AND NOW, this 25th day of July, 2017, following two conference calls during which the parties presented extensive argument in support of their respective positions, it is hereby ordered that the Appellants' application for a temporary partial supersedeas is **granted**. The permits that are the subject of this appeal are hereby superseded effective immediately to the extent they authorize the Permittee to conduct horizontal directional drilling. However, this Order may be modified in part if the Permittee provides the Board with detailed affidavits explaining why it would cause equipment damage, a safety issue, or more environmental harm than good to stop drilling at the 55 locations where drilling is actively underway. This temporary partial supersedeas shall expire at 9:00 a.m. on August 7, 2017, unless further extended by the Board. The hearing on the Appellants' petition for a partial supersedeas shall commence in the Board's Harrisburg hearing room on the date requested by the parties; namely, **9:00 a.m. on August 7, 2017.**



ENVIRONMENTAL HEARING BOARD

s/ Bernard A. Labuskes, Jr. _____
BERNARD A. LABUSKES, JR.
Judge

DATED: July 25, 2017

c: For the Commonwealth of PA, DEP:

William J. Gerlach, Esquire
Gail Guenther, Esquire
Margaret O. Murphy, Esquire
Curtis C. Sullivan, Esquire
Nels J. Taber, Esquire
(via electronic filing system)

For Appellant, Clean Air Council:

Alexander G. Bomstein, Esquire
Kathryn L. Urbanowicz, Esquire
Joseph O. Minott, Esquire
(via electronic filing system)

For Appellant, Delaware Riverkeeper Network:

Aaron J. Stemplewicz, Esquire
(via electronic filing system)

For Appellant, Mountain Watershed Association, Inc.:

Melissa Marshall, Esquire
(via electronic filing system)

For Permittee:

Robert D. Fox, Esquire
Neil S. Witkes, Esquire
Diana A. Silva, Esquire
Jonathan E. Rinde, Esquire
Terry R. Bossert, Esquire
(via electronic filing system)

Court Reporter:

Premier Reporting, LLC
(via electronic mail)



COMMONWEALTH OF PENNSYLVANIA
BEFORE THE ENVIRONMENTAL HEARING BOARD

CLEAN AIR COUNCIL; THE DELAWARE
RIVERKEEPER NETWORK; and
MOUNTAIN WATERSHED
ASSOCIATION, INC.,

Appellants,

v.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Appellee,

and

SUNOCO PIPELINE L.P.,

Permittee.

EHB DOCKET NO. 2017-009-L

**SUNOCO PIPELINE, L.P.’s VERIFIED FIRST
EMERGENCY MOTION FOR CLARIFICATION OF THE JULY 25, 2017 ORDER**

Permittee Sunoco Pipeline, L.P. (“SPLP”), by its undersigned counsel, requests that the Board provide clarification of its July 25, 2017 Order (the “Order”) granting Appellants’ application for a temporary partial supersedeas of the permits that are the subject of this appeal, to the extent that they authorize SPLP to use horizontal directional drilling (“HDD”), and avers as follows:

1. To safeguard equipment contained within drill holes, it is necessary to periodically rotate the drill bits and reamers and move the drill bits and reamers approximately 30 feet back and forth within the bore holes. If this safeguarding procedure is not performed, there is a substantial likelihood that the drill bits and reamers will seize, which will result in loss of the drilling equipment and the drill holes.

2. These activities will cause no advancement of the drill holes.

3. The foregoing activities do not constitute horizontal directional drilling, but SPLP seeks clarification of the Board's Order to ensure that this limited activity is permitted under the Order.

4. SPLP seeks to perform the foregoing at the HDD locations identified in the list attached as Exhibit "1."

5. Pursuant to the Board's Order, we intend to file a motion expeditiously seeking to modify in part the Board's Order, accompanied by detailed affidavits that explain why it would cause equipment damage, a safety issue, or more environmental harm than good to stop drilling at certain of the HDD locations where drilling was actively underway prior to issuance of the Board's Order.

WHEREFORE, for the foregoing reasons, SPLP requests that the Board clarify the July 25, 2017 Order, to make clear that the Order does not prevent SPLP from periodically rotating the drill bits or reamers in existing drill holes and moving the drill bits or reamers back and forth within the bore holes without advancing the length of the bore holes, in order to safeguard the integrity of the downhole equipment, and enter an order in the form submitted herewith.

Respectfully submitted,

/s/ Robert D. Fox
Robert D. Fox, Esquire (PA ID No. 44322)
Manko, Gold, Katcher & Fox, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
Telephone: 484-430-5700
Fax: 484-430-5711
rfox@mankogold.com

Dated: July 25, 2017



CERTIFICATE OF SERVICE

Robert D. Fox hereby certifies that on the date set forth below the Sunoco Pipeline, L.P.'s Verified First Emergency Motion for Clarification of the July 25th Temporary Supersedeas Order was served on all counsel of record through the Board's electronic notification system.

/s/ Robert D. Fox
Robert D. Fox (PA ID No.44322)
Attorney for Permittee
Sunoco Pipeline L.P.

Dated: July 25, 2017

OF COUNSEL:

MANKO, GOLD, KATCHER & FOX, LLP
401 City Avenue, Suite 901
Bala Cynwyd, PA 19004
(484) 430-5700



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD



CLEAN AIR COUNCIL, THE DELAWARE :
RIVERKEEPER NETWORK, AND :
MOUNTAIN WATERSHED ASSOCIATION, :
INC. :

v. :

EHB Docket No. 2017-009-L

COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF ENVIRONMENTAL :
PROTECTION and SUNOCO PIPELINE, L.P., :
Permittee :

ORDER

AND NOW, this 25th day of July, 2017, upon consideration of Sunoco Pipeline, L.P.'s Verified First Emergency Motion for Clarification of the Board's July 25, 2017 Order, it is hereby ordered that such motion is **granted**. Sunoco Pipeline, L.P. shall be permitted to periodically rotate the downhole drill bits or reamers and move them back and forth within the drill holes without advancing the drill hole or conducting additional drilling, to safeguard the integrity of the downhole equipment.

ENVIRONMENTAL HEARING BOARD

s/ Bernard A. Labuskes, Jr. _____
BERNARD A. LABUSKES, JR.
Judge

DATED: July 25, 2017

c: For the Commonwealth of PA, DEP:
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