

LAMB | M c E R L A N E ^{PC}

ATTORNEYS AT LAW

Guy A. Donatelli
Direct Dial: (610) 701-4419
Facsimile: (610) 692-0877
Email: gdonatelli@lambmcerlane.com

June 3, 2021

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

Re: *Meghan Flynn, et al. v. Sunoco Pipeline LP*
Docket Nos. P-2018-3006117, et al

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission, please find Exceptions of Intervenor East Goshen Township, along with the Certificate of Service, in the above-referenced matter.

Thank you.

Very truly yours,


Guy A. Donatelli

GAD/jls

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Flynn, Rosemary Fuller,	:	
Michael Walsh, Nancy Harkins,	:	
Gerald McMullen, Caroline Hughes,	:	Docket No. P-2018-3006117
and Melissa Haines,	:	Docket No. C-2018-3006116
<i>Complainants,</i>	:	Docket No. C-2018-3005025
v.	:	Docket No. C-2019-3006898
	:	Docket No. C-2019-3006905
Sunoco Pipeline, L.P.,	:	Docket No. C-2018-3003605
<i>Respondents.</i>	:	

EXCEPTIONS OF INTERVENOR EAST GOSHEN TOWNSHIP

Intervenor, East Goshen Township, respectfully submits these Exceptions to the April 9, 2021 Initial Decision pursuant to the correspondence of Secretary Rosemary Chiavetta to all parties dated April 23, 2021, and in accordance with 52 Pa. Code §5.533.

Respectfully submitted,

LAMB MCERLANE PC

By: /s/ Guy A. Donatelli
Guy A. Donatelli
Attorney I.D. # 44205
gdonatelli@lambmcerlane.com
24 East Market Street,
P.O. Box 565
West Chester, Pennsylvania 19381-0565
(610) 701-4419
*Attorneys for Intervenor East Goshen
Township*

Dated: June 3, 2021

TABLE OF CONTENTS

1. INTRODUCTION 3

2. EXCEPTIONS 4

A. East Goshen Exception 1 - The geophysical test reports should be made public as they reflect the characteristics of the land and not the pipeline infrastructure 5

B. East Goshen Exception 2 – The conduct and information ordered to be undertaken by Sunoco and provided to the Counties and municipalities and should be on an as needed basis..... 5

C. East Goshen Exception 3 - Sunoco should provide funding and active participation in developing evacuation plans, even those plans which need be compliant with the Americans with Disability Act..... 5

3. CONCLUSION 6

I. INTRODUCTION

On April 9, 2021, the Honorable Elizabeth H. Barnes issued the Initial Decision in the above-captioned matter.¹ Intervenor East Goshen Township had sought relief for the benefit of its residents placed at risk as a result of Sunoco's pipeline operations throughout Chester County. East Goshen Township sought to reduce, through its requested relief, the risks posed by the transportation of HVL's by Sunoco through its community and to secure information and planning assistance which would enhance the public safety concerns of East Goshen Township. The Initial Decision appropriately identifies and orders a number of well-reasoned and enforceable measures which markedly increase the safety to the public.

East Goshen Township takes three exceptions with two discrete paragraphs of the Initial Decision. First, the Order, at page 199 of the Initial Decision, at paragraph 13 provides:

That pursuant to any non-disclosure agreements Sunoco Pipeline, L.P. deems necessary to protect its confidential security information, Sunoco Pipeline, L.P. is directed to share the results of any geophysical test reports, inspection and evaluation reports assessing the condition of its pipelines located in East Goshen Township or Middletown Township to Township Supervisors or their designee engineering consultants at least on an annual basis and more frequently while construction is ongoing.

East Goshen Township respectfully requests that these geophysical test reports be made public.

Second, the Order at pages 200-201 of the Initial Decision, at paragraph 16 provides:

That Sunoco is directed to contact Chester County Commissioners, Delaware County Commissioners and all municipalities' supervisors therein within thirty (30) days of the date of entry of a Final Order in this consolidated proceeding to arrange for meeting(s) (either remotely or in-person or a combination thereof as mutually agreeable) to: a) establish emergency contact list information for the operator's controller and county liaison(s); b) disclose to Middletown Township, Delaware County, and Chester County any damage or potential damage to their respective facilities or properties resulting from the operation of the pipelines; c) assist with the establishment of emergency plans for first responders in the event of a leak, release, explosion, or other failure of the pipeline system and the communication of all information required under state and federal law to enable Middletown, Delaware County, and Chester County to prepare such emergency plans; d) inform and educate Middletown and Delaware County officials and staff on proper and

¹ All references in this submission refer to the non-proprietary version of the Initial Decision.

effective disaster prevention and disaster response, including participation in “tabletop” activities and/or “boots on ground” exercises as referenced by Sunoco in its letter dated August 13, 2020 and admitted as exhibit SPLP-50 and as requested by Complainants and their aligned Intervenor; e) develop standard notification templates for public warning systems to be used during a pipeline emergency and develop emergency classification levels (i.e. a small leak release versus a rupture event) which are specifically designed to make the public aware of the situation; f) provide detailed information regarding its infrastructure; g) assist in the development of an evacuation plan for use by municipalities with concept of how evacuation would occur; h) create a public outreach and public education program; 201 i) introduce to the operator’s designated County liaison(s) a tour of the area surrounding the pipeline facilities such that the liaison(s) may be made aware of the geology, terrain and location of schools, libraries, retirement and apartment housing as well as train tracks, roadways, recreational parks, housing developments such that the liaison may provide local emergency planning assistance to local emergency management partners that could consist of dedicated employee(s) and or funding to support additional employees; j) notify not only the County but all municipalities in Delaware or Chester County of anticipated, scheduled or commenced work done in those counties; k) notify County officials, in advance, of any pipeline activity, such as simulations, testing, routine maintenance, repairs etc.; l) subject to a nondisclosure agreement, share with Chester County’s Department of Emergency Services maps of all transmission lines listing material moved, pipeline diameter, mainline valve locations and maximum operating pressures (MOP), and maximum allowable operating pressure (MAOP) and information about the location of any anomalies that merit pressure reduction in the pipeline and the presence of “immediate,” “60-day” or “180-day” repair conditions for liquid pipelines or “immediate” or “one- year” repair conditions for gas pipelines; and m) establish times and dates for follow-up meetings and periodic meeting schedules as mutually agreeable between municipalities, counties and Sunoco Pipeline, L.P.

East Goshen Township respectfully requests that the conduct and information ordered to be undertaken by Sunoco and provided to the Counties and municipalities should be provided as needed by municipal staff.

Third, and with particular emphasis on subparagraph g of paragraph 16, Sunoco should provide funding and active participation in developing evacuation plans, even those plans which need be compliant with the Americans with Disability Act (“ADA”).

The results of adopting these exceptions and modifying the Initial Decision will be the increased safety and security of the East Goshen Township community and will provide some

clarification as to what party bears the cost of implementing the safety measures necessary for the community's safety.

II. EXCEPTIONS

A. Exception 1

East Goshen Township respectfully requests that the geophysical test reports identified in Ordering Paragraph 13, at page 199 of the Initial Decision, be made public. The record is replete with the necessity of accurate information already developed by Sunoco and the usefulness of geophysical information (Initial Decision, Findings of Fact 194, 202). There would be no harm in making the geophysical test reports available to the Township as these *geophysical* reports deal only with the characteristics of the land and not the pipelines themselves, and, in any event, were a matter of public record until February 26, 2020.

B. Exception 2

Order Paragraph 16 at pages 200-201 of the Initial Decision provides that Sunoco undertake certain actions and provide certain information to County and municipal entities. East Goshen Township respectfully requests that this information be made available to all County and Municipal Staff as may be needed by that staff. There is nothing inconsistent with this request and Ordering Paragraph 16 may be read broad enough to incorporate that relief. As a matter of certainty, East Goshen Township respectfully requests that this clarification be made to the Initial Decision.

C. Exception 3

Third, and with particular emphasis on subparagraph g of Ordering Paragraph 16, Sunoco should provide funding and active participation in developing evacuation plans, even those plans which need be compliant with the ADA. One of the primary concerns of state and local

governments is to protect residents and visitors from harm, including assistance in preparing for, responding to, and recovering from emergencies and disasters. The Initial Decision recognizes this principle *passim*. While the Initial Decision implies Sunoco's financial responsibility to undertake the measures identified in Ordering Paragraph 16, it does not directly order it.

The following clarification should be adopted.

*All costs incurred by compliance with paragraph 16 of this Order shall be borne by Sunoco Pipeline, L.P., including those additional costs incurred by East Goshen Township through participation in the events and procedures ordered thereby. East Goshen Township shall provide these additional costs to Sunoco within sixty (60) days of being incurred and shall not include fixed costs. Payment to East Goshen Township shall be made within sixty (60) days.

As set forth above, and for reasons of certainty, the Initial Decision should be clarified to place the financial responsibility on Sunoco.

III. CONCLUSION

Intervenor East Goshen Township respectfully requests that these three additional, yet simple, safety measures round out and make more impactful the relief ordered in Ordering Paragraphs 13 and 16 (pages 199-201) of the Initial Decision. They are not inconsistent with any other provisions of the Initial Decision, place the appropriate financial burden on Sunoco and are a natural extension of the safety measures so appropriately nurtured by that Initial Decision. The Initial Decision should be amended to include them.

Respectfully submitted,

LAMB MCERLANE PC

By: /s/ Guy A. Donatelli
Guy A. Donatelli
Attorney I.D. # 44205
gdonatelli@lambmcerlane.com
24 East Market Street,
P.O. Box 565

West Chester, Pennsylvania 19381-0565
(610) 701-4419
*Attorneys for Intervenor East Goshen
Township*

Dated: June 3, 2021

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the East Goshen Township's Exceptions upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

Via Electronic Mail:

Rebecca Britton
211 Andover Drive
Exton, PA 19341
rbrittonlegal@gmail.com
Pro Se Complainant

Thomas Casey
1113 Windsor Drive
West Chester, PA 19380
tcaseylegal@gmail.com
Intervenor

Melissa Dibernardino
1602 Old Orchard Lane
West Chester, PA 19380
lissdibernardino@gmail.com
Pro Se Complainant

Virginia Marcille-Kerslake
103 Shoen Road
Exton, PA 19341
vkerslake@gmail.com
Pro Se Intervenor

Josh Maxwell
4 W. Lancaster Avenue
Downingtown, PA 19335
jmaxwell@downingtown.org
Intervenor

Gerald McMullen
200 Hillside Drive
Exton, PA 19341
Pro Se Complainant

Laura Obenski

14 S. Village Avenue

Exton, PA 19341

ljobenski@gmail.com

Pro Se Complainant

Michael Walsh

12 Hadley Lane

Glen Mills, PA 19342

Pro Se Complainant

Michael Bomstein, Esq.

Pinnola & Bomstein

Land Title Building, Suite 705

100 South Broad Street

Philadelphia, PA 19110

mbomstein@gmail.com

Representing Complainants

Curtis Stambaugh, Asst. General Counsel

Sunoco Pipeline LP

212 N Third Street, Suite 201

Harrisburg, PA 17101

Curtis.stambaugh@energytransfer.com

Representing Sunoco Pipeline LP

Robert D. Fox, Esq.

Neil S. Witkes, Esq.

Diana A. Silva, Esq.

Manko Gold Katcher & Fox LLP

401 City Avenue, Suite 901

Bala Cynwyd, PA 19004

rfox@mankgold.com

nwitkes@mankgold.com

dsilva@mankgold.com

Representing Sunoco Pipeline LP

Thomas J Sniscak, Esq.

Whitney E. Snyder, Esq.

Hawke Mckee and Sniscak LLP

100 N. Tenth Street

Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
Representing Sunoco Pipeline LP

Rich Raiders, Esq.
Raiders Law PC
606 North 5th Street
Reading, PA 19601
rich@raiderslaw.com
Representing Intervenor Andover Homeowners' Association, Inc.

Anthony D. Kanagy, Esq.
Garrett P. Lent, Esq.
Post & Schell P.C.
17 N Second Street, 12th Fl.
Harrisburg, PA 17101-1601 akanagy@postschell.com
glent@postschell.com
Representing Intervenor Range Resources Appalachia

Erin McDowell, Esq.
3000 Town Center Blvd
Canonsburg, PA 15317
emcdowell@rangeresources.com
Representing Intervenor Range Resources Appalachia

Leah Rotenberg Esq.
Mays, Connard & Rotenberg LLP
1235 Penn Avenue, Suite 202
Wyomissing, PA 19610
rotenberg@mcr-attorneys.com
Representing Intervenor Twin Valley School District

Andrew D. H. Rau, Esq.
Ryan M. Jennings, Esq.
Matthew N. Korenoski
Unruh Turner Burke & Frees
P.O. Box 515
West Chester, PA 19381-0515
arau@utbf.com
rjennings@utbf.com
mkorenoski@utbf.com
Representing Intervenor West Whiteland Township

Mark L. Freed, Esq.
Curtin & Heefner LLP
Doylestown Commerce Center
2005 S. Easton Road, Suite 100
Doylestown, PA 18901
mlf@curtinheefner.com
jaw@curtinheefner.com
Representing Intervenors Uwchlan Township and County of Chester

James R. Flandreau, Esq.
Paul, Flandreau & Berger, LLP
320 West Front Street
Media, PA 19063
jflandreau@pfbllaw.com
Representing Intervenor Middletown School District

Melissa A. Lovett, Esq.
Delaware County Solicitor's Office
201 W. Front Street
Media, PA 19063
lovettm@co.delaware.pa.us
Representing Intervenor County of Delaware

Guy A. Donatelli, Esq.
Lamb McErlane PC
24 East Market Street
P.O. Box 565
West Chester, PA 19381
gdonatelli@lambmcerlane.com
Representing Intervenors Downingtown Area School District and Rose Tree Media School District

James C. Dalton, Esq.
Unruh Turner Burke & Frees, PC
P.O. Box 515
West Chester, PA 19381-0515
jdalton@utbf.com
Representing Intervenor West Chester Area School District

James J. Byrne, Esq.
Kaitlyn T. Searls, Esq.
McNichol Byrne & Matlawski, P.C.

1223 N. Providence Road
Media, PA 19063
jjbyrne@mbmlawoffice.com
ksearls@mbmlawoffice.com
Representing Intervenor Thornbury Township

Michael P. Pierce, Esq.
Pierce & Hughes, P.C.
17 Veterans Square
P.O. Box 604
Media, PA 19063
mpierce@pierceandhughes.com
Representing Intervenor Edgmont Township

Joseph O. Minott, Esq.
Alexander G. Bomstein, Esq.
Ernest L. Welde, Esq.
Kathryn Urbanowicz, Esq.
Clean Air Council
135 S. 19th Street, Suite 300
Philadelphia, PA 19103
joe_minott@cleanair.org
abomstein@cleanair.org
lwelde@cleanair.org
kurbanowicz@cleanair.org

Via First Class Mail:

Meghan Flynn
212 Lundgren Road
Lenni, PA 19052
Pro Se Complainant

Rosemary Fuller
226 Valley Road
Media, PA 19063
Pro Se Complainant

Melissa Haines
176 Ronald Road
Aston, PA 19014
Pro Se Complainant

Nancy Harkins
1521 Woodland Road
West Chester, PA 19382
Pro Se Complainant

Caroline Hughes
1101 Amalfi Drive
West Chester, PA 19380
Pro Se Complainant

LAMB MCERLANE PC

Dated: June 3, 2021

By: /s/ Guy A. Donatelli
Guy A. Donatelli
Attorney I.D. # 44205
gdonatelli@lambmcerlane.com
24 East Market Street,
P.O. Box 565
West Chester, Pennsylvania 19381-0565
(610) 701-4419
*Attorneys for Intervenor East Goshen
Township*