
WUC

Water Utility Council of the
PA-Section, American Water
Works Association (PA-AWWA)



GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

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AG Shapiro Charges Mariner East Developer with Environmental Crimes

*Homeowners Across Commonwealth
Impacted by Unreported Losses of Drilling Fluid,
Contaminated Drinking Water*

Attorney General Josh Shapiro, in conjunction with the 45th Statewide Investigating Grand Jury, today announced that the Office of Attorney General's Environmental Crimes Section has **charged** <https://www.attorneygeneral.gov/wp-content/uploads/2021/10/2021-10-05-Mariner-East-Presentment.pdf> Energy Transfer, L.P. (Energy Transfer), the corporate successor to Sunoco Pipeline LP., with 46 counts of environmental crimes for their conduct during the construction of the Mariner East 2 Pipeline.

Two additional counts were added, after the Grand Jury had concluded, bringing the total to 48 counts based on a criminal referral from Pennsylvania's Department of Environmental Protection.

"There is a duty to protect our air and water, and when companies harm these vital resources through negligence - it is a crime," said AG Shapiro. "By charging them, we can both seek to hold them criminally accountable and send a clear message to

others about how seriously we take protecting the environment and public health."

The Mariner East 2 Pipeline project crosses 17 counties in the southern tier of Pennsylvania. The Grand Jury learned that at many of the locations, Energy Transfer received permits that allowed horizontal directional drilling as the construction method. While constructing the pipeline, Energy Transfer repeatedly allowed thousands of gallons of drilling fluid to escape underground, which sometimes surfaced in fields, backyards, streams, lakes and wetlands.

Energy Transfer failed to report the losses of fluid to the Pennsylvania Department of Environmental Protection (DEP) numerous times, in spite of the legal requirement to do so. The Grand Jury found that there were multiple drill locations where the drilling fluid contained unapproved additives that entered the waters of the Commonwealth -- impacting the drinking water of Pennsylvanians who rely on water wells.

"Under our state laws, if convicted, this company will be sentenced to fines and restitution. There is no jail time for these environmental crimes, and fines are not enough. That's why we are, once again, calling for stronger laws to hold these companies accountable and protect Pennsylvanians' health, and demanding DEP toughen up the independent oversight we need them to provide for the industries they regulate."

In August 2020, early estimates said that 8,100 gallons of fluid spilled into Marsh Creek Lake in Chester County from an unintentional release. Later estimates have put that number much higher: between 21,000 to 28,000 gallons of contaminated fluid. In total, more than 80,000 gallons of this fluid were released in and around the lake during the construction of this one segment of the pipeline between 2017 and 2020.

Grand Jurors heard from homeowners who complained of dangerous impacts to their drinking water, and residents who reported incidents of grey and coffee-colored water after construction began near their homes.

"Pennsylvanians from impacted communities testified about thousands of gallons of drilling fluid being lost underground - groundwater and lakes, rivers, and streams contaminated. What they said was consistent: Energy Transfer started drilling, the fluid started leaking, their drinking water was impacted, DEP wasn't notified, and nobody was held criminally accountable. These charges are changing that, starting today," said AG Shapiro.

The Delaware County District Attorney's office was the first to refer this case to the Office of Attorney General and assigned a prosecutor from their Environmental Crimes Unit to work with our office on this case.

"Pennsylvania's criminal prosecutors have made it clear that the environment and our communities will be protected, using the tools that the criminal justice system offers. I have established a unit dedicated to Environmental Crimes prosecutions that have supported this investigation and we will continue the fight for environmental justice," said Delaware County District Attorney Jack Stollsteimer.

"We thank the Office of the Attorney General for their important work in holding Sunoco Pipeline L.P./ Energy Transfer accountable for these continuing and devastating environmental violations," said Chester County District Attorney Deb Ryan. "Although my office filed a civil complaint against these perpetrators to stop their egregious behavior, we made the referral to the Office of Attorney General to assist us with these

issues because of their vast resources and expertise in environmental law. We are grateful for our partnership in protecting the environment and the safety of our citizens."

During the Attorney General's announcement today, he highlighted one Pennsylvanian's story. Rosemary Fuller of Delaware County testified that she entered into an agreement with Energy Transfer to allow drilling on her land. The company promised that their work would be so minimal that it would go unnoticed. However, after construction on her property began, Fuller noticed sediment in her water that destroyed several appliances in her home. She reported it to Energy Transfer, and representatives told her the sediment that was in her water would not impact the safety of the water supply.

Several weeks later, testing revealed that she had high concentrations of e coli and fecal coliform in her water. Her daughter who lived in her home and had used their water had to be hospitalized. As of early this year, Ms. Fuller water contamination has not been resolved and she and her family are still facing issues with their drinking water which they use to bathe and do laundry.

The Grand Jury recommended that Energy Transfer be charged with 22 counts of Prohibition of Discharge of Industrial Waste under the Clean Streams Law; 22 counts of Prohibition Against Other Pollutions under the Clean Streams Law; two misdemeanor counts of Unlawful Conduct under the Clean Streams Law; and one felony count of Unlawful Conduct under the Clean Streams Law.

AG Shapiro also announced today that his office received a criminal referral from DEP regarding an incident in West Whiteland Township concerning Energy Transfer's utilization of a guided auger bore that led to the impact of a wetland and a nearby creek without permission from DEP.

This case is being prosecuted by Chief Deputy Attorney General Rebecca Franz. All charges are accusations and the defendant is innocent unless and until proven guilty.

Source: Attorney General Shapiro Press Release, 10/5/2021

EPA awards almost \$5 million to Pennsylvania to control polluted runoff, restore water quality

On October 4, 2021, the U.S. Environmental Protection Agency announced a \$4,978,200 grant to the Pennsylvania Department of Environmental Protection to improve water quality in rivers and streams throughout the state.

The grant is part of EPA's Nonpoint Source Implementation Grant Program, as outlined in Section 319 of the Clean Water Act, to control water pollution.

"With this funding, EPA supports the preservation and protection of Pennsylvania's water resources for communities throughout the state," said EPA Mid-Atlantic Acting Regional Administrator Diana Esher. "By working in partnership with Pennsylvania, we can reduce nonpoint source pollution and help ensure that all Pennsylvanians have clean water."

Nonpoint source pollution is caused when rainfall or snowmelt, moving over and through the ground, picks up and carries natural and human-made pollutants, depositing them into lakes, rivers, wetlands, coastal waters and groundwater.

Controlling nonpoint source pollution is especially important since one in three Americans get their drinking water from public systems that rely on seasonal and rain-dependent streams.

The projects funded with this grant focus on watersheds with water quality impairments caused by polluted run-off from nonpoint sources. Nonpoint source implementation projects include structural and non-structural best management practices, watershed planning, monitoring, technology demonstrations, and a variety of education/outreach programs.

Learn more about successful nonpoint source reduction projects at: <https://www.epa.gov/nps>

Source: EPA Press Release, 10/4/2021

DRBC Welcomes Elizabeth Koniers Brown as its Director, External Affairs and Communications

The Delaware River Basin Commission (DRBC) is pleased to announce that Elizabeth "Beth" Koniers Brown has joined the DRBC today as its new Director, External Affairs and Communications.

"Beth brings 15 years of experience and deep knowledge of the Delaware River Basin and the environmental field to her role at the Commission," said DRBC Executive Director Steve Tambini. "Her background working with government officials, as a publications editor and as an environmental issues attorney make her well suited to continue to engage and connect with the Commission's diverse stakeholders. We are excited to have her join our senior team."

Prior to assuming her DRBC duties, Brown led the National Audubon Society's Delaware River Watershed program, driving its significant growth and impact by bringing together public policy, on-the-ground conservation projects and community engagement.

"Over the years, I have worked with the DRBC on projects ranging from the healthy connections between birds and water to climate change," said Brown. "I am looking forward to now working alongside so many water resource professionals whose expertise and dedication I respect."

As DRBC's Director, External Affairs and Communications, Brown is responsible for developing, maintaining and leveraging DRBC relationships with key stakeholders, as well as developing and implementing the Commission's communications and outreach strategy. She holds a B.S. in biology from Muhlenberg College and a J.D. from The George Washington University Law School.

Brown is replacing Peter Eschbach, who is retiring from the Commission at the end of the month.

The DRBC is a federal/interstate government agency created in 1961 by concurrent compact legislation, marking the first time that the federal government and a group of states joined together as equal partners in a river basin planning, development and regulatory agency. The five Commission members are the governors of the Basin states (Delaware, New Jersey, New York and Pennsylvania) and the commander of the U.S. Army Corps of Engineers' North Atlantic Division, who represents the federal government.

To learn more about the Commission, please visit <http://www.drbc.gov/> or follow DRBC on Twitter at <https://twitter.com/DRBC1961>.

Source: DRBC Press Release, 10/4/2021

Commissioner John F. Coleman Jr. Elected PUC Vice Chairman

Coleman's Term as Vice Chairman to Continue Through 2022

On October 7, 2021, the Pennsylvania Public Utility Commission (PUC) announced the election of Commissioner John F. Coleman Jr. to serve as the next Vice Chairman of the PUC, serving in that position through 2022. The Commission vice chairman is selected annually by election among the Commissioners.

Vice Chairman Coleman is now in his third term on the PUC. He was first appointed in 2010 and previously served as Vice Chairman of the Commission from 2011 to 2015. During his tenure he has been nominated by three different governors- Governors Edward G. Rendell, Tom Corbett and Tom Wolf.

Vice Chairman Coleman is a member of the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas, and

an inaugural member of NARUC's Pipeline Safety Committee.

His commitment to public service also includes his current role as Vice Chairman of the Gas Technology Institute Public Interest Advisory Committee. He is also a member of the Pennsylvania Energy Development Authority Board of Directors.

Vice Chairman Coleman is a certified Economic Development Professional with a strong background in business and finance, capital formation, community and economic development, and business startup and expansion. His professional experience, in addition to his many years of service to the PUC, has made him a valuable resource to the organization.

Prior to joining the PUC, Vice Chairman Coleman served 12 years as the President and Chief Executive Officer of the nationally accredited Chamber of Business and Industry of Centre County, the largest member-based business organization in Central Pennsylvania. In that capacity, he also served as the President and Chief Executive Officer of the Centre County Industrial Development Corporation, an entrepreneurial development and business finance corporation.

Vice Chairman Coleman is a graduate of Saint Francis University and the United States Chamber of Commerce Institute of Organizational Management at Notre Dame.

About the PUC

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

Visit the PUC's website at <http://www.puc.pa.gov/> for recent news releases and video of select proceedings. You can also follow us on Twitter, Facebook, LinkedIn, Instagram and

YouTube. Search for the "Pennsylvania Public Utility Commission" or "PA PUC" on your favorite social media channel for updates on utility issues and other helpful consumer information.

Source: PUC Press Release, 10/7/2021

PUC Highlights Efforts to Safeguard Critical Systems During Cybersecurity Awareness Month

National Efforts Explore Cybersecurity Concerns and Collaborative Work to Address Global Cyber Threats to Utility Systems

On October 7, 2021, the Pennsylvania Public Utility Commission (PUC) recognized National Cybersecurity Awareness Month, a collaborative effort between government and industry to ensure that consumers have the resources to stay secure online while increasing national resilience against cyberthreats.

We all play a role in cybersecurity at home and at work, as emphasized by this year's national cybersecurity theme - Do Your Part, #BeCyberSmart - noted PUC Chairman Gladys Brown Dutrieuille.

The PUC encourages Pennsylvanians to participate in the Cybersecurity and Infrastructure Security Agency (CISA) and the National Cyber Security Alliance (NCSA) promotions and outreach. The campaign emphasizes the role each individual plays in online safety and stresses the importance of taking proactive steps to enhance cybersecurity at home and in the workplace.

This year CISA and NCSA are promoting the following cybersecurity themes:

- Be Cyber Smart (Week 1, October 4th - 8th)
- Fight the Phish! (Week 2, October 11th - 15th)
- Explore, Experience, Share (Week 3, October 18th - 22nd)
- Cybersecurity First (Week 4, October 25th - 29th)

Educational materials and tips

<https://www.cisa.gov/cisa-cybersecurity-resources> are available on the CISA website and everyone is encouraged to remain vigilant online. You can also use the hashtag #BeCyberSmart to promote your involvement in raising cybersecurity awareness.

Cyber Threats to Utilities

Chairman Dutrieuille also addressed the need for vigilance. Over the past year, we have seen significant cyber-attacks on the oil industry as demonstrated by the Colonial Pipeline incident, where cyber criminals locked out Information Technology systems that help direct fuel to the East Coast; and a water utility as was seen in the Oldsmar, Florida cyber incident where a cyber actor accessed the plant controls to change the bromine levels of the communities drinking water. These incidents prove the need for utilities to be proactive and take measures to secure their critical infrastructure.

Nationally, the President's Executive Order on Improving the Nation's Cybersecurity stresses proactive measures by critical infrastructure companies. To this end, CISA has created resources for utilities and other businesses, including:

- Information on Critical Infrastructure Security and Resilience <https://www.cisa.gov/cisa-cybersecurity-resources>
- Businesses and Critical Infrastructure <https://www.cisa.gov/businesses-and-critical-infrastructure>
- The Business Case for Security <https://www.cisa.gov/publication/business-case-security>

The PUC recommends that utilities use these guides to help them secure their critical infrastructure. Utilities can also reach out to the PUC's Office of Cybersecurity Compliance and Oversight if they would like assistance connecting with federal stakeholders to help them secure their critical infrastructure.

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Source: PUC Press Release, 10/7/2021

EPA Announces Appointment of Rod Snyder as EPA Agriculture Advisor

On October 7, 2021, U.S. Environmental Protection Agency (EPA) Administrator Michael S. Regan announced the appointment of Rod Snyder to become EPA's Agriculture Advisor. Snyder will lead outreach and engagement efforts with the agricultural community for EPA, working to advance the Biden-Harris environmental agenda for farmers and rural communities.

Snyder is nationally recognized for his leadership at the intersection of agricultural and environmental policy, and joins the Agency after serving as president of Field to Market: The Alliance for Sustainable Agriculture, the largest multi-stakeholder initiative working to advance the sustainability of commodity crop farming in the United States. In that role, he forged science-based consensus among stakeholders across the food and agriculture value chain on issues such as climate change, water quality, biodiversity, and pest management.

"Rod brings a wealth of experience and knowledge about how environmental issues intersect with agricultural stakeholders and rural communities," said Administrator Michael S. Regan. "It's going to take all of us working together to tackle the climate crisis, advance environmental justice and build a sustainable future, and Rod is well-suited to bring our partners into the Agency's work and ensure agricultural stakeholders have a seat at the table."

Prior to his time at Field to Market, Snyder worked for the National Corn Growers Association and CropLife America. As a longtime champion of agricultural solutions to climate change, he has previously organized farmer delegations to participate in UN Climate Summits in Paris and Copenhagen. In 2015, Snyder co-founded the Sustainable Agriculture Summit, which has grown to be the largest and most prominent annual sustainable agriculture conference in North America. Snyder holds a B.A. in Political Science from Eastern University in St. Davids, Pennsylvania. He resides on his family farm in Shenandoah Junction, West Virginia.

"I am honored to serve as EPA's Agriculture Advisor as we forge practical, science-based solutions that protect the environment and ensure a vibrant and productive agricultural system," said Rod Snyder. "America's farmers and ranchers are vital partners in achieving clean air and clear water, all while playing the critical role of delivering a healthy and secure food supply."

Source: EPA Press Release, 10/7/2021

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This newsletter provides general information, not legal advice as to any specific matter. It should not be used as a substitute for appropriate legal advice.