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# Pa. charges Energy Transfer with environmental crimes over Mariner East pipeline project

Susan Phillips



Kimberly Paynter / WHYY

A sign warns visitors to Marsh Creek Lake at the entrance of Marsh Creek Lake State Park in Chester County, Pa., where about 8,000 gallons of drilling mud spilled due to construction of the Mariner East pipeline.

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Matt Rourke / AP Photo

Pennsylvania Attorney General Josh Shapiro speaks during a news conference at Marsh Creek State Park in Downingtown, Pa., Tuesday, Oct. 5, 2021. Shapiro filed criminal charges Tuesday against the developer of a problem-plagued pipeline that takes natural gas liquids from the Marcellus Shale gas field to an export terminal near Philadelphia.

- [Read the grand jury's presentment](#)

Texas-based pipeline builder Energy Transfer faces 48 criminal charges related to construction of its Mariner East pipeline project, including a felony count of failing to report pollution.

A grand jury presentment dozens of pages long details [sinkholes < https://stateimpact.npr.org/pennsylvania/2018/03/09/its-crazy-man-sinkholes-sunocos-pipeline-inspection-stir-safety-fears-in-chester-county/>](https://stateimpact.npr.org/pennsylvania/2018/03/09/its-crazy-man-sinkholes-sunocos-pipeline-inspection-stir-safety-fears-in-chester-county/), drilling mud spills, and drinking water contamination at 22 sites in 11 counties across Pennsylvania.

State Attorney General Josh Shapiro announced the charges and released the report Tuesday at Marsh Creek State Park in Chester County, the site of a [summer 2020 spill of more than 21,000 gallons of drilling mud <](https://stateimpact.npr.org/pennsylvania/2020/08/12/paddle-protest-at-marsh-creek-lake-calls-for-mariner-east-shutdown/)

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“Corporations should not be treated leniently just because there’s not a mug shot of Energy Transfer being arrested today,” Shapiro said. “They should be held accountable to the fullest extent of the law.”

But Shapiro added that the fullest extent of the law as it currently stands is not enough.

“As these charges make clear, there’s a real wide gap between what our Constitution guarantees and the reality of families and communities in the path of this pipeline,” he said. “We can’t rely on these companies to police themselves — hell, they work for shareholders, not for us.”

Shapiro called on the state legislature to toughen enforcement standards and fines, and said the Department of Environmental Protection “at times failed” to protect residents.

He highlighted the testimony of Rosemary Fuller of Delaware County, whose daughter was hospitalized after drinking water contaminated by Energy Transfer’s pipeline construction. The company had told her nothing was wrong with the water, but testing revealed E. coli and fecal coliform bacteria. Fuller’s water has not been restored.

The grand jury also found the company used unapproved chemicals in its drilling mud.

DEP has already fined Energy Transfer, parent company of Sunoco Logistics, more than \$20 million for more than [120 violations that stretch along the 350-mile-long pipeline](https://stateimpact.npr.org/pennsylvania/tag/mariner-east-2/) < <https://stateimpact.npr.org/pennsylvania/tag/mariner-east-2/>>, which travels through 17 counties, crosses 2,700 properties, and cuts beneath 1,200 streams or wetlands. It carries volatile natural gas liquids from Marcellus Shale fields in Ohio and western Pennsylvania to the Marcus Hook industrial complex in Delaware County, Pa. Construction of the three-line project began in February 2017 but is more than two years behind schedule, and subject to a number of consent decrees resulting from citizen lawsuits.

## Mariner East 2





Scott Blanchard / StateImpact Pennsylvania

The map shows the Mariner East 2 pipeline's path across 17 Pennsylvania counties on its way to the Marcus Hook industrial complex in Delaware County, where the natural gas liquids it carries will be shipped overseas to make plastics. The map was built using state Department of Environmental Protection shapefiles of the route for which DEP issued permits. The line extends west into Ohio.

The remaining unfinished sections of pipe are in Delaware and Chester counties, where drilling through porous limestone, or karst, geology created dangerous sinkholes and led in one instance to a temporary shutoff of an operational line by the Pennsylvania Public Utility Commission.

Marsh Creek Lake State Park experienced a major spill, and construction remains on hold.

A drilling mud spill, or "inadvertent return" in industry parlance, occurred numerous times at Marsh Creek Lake beginning in June 2017. The mud is primarily bentonite clay, which is nontoxic to humans but can kill macroinvertebrates, or small aquatic life that provides food for larger fish. In August 2020, the company reported that "about 400 gallons escaped into Marsh Creek Lake," according to the grand jury report. In fact, the DEP calculated the contamination to be between 21,000 and 28,000 gallons.

Christina DiGiulio lives along Marsh Creek Lake and has spent the last four years documenting the construction through video and drone footage. She said she provided the Attorney General's Office with evidence.

"I know [Energy Transfer] under-reports," DiGiulio said. "I'm just glad this is coming out. We are the watchdogs. I'm not going to stop. I want to see the DEP pull the permits, and I want people's water returned to them."

Pipeline opponent and community organizer Ginny Kerslake said the charges announced Tuesday put the ball in DEP's hands.

“This is a culmination of our communities and residents organizing and documenting all these failures and impacts to our communities,” Kerslake said. “We know that there have been impacts in other communities across the commonwealth, but they are not as densely populated or connected to have their voices heard.”

Residents like Kerslake and DiGiulio say companies like Energy Transfer see fines as simply a cost of doing business. They have called on Gov. Tom Wolf to shut down the project. [Wolf has rejected that request < https://stateimpact.npr.org/pennsylvania/2019/08/22/wolf-tells-pipeline-activists-he-wont-shut-down-mariner-east/> .](https://stateimpact.npr.org/pennsylvania/2019/08/22/wolf-tells-pipeline-activists-he-wont-shut-down-mariner-east/)



Jon Hurdle / StateImpact Pennsylvania

Ginny Kerslake, an anti-pipeline activist, urged Gov. Tom Wolf to halt construction of the Mariner East pipelines in this August 2019 photo. Wolf said no.

Tuesday afternoon, a spokesperson for the Department of Environmental Protection defended its record in holding Energy Transfer accountable and said the agency was reviewing the charges to “determine if any additional actions” would be taken against the company.

“DEP has been consistent in enforcing the permit conditions and regulations and has held Sunoco LP accountable, collecting more

than \$20 million in civil penalties,” DEP press secretary Jamar Thrasher said in an email. “As noted by the attorney general, DEP has cooperated with this office and shared information as appropriate in several instances. Further, the governor has repeatedly called on the General Assembly to strengthen existing laws on permitting processes to hold permittees to the highest level of accountability.”

Energy Transfer did not respond Tuesday to requests for comment. It acknowledged in a recent earnings report that the attorney general has been looking at “alleged criminal misconduct involving the construction and related activities of the Mariner East pipelines.” The company said it was cooperating but that “it intends to vigorously defend itself.”

The company has paid millions of dollars in penalties for multiple violations of the state’s Clean Streams Law, which is the basis for the criminal charges announced

Tuesday. They include 22 counts related to the discharge of industrial waste, 22 counts of pollution, two misdemeanors, and the felony charge related to not

reporting pollution.

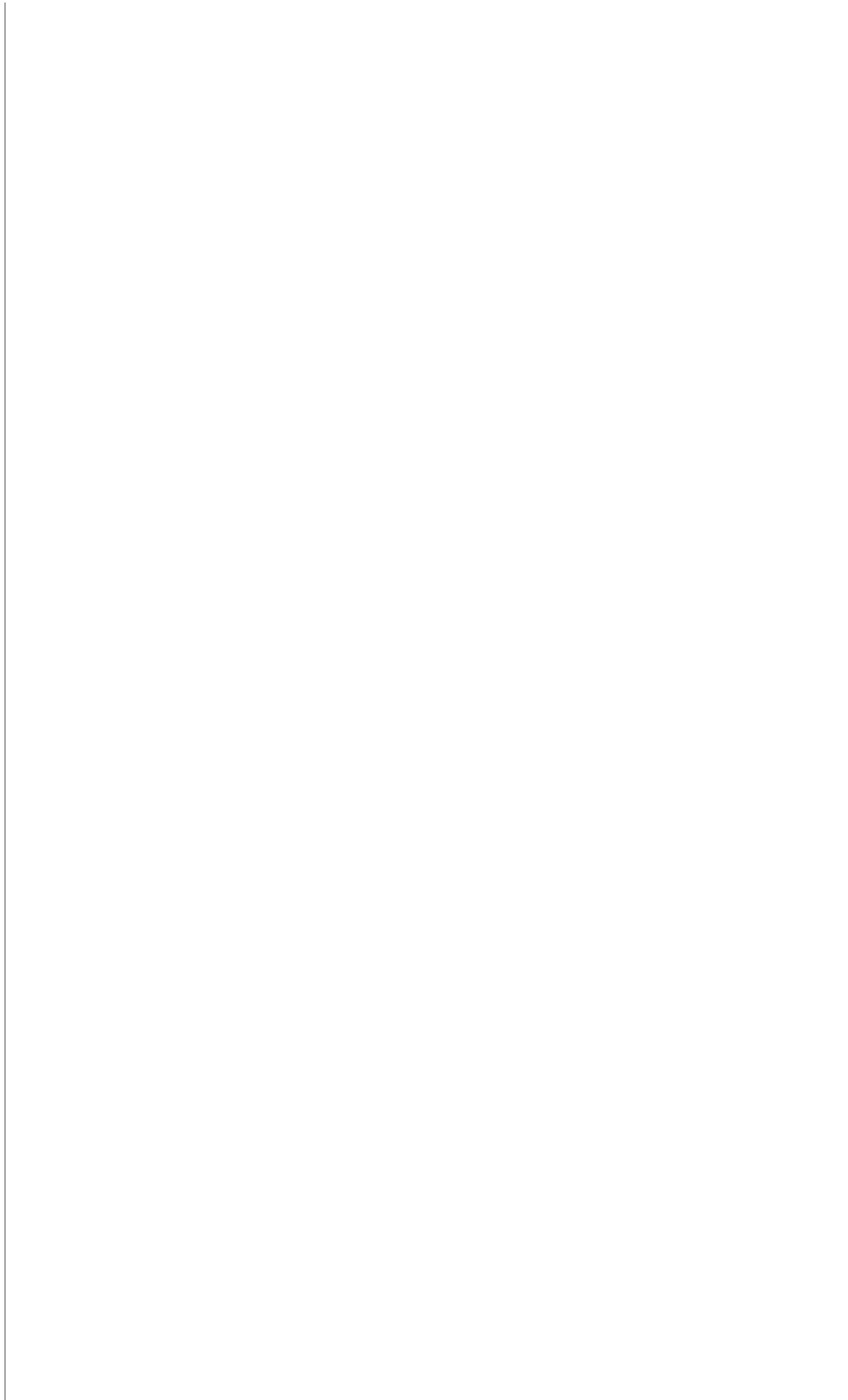
[Criminal charges lodged against companies are rare, < https://stateimpact.npr.org/pennsylvania/2020/06/19/pa-says-2-gas-drilling-companies-committed-environmental-crimes-heres-why-corporations-not-people-are-usually-charged/>](https://stateimpact.npr.org/pennsylvania/2020/06/19/pa-says-2-gas-drilling-companies-committed-environmental-crimes-heres-why-corporations-not-people-are-usually-charged/) and it's even less common to charge individuals.

Environmental regulations and enforcement are built around compliance; urging companies to follow the law based on violations, fines, consent decrees, and if that doesn't work, civil litigation.

The Attorney General's Office does not have the authority to pull permits.

The Public Utility Commission oversees safety of the line. A spokesman said the agency "will carefully review the information released" in the grand jury presentment.

*The Associated Press contributed to this story.*



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