

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-01760-TSC**

SUNOCO PIPELINE, L.P. v. U.S. DEPARTMENT OF
TRANSPORTATION et al
Assigned to: Judge Tanya S. Chutkan
Cause: 05:0706 Judicial Review of Agency Actions

Date Filed: 06/30/2021
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: U.S. Government Defendant

Plaintiff

SUNOCO PIPELINE, L.P.

represented by **Dabney Carr**
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V.

Defendant

**U.S. DEPARTMENT OF
TRANSPORTATION**

represented by **Stephen Ehrlich**
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Defendant

**PIPELINE AND HAZARDOUS
MATERIALS SAFETY
ADMINISTRATION**

represented by **Stephen Ehrlich**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

PETE BUTTIGIEG
*SECRETARY OF THE DEPARTMENT
OF TRANSPORTATION, IN HIS
OFFICIAL CAPACITY*

represented by **Stephen Ehrlich**
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ATTORNEY TO BE NOTICED

Defendant

TRISTAN BROWN
*ACTING ADMINISTRATOR OF THE
PIPELINE AND HAZARDOUS
MATERIALS SAFETY
ADMINISTRATION, IN HIS OFFICIAL
CAPACITY*

represented by **Stephen Ehrlich**
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Amicus

**CHAMBER OF COMMERCE OF
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ASSOCIATION OF OIL PIPE LINES

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**NATIONAL ASSOCIATION OF
MANUFACTURERS**

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Date Filed	#	Docket Text
06/30/2021	<u>1</u>	COMPLAINT for <i>Injunctive, Declaratory. and Other Relief</i> against All Defendants (Filing fee \$ 402 receipt number ADCDC-8569310) filed by SUNOCO PIPELINE, L.P.. (Attachments: # <u>1</u> Exhibit Exhibits A-T, # <u>2</u> Certificate of Service Certificate of Service, # <u>3</u> Civil Cover Sheet Civil Cover Sheet, # <u>4</u> Summons Summons – US Department of Transportation, # <u>5</u> Summons Summons – Pipeline and Hazardous Materials Safety Administration, # <u>6</u> Summons Summons – Pete Buttigieg, US Department of Transportation, # <u>7</u> Summons Summons – Tristan Brown, Pipeline and Hazardous Materials Safety Administration, # <u>8</u> Summons Summons – Merrick Garland, Attorney General of US, # <u>9</u> Summons Summons – Channing Phillips, US Attorney District of Columbia)(Machlin, Marc) (Entered: 06/30/2021)
07/01/2021	<u>2</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by SUNOCO PIPELINE, L.P. (Machlin, Marc) (Entered: 07/01/2021)
07/01/2021		NOTICE OF ERROR re <u>1</u> Complaint; emailed to marc.machlin@troutman.com, cc'd 7 associated attorneys --- The PDF file you docketed contained errors: 1. Missing/incorrect summonses. Please submit using the event Request for Summons to issue., 2. Please use the FOIA summonses at https://www.dcd.uscourts.gov/sites/dcd/files/Summons-FOIA_2013_FILL.pdf , 3. COMPLIANCE DEADLINE is by close of business today. This case will not proceed any further until all errors are satisfied. (zsb,) (Entered: 07/01/2021)
07/01/2021		Case Assigned to Judge Tanya S. Chutkan. (zsb) (Entered: 07/01/2021)
07/01/2021	<u>3</u>	ERRATA to <i>Plaintiff's Civil Cover Sheet</i> by SUNOCO PIPELINE, L.P. re <u>1</u> Complaint,,, filed by SUNOCO PIPELINE, L.P.. (Machlin, Marc) (Entered: 07/01/2021)
07/02/2021	<u>4</u>	SUMMONS (6) Issued Electronically as to TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(adh,) (Entered: 07/02/2021)
08/04/2021	<u>5</u>	NOTICE of Appearance by Dabney Carr on behalf of SUNOCO PIPELINE, L.P. (Carr, Dabney) (Entered: 08/04/2021)
08/18/2021	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 7/9/2021. Answer due for ALL FEDERAL DEFENDANTS by 9/7/2021. (Machlin, Marc) (Entered: 08/18/2021)
08/18/2021	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION served on 7/8/2021 (Machlin, Marc) (Entered: 08/18/2021)
08/18/2021	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. Merrick B. Garland served on 7/9/2021 (Machlin, Marc) (Entered: 08/18/2021)
08/18/2021	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. PETE BUTTIGIEG served on 7/16/2021 (Machlin, Marc) (Entered: 08/18/2021)
08/18/2021	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF TRANSPORTATION served on 7/20/2021 (Machlin, Marc) (Entered: 08/18/2021)
08/23/2021	<u>11</u>	Consent MOTION for Extension of Time to <i>Respond to the Complaint and Set Briefing Schedule</i> by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Attachments: # <u>1</u> Text of Proposed Order)(Ehrlich, Stephen) (Entered: 08/23/2021)
08/24/2021		MINUTE ORDER: Granting Consent <u>11</u> Motion to Extend Deadlines. Defendants' motion to dismiss shall be due 9/24/21. Plaintiff's opposition shall be due 10/15/21. Defendants' reply shall be due 10/29/21. Signed by Judge Tanya S. Chutkan on 8/24/21. (DJS) (Entered: 08/24/2021)

08/30/2021		Set/Reset Deadlines: Dispositive Motion due by 9/24/2021. Response to Dispositive Motion due by 10/15/2021. Reply to Dispositive Motion due by 10/29/2021. (tb) (Entered: 08/30/2021)
09/24/2021	<u>12</u>	MOTION to Dismiss by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit 1: Redacted NOPV, # <u>3</u> Text of Proposed Order)(Ehrlich, Stephen) (Entered: 09/24/2021)
10/15/2021	<u>13</u>	Memorandum in opposition to re <u>12</u> MOTION to Dismiss filed by SUNOCO PIPELINE, L.P.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Text of Proposed Order)(Carr, Dabney) (Entered: 10/15/2021)
10/20/2021	<u>14</u>	NOTICE of Request for Oral Hearing Pursuant to LCvR 7(f) by SUNOCO PIPELINE, L.P. re <u>12</u> MOTION to Dismiss (Carr, Dabney) (Entered: 10/20/2021)
10/22/2021	<u>15</u>	NOTICE of Appearance by John P Elwood on behalf of CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA (Elwood, John) (Entered: 10/22/2021)
10/22/2021	<u>16</u>	MOTION for Leave to File <i>Brief as Amicus Curiae</i> by CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Proposed Amicus Brief, # <u>2</u> Text of Proposed Order)(Elwood, John) (Entered: 10/22/2021)
10/22/2021	<u>17</u>	MOTION for Leave to File <i>Amicus Brief in Support of Plaintiff's Opposition to Defendant's Motion to Dismiss</i> by AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS, AMERICAN GAS ASSOCIATION, AMERICAN PETROLEUM INSTITUTE, ASSOCIATION OF OIL PIPE LINES, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA, NATIONAL ASSOCIATION OF MANUFACTURERS. (Attachments: # <u>1</u> Memorandum in Support Amicus Brief (exhibit A))(Lehotsky, Steven) Modified event title on 10/25/2021 (znmw). (Entered: 10/22/2021)
10/28/2021	<u>18</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>12</u> MOTION to Dismiss by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Attachments: # <u>1</u> Text of Proposed Order)(Ehrlich, Stephen) (Entered: 10/28/2021)
10/28/2021		MINUTE ORDER: Granting Consent <u>18</u> Motion for Extension of Deadlines. Defendants' Reply due 11/5/21. Signed by Judge Tanya S. Chutkan on 10/28/21. (DJS) (Entered: 10/28/2021)
11/02/2021		Set/Reset Deadlines: Reply due by 11/5/2021. (tb) (Entered: 11/02/2021)
11/05/2021	<u>19</u>	REPLY to opposition to motion re <u>12</u> MOTION to Dismiss filed by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Ehrlich, Stephen) (Entered: 11/05/2021)
12/03/2021	<u>20</u>	MOTION for Leave to File <i>Surreply in Opposition to Defendants' Motion to Dismiss</i> by SUNOCO PIPELINE, L.P.. (Attachments: # <u>1</u> Exhibit A (Proposed Surreply), # <u>2</u> Exhibit 1 to Proposed Surreply, # <u>3</u> Text of Proposed Order)(Carr, Dabney) (Entered: 12/03/2021)
12/17/2021	<u>21</u>	Memorandum in opposition to re <u>20</u> MOTION for Leave to File <i>Surreply in Opposition to Defendants' Motion to Dismiss</i> filed by TRISTAN BROWN, PETE BUTTIGIEG, U.S. DEPARTMENT OF TRANSPORTATION. (Ehrlich, Stephen) (Entered: 12/17/2021)
12/23/2021	<u>22</u>	REPLY to opposition to motion re <u>20</u> MOTION for Leave to File <i>Surreply in Opposition to Defendants' Motion to Dismiss</i> filed by SUNOCO PIPELINE, L.P.. (Carr, Dabney) (Entered: 12/23/2021)
12/25/2021	<u>23</u>	NOTICE OF SUPPLEMENTAL AUTHORITY by SUNOCO PIPELINE, L.P. (Attachments: # <u>1</u> Exhibit A)(Carr, Dabney) (Entered: 12/25/2021)

03/16/2022	<u>24</u>	NOTICE OF SUPPLEMENTAL AUTHORITY by SUNOCO PIPELINE, L.P. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Carr, Dabney) (Entered: 03/16/2022)
04/08/2022		MINUTE ORDER granting <u>16</u> Motion for Leave to File Brief as Amicus Curiae and <u>17</u> Motion for Leave to File Brief as Amicus Curiae. Signed by Judge Tanya S. Chutkan on 4/8/2022. (lcac) (Entered: 04/08/2022)
04/08/2022	<u>25</u>	AMICUS BRIEF by AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS, AMERICAN GAS ASSOCIATION, AMERICAN PETROLEUM INSTITUTE, ASSOCIATION OF OIL PIPE LINES, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA, NATIONAL ASSOCIATION OF MANUFACTURERS. (znmw) (Entered: 04/13/2022)
04/15/2022	<u>26</u>	AMICUS BRIEF by CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA. (Elwood, John) (Entered: 04/15/2022)
09/30/2022		MINUTE ORDER: Plaintiffs' <u>20</u> Motion for Leave to File Surreply is hereby GRANTED. In evaluating this motion, the court considers (1) "whether the movant's reply in fact raises arguments or issues for the first time," (2) "whether the non-movant's proposed surreply would be helpful to the resolution of the pending motion," and (3) "whether the movant would be unduly prejudiced were leave to be granted." Glass v. Lahood, 786 F. Supp. 2d 189, 231 (D.D.C. 2011). On balance, these factors weigh toward granting the motion. The first factor slightly favors Defendants. Plaintiffs are correct that Defendants' Motion to Dismiss focused on the inadequacy of Plaintiffs' allegations with respect to the Trade Secrets Act, ECF No. 12 at 6, but Defendants are correct that their Reply's discussion of the relationship between FOIA's Exemption 4 and the Trade Secrets Act was largely responsive to the arguments in Plaintiffs' Opposition, ECF No. 13 at 12-13. See Banner Health v. Sebelius, 905 F. Supp. 2d 174, 188 (D.D.C. 2012) (disfavoring surreply when reply does not expand the scope of issues beyond the opposition). However, the second and third factors weigh in Plaintiffs' favor. The additional discussion may be helpful to the court's understanding of the issue, and Defendants conclude (based on their belief that the surreply is "unhelpful and unnecessary") that it would not be prejudicial to them, see ECF No. 21 at 5. As a result, the court finds good cause to grant this motion. Signed by Judge Tanya S. Chutkan on 09/30/2022. (lcss) (Entered: 09/30/2022)
09/30/2022	<u>27</u>	SURREPLY to re <u>12</u> MOTION to Dismiss filed by SUNOCO PIPELINE, L.P.. (Attachment: # <u>1</u> Exhibit)(zjm) (Entered: 10/04/2022)
02/15/2023	<u>28</u>	NOTICE OF SUPPLEMENTAL AUTHORITY by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION (Ehrlich, Stephen) (Entered: 02/15/2023)
03/01/2023	<u>29</u>	RESPONSE re <u>28</u> NOTICE OF SUPPLEMENTAL AUTHORITY by SUNOCO PIPELINE, L.P. re <u>28</u> NOTICE OF SUPPLEMENTAL AUTHORITY (Carr, Dabney) Modified on 3/2/2023 to correct event/ add docket link (zjm). (Entered: 03/01/2023)
09/29/2023	<u>30</u>	MEMORANDUM AND OPINION re: Defendants' <u>12</u> Motion to Dismiss. Signed by Judge Tanya S. Chutkan on 9/29/2023. (lcb) (Entered: 09/29/2023)
09/29/2023	<u>31</u>	ORDER denying Defendants' <u>12</u> Motion to Dismiss. See Order for details. Signed by Judge Tanya S. Chutkan on 9/29/2023. (lcb) (Entered: 09/29/2023)
09/29/2023		MINUTE ORDER SETTING SCHEDULING CONFERENCE: A Scheduling Conference is hereby set for 11/08/23 at 11:00 am in Courtroom 9. No later than 11/06/2023 the parties shall file their joint Report of the Parties' Planning Meeting, pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Local Civil Rule 16.3. The Report shall include a proposed Scheduling Order in the format found on Judge Chutkan's court webpage, along with any proposed changes which shall be highlighted. On the same day that the parties file their Rule 26 report and proposed Scheduling Order, the parties shall also email a Word version of the proposed order to Chambers. When proposing deadlines, the parties shall avoid proposing a schedule that contains submission of simultaneous dispositive cross-motions. In addition to the requirements under the Federal and Local Rules, the parties' report shall contain a succinct summary of the case and the statutory basis for all causes of action and defenses. Counsel who attend the Scheduling Conference must be sufficiently familiar with the case to answer any questions which arise and hold the authority to make

		stipulations and admissions about all matters that can reasonably be anticipated for discussion. Parties are encouraged to attend but are not required to do so. Separate Reports will be stricken, sua sponte. Signed by Judge Tanya S. Chutkan on 9/29/2023. (lcb) (Entered: 09/29/2023)
10/04/2023		MINUTE ORDER: Pursuant to Fed. R. Civ. P. 60(a), the 09/29/23 MINUTE ORDER SETTING SCHEDULING CONFERENCE is hereby VACATED, due to clerical error. Defendant shall file an answer to the Complaint by October 13, 2023. Signed by Judge Tanya S. Chutkan on 10/04/2023. (lce) (Entered: 10/04/2023)
10/12/2023	<u>32</u>	Consent MOTION for Extension of Time to File Answer by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Attachments: # <u>1</u> Text of Proposed Order)(Ehrlich, Stephen) (Entered: 10/12/2023)
10/12/2023		MINUTE ORDER: GRANTING <u>32</u> Consent Motion for Extension of Time to File Answer. Answer due by 11/13/23. Signed by Judge Tanya S. Chutkan on 10/12/23. (lce) (Entered: 10/12/2023)
11/02/2023	<u>33</u>	Consent MOTION for Voluntary Remand and Stay by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Attachments: # <u>1</u> Text of Proposed Order)(Ehrlich, Stephen) Modified on 11/3/2023 to correct relief (zjm). Added MOTION to Stay on 11/3/2023 (zjm). (Entered: 11/02/2023)
11/02/2023	<u>34</u>	ORDER GRANTING <u>33</u> Motion for Voluntary Remand Stay. This case is hereby stayed pending further order of the court. Signed by Judge Tanya S. Chutkan on 11/02/23. (lce) (Entered: 11/02/2023)
11/02/2023		Case Stayed. (znbn) (Entered: 11/02/2023)
11/03/2023		MINUTE ORDER: The parties shall file Joint Status Report by 02/01/24 and every 90 days thereafter. To the extent that the parties request a change in the status quo, the report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 11/03/23. (lce) (Entered: 11/03/2023)
11/03/2023		Set/Reset Deadlines: Joint Status Report due by 2/1/2024. (znbn) (Entered: 11/03/2023)
02/01/2024	<u>35</u>	Joint STATUS REPORT by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Ehrlich, Stephen) (Entered: 02/01/2024)
05/01/2024	<u>36</u>	Joint STATUS REPORT by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Ehrlich, Stephen) (Entered: 05/01/2024)
07/30/2024	<u>37</u>	Joint STATUS REPORT by TRISTAN BROWN, PETE BUTTIGIEG, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION. (Ehrlich, Stephen) (Entered: 07/30/2024)