



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

NOTICE OF APPEAL

By filing this Notice of Appeal with the Environmental Hearing Board, you are choosing to initiate a legal proceeding that asks the Board to review an action of the Department of Environmental Protection. Please read the instructions appended to this form in their entirety and follow closely the rules governing filing a Notice of Appeal, located at 25 Pa. Code § 1021.51. Failure to follow Board rules and orders may result in the dismissal of your appeal.

Pages 1 through 3 of the following form and any required attachments must be received by the Environmental Hearing Board within 30 days after your receipt of notice of the action of the Department that you are appealing. You may mail, fax, or hand-deliver your Notice of Appeal to:

**ENVIRONMENTAL HEARING BOARD
Rachel Carson State Office Building – 2nd Floor
400 Market Street, P.O. Box 8457
Harrisburg, PA 17105-8457
Fax: (717) 783-4738**

You may wish to send your appeal to the Environmental Hearing Board by certified mail, return receipt, so that you know your appeal was received within the required time.

Attorneys may electronically file a Notice of Appeal at <http://ehb.courtapps.com/>



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NOTICE OF APPEAL FORM
APPEAL INFORMATION

1. Name, address, telephone number, and email address (if available) of Appellant:

Delaware Riverkeeper Network and Maya van Rossum, the Delaware Riverkeeper
925 Canal Street, Suite 3701
Bristol, PA 19007
215 369-1188 ext. 124

2. Describe the subject of your appeal:

(a) What action of the Department do you seek review?

(NOTE: If you received written notification of the action, you must attach a copy of the action to this form.)

The subject of the Appeal is the ratification via responses to public comment of Settlement Agreements concerning the Bishop Tube HSCA Site. The Settlement Agreements are the so called 1st Amended Prospective Purchaser Agreement ("PPA"), dated Jan. 22, 2007, and 2nd Amended Prospective Purchaser Agreement ("PPA"), dated June 4, 2010. The Response to Significant Public Comments Regarding the Prospective Purchaser Agreements between the Department and Constitution Drive Partners and the Public Comments are attached hereto as Exhibit "A." Other important document including the 2007 and 2010 PPAs are incorporated as attachments to Exhibit "B"

- (b) Which Department official took the action?

The Response to Public Comment was sent by Dustin Armstrong, Environmental Protection Specialist, Environmental Cleanup and Brownfields

- (c) What is the location of the operation or activity which is the subject of the Department's action (municipality, county)?

The Bishop Tube HSCA Site, located in East Whiteland Township, Chester County, PA

- (d) How, and on what date, did you receive notice of the Department's action?

On February 2, 2018, Appellants learned via a letter communication that on January 26, 2018, the Pennsylvania Department of Environmental Protection issued responses to



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comments regarding the so called 1st and 2nd Amended Prospective Purchaser Agreements, which constituted a final action, pursuant to Section 1113 of the Hazardous Sites Cleanup Act.

3. Describe your objections to the Department's action in separate, numbered paragraphs. *(NOTE: The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Attach additional sheets, if necessary.)*

Please see Exhibit "B" and attachments.

4. Specify any related appeal(s) now pending before the Board. If you are aware of any such appeal(s) provide that information.

none

**NOTICE OF APPEAL FORM
PROOF OF SERVICE**

In addition to filing this form with the Environmental Hearing Board, the Appellant *must* certify, by indicating below, how the Notice of Appeal was served on the Department under numbers (2) and (3) below, and where applicable, upon other interested parties indicated by numbers (4) and (5). Failure to do so may result in dismissal of your appeal. Please check the box indicating the method by which you served the following:

- | | | |
|--|------------|---|
| (1) Environmental Hearing Board
2 nd Floor Rachel Carson State Office Bldg.
400 Market St., P.O. Box 8457
Harrisburg, PA 17105-8457 | <i>via</i> | <input type="checkbox"/> first class mail, postage paid
<input type="checkbox"/> overnight delivery
<input type="checkbox"/> personal delivery
<input checked="" type="checkbox"/> electronic filing |
| (2) Department of Environmental Protection
Office of Chief Counsel
Attn: April Hain
400 Market Street, P.O. Box 8464
16 th Flr, Rachel Carson State Office Bldg.
Harrisburg, PA 17105-8464 | <i>via</i> | <input type="checkbox"/> first class mail, postage paid
<input type="checkbox"/> overnight delivery
<input type="checkbox"/> personal delivery
<input checked="" type="checkbox"/> electronic filing |
| (3) The officer of the Department
who took the action being appealed | <i>via</i> | <input checked="" type="checkbox"/> first class mail, postage paid
<input type="checkbox"/> overnight delivery
<input type="checkbox"/> personal delivery
<input type="checkbox"/> electronic filing |

Note to Attorneys who **electronically** file a Notice of Appeal: A copy is automatically served on the Department's Office of Chief Counsel. There is no need for you to independently serve the Department.

Additionally, if your appeal is from the Department of Environmental Protection's issuance of a permit, license, approval, or certification to another person, you *must* serve the following, as applicable:

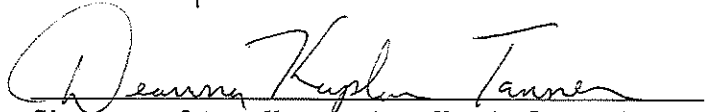
- | | | |
|--|------------|---|
| (4) The entity to whom the permit, license
approval, or certification was issued. | <i>via</i> | <input checked="" type="checkbox"/> first class mail, postage paid
<input type="checkbox"/> overnight delivery
<input type="checkbox"/> personal delivery |
|--|------------|---|

(5) Where applicable, any of the following:

- Any affected municipality, its municipal authority, and the proponent of the decision, where applicable, in appeals involving a decision under Sections 5 or 7 of the Sewage Facilities Act, 35 P.S. §§ 750.5, 750.7;
- The mining company in appeals involving a claim of subsidence damage or water loss under the Bituminous Mine Subsidence and Land Conservation Act, 52 P.S. § 1406.1 et seq.;
- The well operator in appeals involving a claim of pollution or diminution of a water supply under Section 3218 of the Oil and Gas Act, 58 Pa.C.S. § 3218;
- The owner or operator of a storage tank in appeals involving a claim of an affected water supply under Section 1303 of the Storage Tank and Spill Prevention Act, 35 P.S. § 6021.1303.

NOTICE OF APPEAL FORM
SIGNATURE PAGE

By filing this Notice of Appeal with the Environmental Hearing Board, I hereby certify that the information submitted is true and correct to the best of my information and belief. Additionally, I certify that a copy of this Notice of Appeal was served upon each of the individuals indicated on Page 2 of this form on the following date: 2/21/2018.


Signature of Appellant or Appellant's Counsel

Date: 2/21/2018

If you have authorized counsel to represent you, please supply the following information (*Corporations must be represented by counsel*):

Deanna Kaplan Tanner
Attorney Name (Type or Print)

925 Canal Street, Suite 3701
Bristol, PA 19007

Address

Telephone No.: 215 369 1188 ext. 124

Email: deanna@delawareriverkeeper.org

TDD users please contact the Pennsylvania Relay Service at 1-800-654-5984. If you require an accommodation or this information in an alternative form, please contact the Secretary to the Board at 717-787-3483.

Please see the attached Filing Instructions for additional information and requirements regarding the filing of this form.