



COMMONWEALTH OF PENNSYLVANIA  
ENVIRONMENTAL HEARING BOARD

**NOTICE OF APPEAL FORM**  
**APPEAL INFORMATION**

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

Elliott Company, Inc.  
901 N. 4th Street  
Jeannette, PA 15644-1474  
(724) 600-8265

2. Describe the subject of your appeal:

(a) What action of the Department do you seek to have the Board review (for example, a permit, license or order issued or denied by the Department, an assessment of a civil penalty or some other determination made by the Department)?

**Issuance of NPDES Permit No. PA0095176 (See Exhibit A)**

(b) Which Department official took the action (usually the person identified on any written notice that you received)?

**Christopher Kriley, P.E.**  
**Environmental Program Manager**  
**Southwest Regional Office**  
**Pennsylvania Department of Environmental Protection**  
**400 Waterfront Drive**  
**Pittsburgh, PA 15222-4745**

(c) What is the location of the operation or activity which is the subject of the Department's action (the municipality and/or county where the activity takes place or will take place)?

**Jeannette City, Westmoreland County**

(d) How, and on what date, did you receive notice of the Department's action? Please specify whether through public notice, a letter or email from the Department, or some other source.

**On June 26, 2025, by Email**

(e) Did you receive written notification of the Department's action (for example, letter, order or permit that you are appealing)? If yes, you **must** attach a copy of the notification to this Notice of Appeal. If you are appealing a permit, you may attach the first page rather than the

**NOTICE OF APPEAL FORM  
APPEAL INFORMATION, CONT.**

entire document. In lieu of attaching the document, you may provide a link to notice of the action in the *Pennsylvania Bulletin*. See filing instructions for further instruction.

**See Exhibit A, attached.**

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

**None**

4. Describe your objections to the Department's action in separate, numbered paragraphs. Rather than use the space on this form, you may type your objections on separate paper if you require more space. **NOTE:** The objections may be factual or legal and must be specific. It is important that you include **ALL** your objections in this section. Although you may be able to amend your appeal to add new objections, you may require permission of the Board to do so, and you may not be able to raise omitted objections later in the appeal process.

**See Exhibit B, attached.**



**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 <sup>nd</sup> 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
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(2) Department of Environmental Protection Office of Chief Counsel Attn: Administrative Officer 16 <sup>th</sup> Floor Rachel Carson State Office Bldg 400 Market Street, P.O. Box 8464 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
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(3) The officer of the Department who took the action being appealed	<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
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Note to Attorneys who **electronically** file a Notice of Appeal: A copy is automatically served on the Department's Office of Chief Counsel and officer who took the action. There is no need for you to independently serve the Department.

(4) 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:

The entity to whom the permit, license approval, or certification was issued.	<i>via</i>	<input type="checkbox"/> first class mail, postage paid <input type="checkbox"/> overnight delivery <input type="checkbox"/> personal delivery
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(5) Where applicable, you should also serve a copy of your appeal on any of the following:

- ☐ In appeals involving a decision under Sections 5 or 7 of the Sewage Facilities Act, 35 P.S. §§ 750.5, 750.7, any affected municipality, its municipal authority, and the proponent of the request, when applicable, and any municipality or municipal authority whose official plan may be affected by a decision of the Board in the appeal.
- ☐ A mining company, well operator, or owner or operator of a storage tank in appeals involving a claim of subsidence damage, water loss or contamination.



**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 3 of this form on the following date: July 24 , 2025

/s/ Lisa M. Bruderly  
Signature of Appellant or Appellant's Counsel

Date: July 24, 2025

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

Attorney Name (Type or Print)  
Lisa M. Bruderly  
Attorney No. 87484

Address  
Babst, Calland, Clements, & Zomnir, P.C.  
Two Gateway Center  
Pittsburgh, PA 15222

Telephone No.: (412) 394-6495

Email: [lbruderly@babstcalland.com](mailto:lbruderly@babstcalland.com)

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.

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



**EXHIBIT A**

**NPDES PERMIT NO. PA0095176**





3800-PM-BCW0011 Rev. 8/2021

Permit



Pennsylvania  
Department of  
Environmental Protection

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF CLEAN WATER

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE REQUIREMENTS FOR INDUSTRIAL WASTEWATER  
FACILITIES**

**NPDES PERMIT NO: PA0095176**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*,

Elliott Company, Inc.  
901 N 4th Street  
Jeannette, PA 15644-1474

is authorized to discharge from a facility known as Jeannette Facility, located in Jeannette City, Westmoreland County, to Unnamed Tributary to Brush Creek (TSF) and Unnamed Tributary of Brush Creek (TSF) in Watershed(s) 19-A in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B and C hereof.

THIS PERMIT SHALL BECOME EFFECTIVE ON AUGUST 1, 2025

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON JULY 31, 2030

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. (40 CFR 122.41(a))
3. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form. (40 CFR 122.41(b), 122.21(d)(2))

In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Discharge Monitoring Reports (DMRs), will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application. (25 Pa. Code §§ 92a.7(b), (c))

4. This NPDES permit does not constitute authorization to construct or make modifications to wastewater treatment facilities necessary to meet the terms and conditions of this permit.

DATE PERMIT ISSUED JUNE 26, 2025

ISSUED BY

Christopher Kriley, P.E.  
Environmental Program Manager  
Southwest Regional Office



## **EXHIBIT B**



## **EXHIBIT B TO NOTICE OF APPEAL**

Appellant Elliott Company, Inc. ("Elliott") appeals the June 26, 2025 issuance of National Pollutant Discharge Elimination System ("NPDES") Permit No. PA0095176 (the "Permit") by the Pennsylvania Department of Environmental Protection (the "Department") for the Elliott facility located in Jeannette, Pennsylvania (the "Facility"). Elliott objects to the issuance of the Permit as being unlawful, unreasonable, arbitrary, capricious, and/or an abuse of discretion, for reasons that include, but are not limited to, the following:

1. The Department provides no lawful basis to decrease the effluent limits for oil and grease ("O&G") for Outfalls 003 and 015 such that, three years after the effective date of the Permit, the daily maximum and monthly average O&G effluent limitations for both outfalls would decrease from 30 mg/l to 5.3 mg/l and from 15 mg/l to 5.1 mg/l, respectively.
2. The effluent limits for O&G at Outfalls 003 and 015 are inconsistent with Pennsylvania regulations and guidance and should be recalculated to reflect the allowable quantity of O&G in the non-process wastewater flow.
3. Any change to the O&G effluent limitations for Outfalls 003 and 015 is unreasonable, given that between the permit issued in 2002 and issuance of the renewed Permit, (a) there has been no change to 25 Pa. Code 95.2(2), regarding "oil-bearing wastewaters" and no appreciable change to the Facility's discharge; and (b) the O&G technology-based effluent limitations ("TBELs") of 25 Pa. Code 95.2(2) are more stringent than the effluent limitation guidelines ("ELGs") of 40 CFR Part 438, which was promulgated in the interim.
4. Decreasing the O&G effluent limitations for Outfalls 003 and 015 is arbitrary and unreasonable when the Facility has been meeting the existing limits of 30 mg/l daily maximum and 15 mg/l average monthly, which were calculated taking into account all process and non-process wastewater flow to the respective outfall.
5. Inputting 5.0 mg/l O&G (i.e., the O&G Target Quantitation Level ("QL")) for the non-process wastewater into the flow-weighted formula for both the monthly average and daily maximum concentrations of O&G effectively imposes an unsubstantiated Best Professional Judgment TBEL for the non-process wastewater.
6. The Department arbitrarily assumes that groundwater from the foundation sumps and secondary containment drainage, among other wastewater, have no detectable oil.
7. Elliott's identifying of "likely" oil-bearing wastewaters in Attachment 3 of Elliott's February 21, 2025 letter was unreasonably construed by the Department to definitively identify wastewater with O&G concentrations below 5.0 mg/l.
8. The Department inputting a 5.0 mg/l O&G concentration, based on the QL, for the non-process wastewater, is arbitrary, capricious, unreasonable and inconsistent with the Department's NPDES permits for similar types of non-process wastewater discharges, including general NPDES permits (with 30 mg/l O&G benchmarks) such as PAG-03 for stormwater discharges associated with industrial activity and PAG-10 for hydrostatic test





water. Several of the non-ELG waste streams would be regulated under these general permits, including stormwater from aboveground storage tank secondary containment, “uncontaminated groundwater,” and “foundation or footing drains where flows are not contaminated with process materials.”

9. The Department incorrectly conflates ELG-regulated waste streams from “oily operations,” as defined in 40 CFR 438.2(f), with the Department’s categorization of oil-bearing waste streams. The Department incorrectly calculates O&G effluent limitations in the flow-weighted formula by applying the O&G effluent limitations in 25 Pa. Code 95.2 to only the waste streams from “oily operations,” as defined in 40 CFR 438.2(f), while the QL is applied to all other waste streams.
10. Neither “oil-bearing” nor “non-oil bearing” is defined in the Department’s NPDES regulations.
11. O&G effluent limitations for Outfalls 003 and 015 should be calculated using a daily maximum concentration of 30 mg/l and a monthly average concentration of 15 mg/l for the non-process wastewater, which would result in a daily maximum limitation for O&G at Outfalls 003 and 015 of 30 mg/l and a monthly average limitation of 15 mg/l, consistent with the administratively extended permit.
12. Elliott reserves the right to amend this Notice of Appeal and/or assert additional grounds for appeal based on any other objections that may become known through discovery, changes in law, fact or pertinent circumstances, action by the Department, or otherwise.
13. The Department’s issuance of the Permit, with the identified O&G effluent limitations is otherwise arbitrary, capricious, unreasonable, and/or unlawful.