ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In re:	
Sterling Suffolk Racecourse, LLC	NPDES Appeal No. 15-12
NPDES Permit No. MA0040282	

ORDER DISMISSING PETITION FOR REVIEW

Sterling Suffolk Racecourse, LLC, ("Sterling Suffolk") filed a Petition for Review ("Petition") with the Environmental Appeals Board ("Board") requesting review of certain conditions of the National Pollutant Discharge Elimination System Permit ("Permit") issued by EPA Region 1 ("Region"). The Permit authorizes discharges into the Sales Creek and adjacent wetlands from Suffolk Downs, a horseracing facility located in Revere and East Boston, MA. Shortly after the Petition was filed, the parties informed the Board that they were actively involved in settlement discussions. The Board subsequently granted several joint requests by the parties to stay this matter so that those discussions could take place and required the parties to submit periodic status reports regarding progress toward settlement.

The parties have now informed the Board that they have reached a settlement agreement that resolves the Petition in its entirety. Specifically, the parties have agreed to the form and contents of a draft Permit modification, and the Region has agreed to publish the draft Permit modification and accept public comment in accordance with 40 C.F.R. § 124.19(j). In light of

this settlement agreement, Sterling Suffolk requests leave to withdraw the Petition, and the parties jointly request dismissal of the Petition pursuant to 40 C.F.R. § 124.19(k).

The Board first takes this opportunity to note that the parties filed the last two status reports late, and as to one of them, only after prompting by the Board that the report was past due. The Board directs the parties to comply with the Board's orders in any future appeals.

As to the parties' requests, allowing the Region to proceed with a draft permit modification will serve administrative efficiency. 40 C.F.R. § 124.19(n). Accordingly, the Board grants the request to withdraw the Petition, remands the Permit to the Region, and DISMISSES NPDES Appeal No. 15-12 with prejudice. Sterling Suffolk may file a petition for review with the Board under 40 C.F.R. § 124.19(a) challenging the Region's new permit decision after completion of the proceedings on remand, and it must do so if it wishes to preserve the option of seeking judicial review of the Region's new permit decision.[1]

So ordered.[2]

ENVIRONMENTAL APPEALS BOARD

Dated: July 12, 2016

By: Mary Beth Ward
Mary Beth Ward
Environmental Appeals Judge

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[1]The Board directs that an appeal to the Board following the Region's decision on remand is required to exhaust administrative remedies before EPA. 40 C.F.R. § 124.19(*l*)(2)(iii).

[2]The three-member panel deciding this matter consists of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward. 40 C.F.R. § 1.25(e)(1).

CERTIFICATE OF SERVICE

I certify that copies of the foregoing **Order Dismissing Petition for Review** in the matter of Sterling Suffolk Racecourse, LLC, NPDES Appeal No. 15-12, were sent to the following persons in the manner indicated:

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Dated: July 22, 2016

Annette Duncan
Secretary, Environmental Appeals Board