

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

In re:

STERLING SUFFOLK RACECOURSE, LLC,

NPDES Permit No. MA0040282

**AFFIDAVIT OF MICHAEL VHAY**

I, Michael D. Vhay, affirm under oath as follows:

1. I am a shareholder in the law firm of Ferriter Scobbo & Rodophele, PC, located at 125 High Street, Boston, MA 02110. Ferriter Scobbo has been retained on behalf of Sterling Suffolk Racecourse, LLC ("Suffolk").
2. I submit this affidavit in support of Sterling Suffolk Racecourse, LLC's Petition for Review to the Environmental Appeals Board and to the Massachusetts Department of Environmental Protection.
3. I make the following statements based upon my personal knowledge.
4. I received Suffolk's final permit authorization to discharge under the National Pollutant Discharge Elimination System for Sterling Suffolk Racecourse, LLC on October 5, 2015.
5. The envelope in which I received the final permit is postmarked October 2, 2015.
6. By letter dated June 16, 2008, I submitted to the Environmental Protection Agency Suffolk's interim pollution prevention measures plan. A true and correct copy of the plan is attached as Exhibit A hereto.
7. Suffolk implemented the interim pollution prevention measures plan in June 2008.

4th I declare under penalty of perjury that the foregoing is true and correct. Executed on the day of November, 2015.

  
\_\_\_\_\_  
Michael D. Vhay

**EXHIBIT**

**A**

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June 16, 2008

**By Electronic and Regular Mail**

Mr. Todd J. Borci  
U.S. Environmental Protection Agency  
One Congress Street, Suite 1000 (SEW)  
Boston, MA 02114

Re: In the Matter of Sterling Suffolk Racecourse, LLC, EPA Docket No. 08-015  
Interim Measures Plan

Dear Mr. Borci:

Pursuant to Paragraph IV(7) of the Administrative Order dated May 2, 2008 in the above-referenced matter (the "Order"), enclosed please find Sterling Suffolk Racecourse, LLC's ("Suffolk") proposed Interim Pollution Prevention Measures (the "IPPM"). Suffolk's preparation of the IPPM has benefited from the meeting that our team had with you and Man Chak Ng on June 12, 2008. We thank you again for your thoughts on the ways that Suffolk can minimize and/or prevent the discharge of pollutants from its facilities.

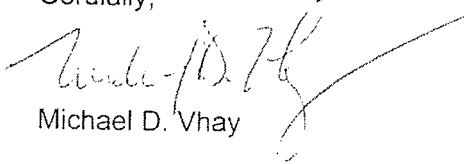
Suffolk believes that its IPPM meets Paragraph IV(7)'s requirement of preventing or achieving "maximum reductions in the discharge of pollutants from the Facility in the period before an NPDES permit is issued...." Suffolk nevertheless welcomes any comments or suggestions that the Agency may have for improving the IPPM. Suffolk also intends to update the IPPM monthly in connection with the preparation and submission of its discharge reports pursuant to Paragraph IV(5) of the Order. Suffolk thus expects that the enclosed IPPM will be improved as the track and its consultants develop better information about discharge patterns at Suffolk's facilities.

On a separate, but related, note, you shortly will be receiving by separate cover a request for an extension pursuant to 40 C.F.R. § 124.52(b) of the deadline for Suffolk to file a NPDES

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application. The grounds for that request will be more fully explored in that letter. In the meantime, if you wish to discuss the enclosed IPPM, do not hesitate to call me.

Cordially,



Michael D. Vhay

Enclosure (as stated)

cc: Mr. Kevin Brander, P.E. (Massachusetts DEP)  
Man Chak Ng, Esq. (US EPA)  
Mr. John Rizzo (Sterling Suffolk)  
Mr. Steven Pini (Sterling Suffolk)

### **Mortality Handling Management Practices**

1. Install berm to enclose the forth side of the mortality holding area. (This has been completed.)
2. Require immediate tarping of mortalities. (This process has already been enacted.)
3. Require removal of mortalities within 24 hours. (This process has already been enacted.)
4. Construct and/or install roof/tent over mortality holding area within 30 days of EPA approval of the Interim Pollution Prevention Measures Plan (IPPMP).

### **Manure/Bedding Handling Management Practices**

1. Add labels to the temporary manure dumpsters requiring stating that manure dropped on the ground must be cleaned up and placed in the dumpsters. (This measure has already been implemented.)
2. Sweep roadways within the stable area three times per week. (This measure has already been implemented.)
3. Place dumpster in the grain-storage area and require the operators of the grain-storage trucks to keep area clean. (This measure has already been implemented.)
4. Suffolk Downs personnel to clean (raking/sweeping) one quarter of the stable area on a daily basis. (This measure has already been implemented.)
5. Inspect temporary manure dumpsters on a daily basis for punctures and if punctures are observed immediately remove dumpster from service and repair. (This measure has already been implemented.)
6. Inspect temporary manure dumpsters during wet weather for leaks and if leaks are present immediately remove dumpster from service and repair. (This measure has already been implemented.)
7. Install containment berms around temporary manure holding dumpsters.
  - a. Develop designs for the berm structures within 30 days EPA approval of the IPPMP.
  - b. The schedule for construction of the berms will be provided within 30 days of the development of the design standards.
8. Require the manure trailer to be covered while on site, while not actively being filled, as well as during transport, by June 30, 2008.
9. Require that wheelbarrows and muck buckets be covered during transport to the temporary manure dumpsters, by June 30, 2008.

### **Wash Water and Storm Water Management Practices**

1. Revise the Outfall Daily Visual Monitoring Logs to include a comment section. (This measure has been implemented.)
  - a. During daily visual monitoring, if a discharge is observed, track personnel shall attempt to identify the source, address if possible, and note identification and correction efforts in the daily monitoring log. (This measure has been implemented.)
2. Develop an identification system for catch basins, and revise the daily monitoring location figures to include the identifications, by June 27, 2008.
3. Install standard filter fabric catch basin inserts, such as Silt Sack, by June 30, 2008.

4. Obtain product data sheets for catch basin filter insert media, such as Ultra Urban Filter by AbTech Industries, and determine applicability for treating pollutants of concern within 30 days of EPA approval of the IPPMP.
  - a. If applicable, install filter media within 30 days of the determination of applicability.
5. Designate areas for and construct bermed crushed stone pads for temporary horse washing locations within 30 days of EPA approval of the IPPMP. These areas will not be constructed over impervious areas.
  - a. Once each temporary location is built, Suffolk Downs will disconnect and prohibit further use of hoses in all nearby areas that are outside of designated washing locations.
6. Initiate conceptual design effort for constructing horse wash locations within covered stables and directing wash water to the sanitary sewer system within 30 days of EPA approval of the IPPMP.
  - a. Complete conceptual design effort within 30 days of initiation.
  - b. Design and commence permitting effort within 30 days of completion of conceptual design effort.
  - c. If permit is obtained, finalize design of horse wash locations within 30 days of receiving permit.
  - d. Commence construction of horse wash location(s) and sanitary sewer connection(s) within 30 days of the completion of final design. (Completion deadline for construction of horse wash location(s) and sanitary sewer connection(s) to be determined after final design is completed and construction contract is awarded.)

#### **Other Management Practices**

1. Place notice on daily track report (which is circulated to all horse owners) stating the track's anti-pollution policies and requirements. (This measure has already been implemented.)
2. On a daily basis, announce over the public address system that the track has implemented anti-pollution policies and requirements, and direct all owners to review and adhere to them. (This measure has already been implemented.)
3. Revise pollution prevention rules to include specific daily instructions for owners, stable workers, and track personnel, by June 30, 2008.
  - a. Revised rules will be in English and Spanish.
  - b. Revised rules will include enforcement policies:
    - i. Verbal warning for the first offense.
    - ii. Written warning and mandatory retraining for the second offense.
    - iii. Fine for any third and subsequent offense.
  - c. Revised rules to be presented at a mandatory track-wide training session by July 15, 2008. Additional mandatory training sessions to be given quarterly for new track personnel, owners and stable personnel.