

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

In re:)
)
Sterling Suffolk Racecourse, LLC)
)
NPDES Permit No. MA0040282)
)

SECOND AFFIDAVIT OF KENNETH DESHAIS

I, Kenneth Deshais, affirm under oath as follows:

1. I am a Senior Project Scientist with Tetra Tech. Tetra Tech has been retained on behalf of Sterling Suffolk Racecourse, LLC ("Suffolk Downs" or "Suffolk") to, among other things, assess and design systems to address surface water discharges for the stables and portions of the racetrack known as Suffolk Downs in East Boston and Revere, Massachusetts.
2. I submit this affidavit in support of Suffolk's Petition for Review of the National Pollutant Discharge Elimination System ("NPDES") Permit, No. MA0040282 (the "Permit"), issued to Suffolk by EPA New England, Region 1 ("EPA") and the Massachusetts Department of Environmental Protection ("MassDEP").
3. I make the following statements based upon my personal knowledge and review of documents associated with the project.
4. I have reviewed Part I.A.3 of the Permit. Part I.A.3 requires Suffolk to perform monthly dry-weather testing of Outfalls 001-011 for Nitrate/Nitrite, Total Polychlorinated Biphenols (PCBs), Total Petroleum Hydrocarbons (TPH), Cyanide (Total CN), Antimony, Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Selenium, Silver, Zinc, Iron, Total BTEX (sum of benzene, toluene, ethyl benzene and total xylenes), Total Group I PAHs, Total Group II PAHs, Ammonia/ Ammonium, Ethylene Dibromide (EDB), DDD, DDE, DDT, Total Phenol, and Total Phthalates.
5. I have supervised Suffolk's discharge-testing programs since 2008, and have personally monitored Suffolk's outfalls. I do not anticipate any dry-weather discharges from NPDES Outfalls 001, 002 and 007. The Permit also provides that dry-weather sampling at Outfall 011 satisfies Suffolk's obligations to sample Outfalls 008, 009 and 010 during dry weather.

6. Monthly dry-weather sampling likely will be needed in all twelve months at Outfalls 003, 004, 005, 006, 006A and 011. I estimate the cost of sampling these six outfalls, twelve times yearly, for the 29 parameters listed in ¶ 4 above to be \$90,600, comprised of approximately \$14,000 in labor and miscellaneous costs and approximately \$76,600 in laboratory costs.
7. I also have reviewed Part I.A.10 of the Permit. Part I.A.10 of the Permit requires Suffolk, within 6 months of the effective date of the permit, to submit to EPA "a proposed monitoring plan [the "Offsite Plan"] for evaluating the extent of [Suffolk's] contributions to outfalls 003 and 006 prior to these flows co-mingling with off-site and/or unregulated flows. The monitoring plan shall include, at a minimum, specific monitoring locations, parameters, and frequency of monitoring."
8. The "off-site" flows to outfalls 003 and 006 come from municipal separate storm sewer systems ("MS4s") operated by the City of Revere (the "City") and the Massachusetts Department of Conservation and Recreation ("DCR"). Such flows are regulated by the Massachusetts MS4 general permit. I am not aware of any "unregulated flows" entering outfalls 003 and 006.
9. In order to prepare the Offsite Plan, Suffolk first must identify appropriate sampling locations on the MS4 drain lines leading to outfalls 003 and 006. The identification process would include dye testing of those lines. The most appropriate locations to perform such testing would be on City or DCR catch basins and/or manholes, which are within City or DCR roadways. Such testing would require not only testing personnel but also police details. Such testing also would require the permission of the City and/or DCR.
10. I estimate the cost of preparing the Offsite Plan to be approximately \$7,500. That estimate includes the cost of performing the testing described in ¶ 6 above. The estimate does not include the expense of obtaining DCR and/or City permits for that testing. The estimate also does not include the cost of implementing the Offsite Plan.

I declare that under penalty of perjury that the foregoing is true and correct.

Executed on this 3 day of November, 2015.



Kenneth Deshais