



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

VIA ELECTRONIC FILING

December 15, 2015

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

RE: Sterling Suffolk Racecourse, LLC
NPDES Permit appeal No. 15-12; NPDES Permit No. MA0040282

Dear Ms. Durr:

Please find a Joint Status Report and Motion to Continue the Current Stay of the Proceedings, and accompanying Certificate of Service, in connection with NPDES Appeal No. 15-12.

Sincerely,

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Enclosures

Cc: Michael D. Vhay, Esq.
Valerie A. Moore, Esq.

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

_____)	
In the Matter of:)	
)	
Sterling Suffolk)	
Racecourse, LLC)	NPDES Appeal No. 15-12
)	
NPDES Permit No. MA0040282)	
)	
_____)	

**JOINT STATUS REPORT AND MOTION TO CONTINUE THE CURRENT
STAY OF THE PROCEEDINGS**

Region 1 of the United States Environmental Protection Agency (“Region”) and Sterling Suffolk Racecourse, LLC (“Suffolk”) are providing a joint status report on their ongoing efforts to settle this matter and respectfully request that the Environmental Appeals Board (“Board”) extend the stay of proceedings in this matter in order to allow the parties an additional sixty (60) days to complete settlement negotiations. The grounds for this motion are discussed below.

1. Background

On November 4, 2015, Suffolk filed a Petition for Review with the Board requesting review of certain conditions of a National Pollutant Discharge Elimination System (“NPDES”) permit issue by the Region authorizing discharges from Suffolk Downs, a horseracing facility located in Revere and East Boston, MA, into a receiving water named Sales Creek and adjacent wetlands.

On November 12, 2015, Suffolk and the Region filed a joint motion requesting the Board to stay proceedings in the case to allow the parties to pursue settlement discussions. The Board granted the motion, ordering the parties to file a joint status report by December 16, 2015, and staying the proceedings until January 15, 2016. See *Order Granting Joint Motion to Stay Proceedings* (November 16, 2015).

II. Status Report

Suffolk and the Region have been engaged in an exchange of information and settlement positions that included a meeting between representatives of the two parties to discuss the issues on appeal in mid-November. Since that meeting, Suffolk's engineer has been working to assemble information necessary for Suffolk to develop a written proposal to submit to the Region for resolving these issues. At the EPA's request, Suffolk drafted an initial written proposal and provided it to the EPA, on December 10, 2015. In addition, Suffolk's engineer is assembling supporting data for Suffolk's proposal.

The Region is reviewing Suffolk's proposal, and will need to review the supporting data to be provided by Suffolk. When this review is completed, the Region will provide a response to Suffolk. It is likely that there will be a need for further discussion and additional exchanges of information between the parties before agreement can be reached. Resolution of these issues is likely to be further delayed due to holiday schedules and other commitments.

III. Grounds for Extension of Stay

The parties are materially progressing toward a negotiated resolution of the appeal. Although the parties are not yet in a position to ascertain whether they will ultimately be able to resolve the issues on appeal through settlement, the discussions to

date have been constructive and the parties share an interest in arriving at a negotiated agreement, if possible. Accordingly, Suffolk and the Region respectfully request that the Board stay the above-captioned matter to provide the parties with additional time to conclude negotiations, taking into account the technical complexity of the issues on appeal and the difficulty of coordinating schedules during the holiday season. The parties request that the Board stay the proceedings for an additional sixty (60) days from January 15, 2016, to March 15, 2016. Under the proposed schedule, the parties would file a joint status report with the Board by no later than February 15, 2016. At that time, the parties will either inform the Board of the expected timeframe for concluding settlement discussions and dismissing the appeal or will request the Board to lift the stay and establish a new deadline for the Region to file its Response and certified index.

CONCLUSION

For these reasons, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order staying the proceedings for an additional sixty (60) days.

Dated: December 15, 2015

Respectfully submitted,

U.S. EPA – Region 1

Sterling Suffolk Racecourse, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Status Report and Motion to Continue the Current Stay of the Proceedings, in connection with Sterling Suffolk Racecourse, LLC, NPDES Appeal No. 15-12, was sent to the following persons in the manner indicated:

By Electronic Filing:

Ms. Eurika Durr
Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
U.S. EPA East Building, Room 3334
Washington, DC 20004

By electronic mail, by agreement between the parties:

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Dated: December 15, 2015 _____

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