



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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**DEC 04 2015**

John Rizzo, Chief Financial Officer  
Sterling Suffolk Racecourse, LLC  
111 Waldemar Avenue  
East Boston, MA 02128

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**

**Notice of Uncontested and Severable Conditions  
NPDES Permit Appeal No. 15-12; NPDES Permit No. MA0040282**

Dear Mr. Rizzo:

In connection with Sterling Suffolk Racecourse, LLC's Petition for Review of National Pollutant Discharge Elimination System ("NPDES") Permit No. MA0040282, issued to Sterling Suffolk Racecourse, LLC on September 30, 2015, Region 1 of the United States Environmental Protection Agency ("EPA") is providing notice of uncontested and severable permit conditions in accordance with 40 C.F.R. §§ 124.16 and 124.60.

1. Notice of Contested Conditions

On November 4, 2015, Petitioner timely petitioned EPA's Environmental Appeals Board ("EAB") for review of the permit. Petitioner specifically contested:

- (1) Effluent limitations and monitoring requirements applicable to outfalls 003, 006 and 006a (Part I.A.2.a.1.);
- (2) Dry weather monitoring program (Part I.A.3.); and
- (3) Requirement for Suffolk to propose a plan for evaluating the extent of its contributions to outfalls 003 and 006 prior to those flows comingling with offsite and/or unregulated flows (Part I.A.10).

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See Petition at 1. These conditions are collectively referred to as the "Contested Conditions."

2. Notice of Uncontested and Severable Conditions

When a permit appeal is filed, EPA must issue a notification identifying which permit conditions are stayed as a result of the appeal and which permit conditions will go into effect. See 40 C.F.R. §§ 124.16(a)(2)(i) and (ii). While a permit appeal is pending, the contested permit conditions are stayed. *Id.* § 124.16(a)(1). Uncontested permit conditions that are "inseverable" from contested conditions are also considered to be contested and are stayed. *Id.* §§ 124.60(b)(4), 124.16(a)(2)(i). To the extent conditions of the permit are stayed, existing permit holders must comply with the conditions of the existing permit that correspond to the stayed conditions. *Id.* § 124.16(c)(2). Uncontested permit conditions that are severable from contested conditions are not stayed and become enforceable conditions of the permit. *Id.* § 124.16(a)(2)(i) and (ii).

Other than the Contested Conditions, EPA has determined that the other conditions of the permit are uncontested and severable, and accordingly will become fully effective and enforceable thirty (30) days from receipt of this notice.

If you have any questions regarding this notice, please contact Samir Bukhari of the Office of Regional Counsel at (617) 918-1095.

Sincerely,

H. Curtis Spalding  
Regional Administrator  
US EPA-Region 1

- cc: Mr. Michael D. Vhay, Esq, FERRITER SCOBBO & RODOPHELE, PC
- Ms. Valerie A. Moore, Esq, FERRITER SCOBBO & RODOPHELE, PC
- Neil Handler, EPA
- Diane Boisclair, EPA