



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

VIA ELECTRONIC FILING

June 3, 2016

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 Fourth Joint Status, and accompanying Certificate of Service, in connection with NPDES Appeal No. 15-12.

Sincerely,

George Utting
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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)	
)	
_____)	

FOURTH JOINT STATUS REPORT

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 with the Environmental Appeals Board (“Board”). This status report is consistent with the Board’s Third Order Granting Joint Motion to Continue the Current Stay of Proceedings, issued on April 5, 2016. The status of the parties’ settlement negotiations is 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 issued 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 16, 2015, the Board granted the parties' request to stay proceedings in order to allow the parties to pursue settlement discussions. See *Order Granting Joint Motion to Stay Proceedings* (November 16, 2015).

On December 18, 2015, the parties filed a Joint Status Report and Motion to Continue the Current Stay of the Proceedings, in which the parties described the status of the settlement negotiations requested additional time to review data and for further exchanges of information. The Board extended the stay until March 15, 2016 and directed the parties to file a status report, including a discussion of next steps, by February 16, 2016. See *Order Granting Joint Motion to Continue the Current Stay of Proceedings* (December 18, 2015).

On February 12, 2016, the parties filed a Joint Status Report and Motion to Further Continue the Stay of Proceedings, in which the parties reported on the progress of the settlement negotiations and requested additional time to complete these negotiations. The Board extended the stay until April 29, 2016 and directed the parties to file a status report, including a discussion of next steps, by March 29, 2016. See *Second Order Granting Joint Motion to Continue the Current Stay of Proceedings* (February 19, 2016).

On March 29, 2016, the parties submitted a Third Joint Status Report and Motion to Further Continue the Stay of Proceedings, in which the parties reported that they have reached an agreement in principle to settle all of the issues raised by Suffolk in its appeal, as well as a number of additional issues, and that they intend to implement the settlement through a proposed permit modification. The parties requested that the Board extend the stay of proceedings for an additional 120 days, and included a schedule for completing their negotiations. In addition the parties proposed a schedule for status reports to update

the Board on their progress. The Board granted the parties' request to further extend the stay and set a schedule for joint status reports to be filed with the Board. See *Third Order Granting Joint Motion to Continue the Current Stay of Proceedings* (April 5, 2016).

II. Status of Negotiations

Suffolk and the Region have exchanged communication on several successive drafts of the proposed modifications to the permit and the draft fact sheet in support of the permit modification. Copies of the draft permit modifications and draft fact sheet are currently being reviewed by Suffolk to ensure that the documents accurately reflect the terms of the settlement agreed to by the parties. The parties anticipate that this stage of the process will be completed by June 10.

III. Next Steps

Once the parties agree to the permit modifications in the draft documents, the drafts of the modified permit and fact sheet will need to be reviewed by the Massachusetts Department of Environmental Protection ("MassDEP"). When the agencies' reviews are complete, Suffolk will have an opportunity for final review and concurrence. The Region will then need to prepare the draft permit modification package for public notice and comment. The parties anticipate that these steps will occur in accordance with the schedule provided to the Board in Third Joint Status Report and Motion to Further Continue the Stay of Proceedings.

Dated: June 3, 2016

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 Fourth Joint Status Report, 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: June 3, 2016 _____

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