



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

VIA ELECTRONIC FILING

July 7, 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 Petitioner's Assented-To Motion for Leave to Withdraw Its Petition and Joint Motion to Dismiss the Proceedings, 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)	
)	
_____)	

**PETITIONER’S ASSENTED-TO MOTION FOR LEAVE TO WITHDRAW ITS
PETITION AND JOINT MOTION TO DISMISS THE PROCEEDINGS**

Pursuant to 40 C.F.R. § 124.19(k), Sterling Suffolk Racecourse, LLC (“Suffolk”) requests leave to withdraw its Petition in this matter, and jointly with Region 1 of the United States Environmental Protection Agency (“Region”), moves to dismiss the proceedings in this matter before the Environmental Appeals Board (“Board”).

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. The permit authorizes discharges from Suffolk Downs, a horseracing facility located in Revere and East Boston, MA, into a receiving water named Sales Creek and adjacent wetlands.

Following settlement discussions, on March 29, 2016, the parties filed a Third Joint Status Report and Motion to Further Continue the Stay of Proceedings, in which the parties reported that they had reached an agreement in principle to settle all of the issues raised by Suffolk in its Petition, 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 a prior 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).

The parties filed a Fifth Joint Status Report on July 5, 2016, indicating that Suffolk concurred with the Region's draft permit modification and a draft fact sheet. In addition, the parties reported that the Massachusetts Department of Environmental Protection concurred on the draft permit modification and fact sheet. *See Fifth Joint Status Report* (July 5, 2016).

II. Motions

The parties have reached agreement over the form and contents of the draft permit modification documents and have concluded that they accurately reflect the terms of the settlement agreement among the parties. The Region agrees to publicly notice the draft permit modification documents agreed to by the parties in accordance with 40 C.F.R. § 124.19(j).

Accordingly, Suffolk requests leave to withdraw its Petition, as the parties have settled their differences in full. 40 C.F.R. § 124.19(k). The Region assents to this motion.

In light of the foregoing, the parties jointly request that the Board dismiss the Petition in its entirety, with prejudice. *See In re City of Nashua*, NPDES Appeal 15-06 (February 18, 2016) (Order Dismissing Petition).

III. Request for Relief

For the reasons above, and to conserve administrative and judicial resources, the parties respectfully request that the Board issue an order allowing Suffolk to withdraw its Petition and dismissing the Petition in its entirety.

Dated: July 7, 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 Petitioner's Assented-To Motion for Leave to Withdraw Its Petition and Joint Motion to Dismiss 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: July 7, 2016 _____

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