



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

VIA ELECTRONIC FILING

February 12, 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 Second Joint Status Report and Motion to Further Continue the 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)	
)	
_____)	

**SECOND JOINT STATUS REPORT AND MOTION TO FURTHER CONTINUE
THE 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”) further extend the stay of proceedings in this matter in order to allow the parties an additional forty-five (45) 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 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).

II. Status Report

Suffolk and the Region have been engaged in several exchanges of information and settlement positions since the Board's order extending the stay. Suffolk has provided additional information requested by the Region. The Region has reviewed Suffolk's proposal and the supporting data provided by Suffolk, and is preparing a response to Suffolk, which it intends to transmit to Suffolk no later than February 25, 2016. Once the Region has provided a response to Suffolk, it is likely that there will be a need for further discussion and possible additional exchanges of information between the parties before a final agreement can be reached.

In this context, the Region is reviewing requests that Suffolk has made for a number of changes to the permit not raised in Suffolk's permit appeal. Some of these would result in relatively minor changes to the permit, and the Region will convey its

position on these requests with its response to Suffolk's proposal for addressing the issues on appeal. Once Suffolk and the Region have reached agreement as to the issues raised on appeal, the Region plans to respond to the remainder of Suffolk's requests.

III. Grounds for Extension of Stay

The parties are making substantial progress toward a negotiated resolution of the appeal. Although there are some issues still to be resolved, the discussions to date have been constructive and the parties continue to share an interest in arriving at a negotiated agreement. Accordingly, Suffolk and the Region respectfully request that the Board further extend the stay in 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. The parties request that the Board stay the proceedings for an additional forty-five (45) days from March 15, 2016, to April 29, 2016. Under the proposed schedule, the parties would file a joint status report with the Board by no later than March 29, 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 forty-five (45) days.

Dated: February 12, 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 Second Joint Status Report and Motion to Further Continue the 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: February 12, 2016

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