

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. _____
)	
CHURCHILL DOWNS LOUISIANA)	
HORSERACING COMPANY, LLC)	
d/b/a FAIR GROUNDS)	
RACE COURSE AND SLOTS,)	
)	
<i>Defendant.</i>)	

CONSENT DECREE

TABLE OF CONTENTS

I.	JURISDICTION AND VENUE	2
II.	APPLICABILITY	3
III.	OBJECTIVES	4
IV.	DEFINITIONS.....	5
V.	CIVIL PENALTY.....	10
VI.	COMPLIANCE REQUIREMENTS.....	12
VII.	APPROVAL OF DELIVERABLES.....	35
VIII.	REPORTING REQUIREMENTS	37
IX.	STIPULATED PENALTIES	40
X.	FORCE MAJEURE	46
XI.	DISPUTE RESOLUTION	49
XII.	INFORMATION COLLECTION AND RETENTION.....	52
XIII.	EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS	54
XIV.	COSTS	55
XV.	NOTICES.....	56
XVI.	EFFECTIVE DATE.....	57
XVII.	RETENTION OF JURISDICTION	57
XVIII.	MODIFICATION	57
XIX.	TERMINATION.....	58
XX.	PUBLIC PARTICIPATION	59
XXI.	SIGNATORIES/SERVICE.....	59
XXII.	INTEGRATION	60
XXIII.	FINAL JUDGMENT	60
XXIV.	26 U.S.C. § 162(F)(2)(A)(II) IDENTIFICATION	61
XXV.	APPENDICES	61

WHEREAS, Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint (“Complaint”) concurrently with this Consent Decree, alleging that Defendant, Churchill Downs Louisiana Horseracing Company, LLC (d/b/a Fair Grounds Race Course and Slots) (“Fair Grounds” or “Defendant”), has violated, and continues to violate, the terms and conditions of a Louisiana Pollutant Discharge Elimination System (“LPDES”) permit that was issued pursuant to Section 402 of the Clean Water Act (“CWA”), 33 U.S.C. § 1342, by, *inter alia*, unlawfully discharging process wastewater from its “Fair Grounds Race Course and Slots” horse-racing facility, located at 1751 Gentilly Boulevard in New Orleans, Louisiana (the “Facility”).

WHEREAS, the Complaint seeks injunctive relief and civil penalties for the LPDES permit violations pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

WHEREAS, Fair Grounds owns and operates the Facility, which is a Large Concentrated Animal Feeding Operation (“CAFO”) within the meaning of Section 502 (14) of the CWA, 33 U.S.C. § 1362(14), and its implementing regulations at 40 C.F.R. § 122.23(b)(2), and 40 C.F.R. § 122.23(b)(4).

WHEREAS, the Complaint alleges, *inter alia*, that Fair Grounds’ operations have violated, and continue to violate, the CWA and the Facility’s LPDES Permit (1) when rainfall events (other than the qualifying rain events) cause Process Wastewater from the Facility to enter the Sewerage and Water Board of New Orleans’ (“SWBNO”) Municipal Separate Storm Water System (“SWBNO MS4”); and (2) when, even absent rain events, Process Wastewater from the Facility enters the SWBNO MS4. The Complaint also alleges that Fair Grounds violated the terms of the Facility’s LPDES Permit by failing to (1) comply with the requirements of the Facility’s nutrient management plan, (2) timely submit discharge monitoring reports, (3) submit

complete annual reports with a summary of Process Wastewater discharges, and (4) report monitoring data for all required pollutants.

WHEREAS, Defendant submitted to the Louisiana Department of Environmental Quality a renewal application for a LPDES permit on August 4, 2016, but such permit has yet to be renewed;

WHEREAS, Fair Grounds has implemented management and process improvements and submitted reports to EPA throughout the negotiation of this Consent Decree;

WHEREAS, Fair Grounds does not admit any liability to the United States arising out of the transactions or occurrences alleged in the Complaint.

WHEREAS, notice of the commencement of this action has been provided to the State of Louisiana pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

WHEREAS, the United States and Fair Grounds (collectively, the “Parties”) recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation between the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and over the Parties. Venue lies in this District pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391 (b) and (c), and

1395(a), because Fair Grounds conducts business in this judicial district and the violations alleged in the Complaint are alleged to have occurred in this judicial district. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Fair Grounds consents to the Court's jurisdiction over this Consent Decree and any such action and over Fair Grounds and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Fair Grounds agrees that the Complaint states claims upon which relief may be granted pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States and upon Fair Grounds and any successors, assigns, or other entities or persons otherwise bound by law.
4. No transfer of ownership or operation of the Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Fair Grounds of its obligation to ensure that the terms of the Consent Decree are implemented. At least 30 Days prior to such transfer, Fair Grounds shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to EPA, the United States Attorney for the Eastern District of Louisiana, and the United States Department of Justice, in accordance with Section XV (Notices). No later than five Days after the completion of such transfer, Fair Grounds shall provide an executed copy of the written agreement to

the same entities that received written notice of the prospective transfer, in accordance with Section XV (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Consent Decree.

5. Fair Grounds shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Consent Decree, as well as to any contractor retained to perform work required under this Consent Decree. Fair Grounds shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.
6. In any action to enforce this Consent Decree, Fair Grounds shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. OBJECTIVES

7. It is the express purpose of the Parties in entering into this Consent Decree to further the objectives set forth in Section 101 of the CWA, 33 U.S.C. § 1251, by the expeditious implementation of the requirements of this Consent Decree. All obligations of this Consent Decree have the objective of causing Fair Grounds to come into and remain in full compliance with the terms and conditions of the Facility's LPDES Permit and the CWA.

IV. DEFINITIONS

8. Terms used in this Consent decree that are defined in the CWA or in regulations promulgated pursuant to the CWA shall have the meanings assigned to them in the CWA or such regulations, unless otherwise provided in this Consent Decree.

Whenever the terms set forth below are used in this Consent Decree, the following definitions apply:

a. “*Aliquot Sample*” shall mean the water sample that is contained in each bottle within a multi-bottle sampler.

b. “*Fair Grounds*” shall mean Churchill Downs Louisiana Horseracing Company, LLC d/b/a Fair Grounds Corporation.

c. “*Code Enforcement Officers*” shall mean those designated Fair Grounds employees whose duties include monitoring the Production Area for instances of non-compliance with the Best Management Practices (“BMPs”) identified in this Consent Decree.

d. “*Complaint*” shall mean the complaint filed by the United States in this action.

e. “*Composite Sample*” shall mean a composite of Aliquot Samples from the Production Area, comprised of at least 12 100-ml samples taken at 10-minute intervals, regardless of flow.

f. “*Consent Decree*” shall mean this Consent Decree and all appendices attached hereto and identified in Section XXV (Appendices).

g. “*Date of Lodging*” shall mean the Day this Consent Decree is filed for lodging with the Clerk of Court for the United States District Court for the Eastern District of Louisiana.

h. “*Day*” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time for a deadline under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period runs until the close of business of the next business day.

i. “*DOJ*” shall mean the United States Department of Justice and any of its successor departments or agencies.

j. “*Effective Date*” shall have the definition provided in Section XVI (Effective Date).

k. “*EPA*” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

l. “*Facility*” shall mean the Fair Grounds Facility located at 1751 Gentilly, Blvd., New Orleans, Louisiana, and depicted on the Facility Map (attached as Appendix A), including all ancillary buildings, parking areas, stables, horse stalls, feed storage areas, manure storage areas, animal walkways, and associated areas. The Facility includes the Production Area and all areas within the Facility that are outside of the Production Area.

m. “*Facility’s LDEQ Permit*” shall mean LPDES Permit Number LA0115282, issued to Fair Grounds by the Louisiana Department of Environmental Quality.

n. “*Facility Outfalls*” shall mean all outfalls within the Facility from which

storm water and wastewater are discharged from the Production Area to the SWBNO MS4 and/or the SWBNO Sanitary Sewer System, including but not limited to Outfalls 001, 002, and 003.

o. “*Gate Valve Threshold*” shall mean that amount of rainfall (measured in inches, volume, and intensity) that would cause the activation of the Outfall 002 gate valve, based on hydraulic modeling of the Production Area System conditions as required in Section VI.D of this Decree.

p. “*Grab Sample*” shall mean a separate individual Production Area water sample, collected apart from the Composite and Aliquot Samples at one location and at one point in time.

q. “*Separation Area Parking Lot*” shall mean the area designated as such on the map of the Facility attached as Appendix A.

r. “*Horsemen*” shall mean any person licensed by the Louisiana Horseracing Commission including, but not limited to, Owners, Trainers, Assistant Trainers, Exercise Riders, Grooms, and Hot walker personnel, and all other personnel in the employ of the Owner or the Trainer.

s. “*Jazz Fest*” shall refer to the annual event that occurs at the Facility during the period of time between the last day of the Facility’s thoroughbred meet and June 1.

t. “*LDAF*” shall mean the Louisiana Department of Agriculture and Forestry.

u. “*Non-Racing Season*” shall mean the period of time, during each year or partial year occurring after the Effective Date, in which horses are not on site for a thoroughbred meet or a quarter horse meet.

- v. “*Paragraph*” means a portion of this Consent Decree identified by an Arabic numeral.
- w. “*Parties*” means the United States and Fair Grounds.
- x. “*Process Wastewater*” shall have the meaning provided in 40 C.F.R. §122.23(b)(7).
- y. “*Process Wastewater Elimination Plan*” or “*PWWEPP*” shall mean a comprehensive plan designed to eliminate future Process Wastewater discharges from the Facility.
- z. “*Production Area*” shall mean the area designated on the map of the Facility attached as Appendix A, which includes the animal confinement area, the manure storage area, the raw materials storage area, the waste containment area, and any area used in the storage, handling, treatment, or disposal of mortalities at the Facility. The animal confinement area includes but is not limited to open lots, stall barns, free stall barns, medication pens, walkers, animal walkways, stables, and quarantine areas. The manure storage area includes but is not limited to dumpsters. The raw material storage area includes but is not limited to storage areas for feed and bedding materials.
 - aa. “*Production Area System*” shall mean the entire network of pipes, catch basins, sediment traps, storm drain inlets, manholes, pumps, valves, weirs, and other system appurtenances within the Production Area through which wastewater generated in the Production Area flows.
 - bb. “*Racing Season*” shall mean the period of time, during each year or partial year occurring after the Effective Date that occurs between the day the first horse arrives

at the Facility for the quarter horse meet and the day the last horse leaves the Facility at the conclusion of the thoroughbred meet.

cc. “*Section*” means a portion of this Consent Decree identified by a roman numeral.

dd. “*Significant Rainfall Event*” or “*SRE*” shall mean a rain event of at least 0.75 inches over a duration of 4 hours minimum, without a prior rainfall of more than 0.10 inches occurring within the previous 72 hours, as measured by the permanent rain gauge located adjacent to the pump house.

ee. “*Stall Application*” shall mean the agreement, substantially in the form attached as Appendix B, between Fair Grounds and any Horsemen pertaining to the use and maintenance of stalls at the Facility.

ff. “*SWBNO Municipal Separate Storm Water System*” or “*SWBNO MS4*” shall mean the Sewerage and Water Board of New Orleans public storm water drainage system that is used to remove storm water runoff from public and private land surfaces and route it to Lake Pontchartrain and other receiving waters adjacent to the City of New Orleans through an interconnected system of open and closed conveyance conduits and pump stations.

gg. “*SWBNO Sanitary System*” shall mean the Sewerage and Water Board of New Orleans collection system that conveys sanitary wastewater from various sources to the New Orleans Publicly Owned Treatment Works (“POTW”).

hh. “*Track Area*” shall mean the area designated as such on the map of the Facility attached as Appendix A.

- ii. “*Trainer*” shall mean the Horseman that conditions a horse and is responsible for a horse’s welfare, including while at the Facility.
- jj. “*United States*” means the United States of America, acting on behalf of EPA.
- kk. “*Walking Wheel*” or “*Hot Walker*” shall mean the device with a mechanical rotating arm to which horses are tied in order to exercise them.
- ll. “*Walking Wheel Agreement*” shall mean the agreement, substantially in the form attached as Appendix B, between the Facility and a Trainer for use of horse walking machines owned and provided by the Facility.
- mm. “*West Parking Lot*” shall mean the area designated as the West Parking Lot on the Map attached hereto as Appendix A.

V. CIVIL PENALTY

- 9. Within 30 Days after the Effective Date, Fair Grounds shall pay the sum of \$2,790,000.00 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.
- 10. Fair Grounds shall pay the civil penalty due by FedWire Electronic Funds Transfer ("EFT") to the DOJ account, in accordance with instructions provided to Fair Grounds by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the Eastern District of Louisiana after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Fair Grounds shall use to identify all

payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Karen Cecil, CTP
Assistant Treasurer
Churchill Downs Inc.
600 N Hurstbourne Pkwy, Suite 400
Louisville, KY 40222
(502) 636-4424
Karen.cecil@kyderby.com

on behalf of Fair Grounds. Fair Grounds may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States in accordance with Section XV (Notices). At the time of payment, Fair Grounds shall send notice that payment has been made: (i) to EPA via email at cinwd_acctsreceivable@epa.gov or via regular mail at:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268;

(ii) to DOJ via email or regular mail in accordance with Section XV (Notices); and (iii) to EPA in accordance with Section XV (Notices). Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States v. Churchill Downs Louisiana Horseracing, LLC*, and shall reference the civil action number, CDCS Number and DOJ case number 90-5-1-1-11342.

11. Fair Grounds shall not deduct any penalties paid under this Consent Decree pursuant to this Section or Section IX (Stipulated Penalties) in calculating its federal income tax.

VI. COMPLIANCE REQUIREMENTS

12. Fair Grounds shall comply with all applicable requirements of the Clean Water Act and its implementing regulations, 33 U.S.C. § 1251 *et seq.* and the applicable LPDES permit for the Facility.

A. BEST MANAGEMENT PRACTICES AND TRAINER EDUCATION

13. As of the Effective Date, Fair Grounds shall implement the following Best Management Practices.

i. General Facility BMPs

- a. Fair Grounds shall display instruction signs in English and Spanish on each barn regarding compliance with the BMPs described in this Paragraph that pertain to Horsemen.
- b. Fair Grounds shall stable horses only in barns.
- c. Fair Grounds shall ensure that barns are cleaned of bedding and manure at the conclusion of each Racing Season.
- d. Horse washing shall be conducted only in the Facility's designated washing areas.
- e. Fair Grounds' Code Enforcement Officers, as required by Paragraph 13(y), shall, during each Racing Season, visually assess the areas outside of the barns daily and promptly ensure the cleanup of any manure, bedding or debris on pavement and all other ground surfaces.
- f. Fair Grounds' Code Enforcement Officers shall, during each Racing Season, regularly monitor Horsemen to ensure compliance with the environmental provisions of the Stall Application, all BMPs, and any

related posted directives.

ii. Walking Wheel BMPs

- g. Fair Grounds shall utilize the Walking Wheel Agreement substantially in the form set forth as Appendix B to this Consent Decree. Any material changes to the form of this Agreement that pertain to the implementation of the Walking Wheel BMPs in this Consent Decree shall be reported to EPA pursuant Section VIII (Reporting Requirements). As required by that Agreement, Fair Grounds shall ensure that Trainers and their staff using the Walking Wheels shall remove all visible manure, bedding, and debris from the pavement and all other ground surfaces after each use to the maximum extent practicable.
- h. Fair Grounds' Enforcement Officers shall visually assess the Walking Wheels daily to ensure any visible manure, bedding, or debris is promptly removed from the pavement and all other ground surfaces.

iii. Dumpster BMPs

- i. Fair Grounds shall only use composite, plugged, and covered dumpsters made from materials that are designed to prevent leakage. All dumpsters shall have weighted flip-top covers.
- j. Fair Grounds shall number the dumpsters and assign their use to specific Trainers.
- k. Fair Grounds shall instruct all individuals using the dumpsters to close the lids when not in use and shall include this instruction in the Stall Application. Fair Grounds' Code Enforcement Officers shall enforce

closure of dumpster lids.

- l. Fair Grounds shall ensure that all Trainers and their staff utilize tarps or any other effective measure to keep manure, bedding, or other debris off pavements and all other ground surfaces when transferring such materials into the dumpsters.
- m. Fair Grounds shall ensure that Horsemen pick up and remove any manure, bedding, or debris from the pavement and all other ground surfaces after using dumpsters.
- n. When horses are at the Facility, Fair Grounds shall empty every used dumpster daily.
- o. Fair Grounds shall ensure that the material collected in dumpsters is removed from the Facility by waste haulers and is transferred to a facility authorized to accept such material in a timely fashion.
- p. Fair Grounds' Code Enforcement Officers shall visually inspect the dumpsters daily to ensure the lids remain closed, that dumpsters remain intact with no leaks, and to ensure prompt removal of any spilled manure, bedding, or debris from the pavements and all other ground surfaces.
- q. Upon inspection of the dumpsters, if damage to any dumpster is observed, Fair Grounds shall repair or replace the damaged dumpster within 48 hours or remove it from service until repair can be completed.

iv. Vacuum Truck BMP

- r. Fair Grounds shall sweep the paved surfaces of the Production Area daily when horses are on site using a vacuum truck or other mechanical sweeper.

Fair Grounds shall identify the days and causes that the Facility's vacuum truck or sweeper was inoperable in each Quarterly Report.

v. Production Area System Cleaning and Maintenance BMP

- s. Fair Grounds shall thoroughly clean out and remove all materials to the maximum extent practicable from the Production Area System (a) prior to the baseline sampling period, to be conducted no later than June 30, 2021, and (b) no later than July 15 of each year thereafter. All cleaning shall be performed using a vacuum truck with hydrojet capabilities.
- t. As of the Effective Date, and continuing each year thereafter, Fair Grounds shall (a) inspect all sediment traps and catch basins throughout the Facility no less than twice per month during Racing Season and once per month during the Non-Racing Season; and (b) vacuum all sediment traps and catch basins throughout the Facility as necessary to ensure that all sediment traps and catch basins are free of debris.
- u. Fair Grounds shall thoroughly clean the Production Area (a) prior to the baseline sampling period, to be conducted no later than June 30, 2021, as required by Paragraph 43; and (b) no later than July 15 each year thereafter, by removing all manure, bedding materials, feed materials, contaminated soils, and other potential pollutant sources from the Production Area.

vi. Obligation to Train and Educate

- v. Fair Grounds shall provide BMP training to all Trainers at the beginning of each Racing Season that includes instructions on compliance with each of the BMPs.

- w. Fair Grounds shall ensure that each Trainer that enters into a Stall Application with Fair Grounds acknowledges receipt of BMP training materials by Fair Grounds. The Stall Application, Walking Wheel Agreement (if applicable), and BMP Training shall include instructions on how to comply with each of the BMPs and shall require each Trainer to educate his/her Horsemen and their staff.
- x. Fair Grounds shall keep records of the Stall Applications, Walking Wheel Agreements, and BMP trainings for at least one year following the completion of the Racing Season to which the agreements apply. Fair Grounds shall summarize those records (date(s) completed, total number of Trainers on site for the meet and total number of agreements entered) in quarterly reports to EPA.

vii. Enforcement of BMPs

- y. As of the Effective Date, Churchill Downs shall designate at least one Code Enforcement Officer and shall ensure that a Code Enforcement Officer is on duty and available during Fair Grounds' business hours. Fair Grounds shall ensure that all Code Enforcement Officers are adequately trained in all BMPs.
- z. Fair Grounds shall assure compliance with the BMPs by issuing citations and assessing fines for noncompliance to the Trainer. The fines for noncompliance shall be no less than \$250 for a first offense, \$500 for a second offense, and revocation of the license granted in the Stall Application for a third offense.

- aa. Fair Grounds shall monitor the activities of Trainers and their staff for Production Area BMP compliance when horses are on site through the use of continuous video monitoring and inspections by Code Enforcement Officers as required in this section.

B. DRY WEATHER DISCHARGE MONITORING

- 14. No later than 30 Days after the Effective Date, Fair Grounds shall install and maintain a dry-weather sensor or a flow monitor at Outfall 001 to detect dry weather discharges of Process Wastewater to the SWBNO MS4.
- 15. If a dry weather discharge of Process Wastewater is detected at Outfall 001, Outfall 002, or Outfall 003, Fair Grounds shall take all necessary and appropriate measures to prevent any further discharges as soon as practicable but no later than 10 Days after discovery of the initial discharge. Additionally, Fair Grounds shall complete corrective action no later than 30 Days after discovering that such a dry weather discharge occurred to ensure that there is no further discharge of Process Wastewater.
- 16. Fair Grounds shall report the occurrence of any detected dry weather discharge events and any corrective actions taken to address them in the quarterly reports required by Paragraph 60.a) of this Consent Decree.

C. UPDATED NUTRIENT MANAGEMENT PLAN

- 17. No later than 15 Days after the Effective Date, Fair Grounds shall incorporate all BMPs required by this Consent Decree into an updated Nutrient Management

Plan for the Facility and submit it to the Louisiana Department of Environmental Quality (“LDEQ”) and simultaneously submit a copy to EPA.

18. The proposed updated Nutrient Management Plan shall comply with Section M of the Facility’s LDEQ Permit by following the procedures in LAC 33:IX.2703.E6 applicable to changes in the Nutrient Management Plan.

D. HYDRAULIC MODELING

19. Fair Grounds shall develop a computerized dynamic hydraulic model of the Production Area System in conformance with the terms set forth in Appendix C (Hydraulic Modeling Procedures). Fair Grounds shall ensure that all modeling is supervised by a Professional Engineer registered in the State of Louisiana. Four iterations of the model shall be developed, as specified below. In each case, the model shall predict (1) the existing Outfall 002 Gate Valve Threshold and (2) the total volume and peak flow rate for each storm event identified in Paragraph 7 of Appendix C from both (a) the Facility to the SWBNO MS4 and (b) the Facility to the SWBNO Sanitary System. Fair Grounds shall report the results of all modeling runs to EPA. For each of the four iterations of the model, the following additional requirements shall apply:

- a. First Model Iteration: Existing System Conditions/Baseline
 - (1) Fair Grounds shall develop and calibrate a dynamic hydraulic model based on existing Facility conditions.
 - (2) Fair Grounds shall ensure that all modeling is completed within 120 Days of the Effective Date, subject to weather events sufficient for calibration. If weather events sufficient for

calibration are predicted but do not actually occur within the required time period, Fair Grounds shall complete modeling as soon thereafter as is practicable based on predicted weather events.

- (3) Fair Grounds shall submit an Existing System Conditions/Baseline Modeling Report to EPA within 30 days of the completion of the First Model Iteration.

b. Second Model Iteration: Projected Theoretical Future Production Area System Conditions

- (1) Churchill Downs shall re-run the baseline model to project theoretical future Production Area System conditions expected to exist upon completion of the Phase I, Phase II, and Phase III construction projects described in Subsection E (Facility Construction Projects), below.
- (2) No additional calibration or validation is required.
- (3) Modeling shall be completed within 30 days of the submittal of the Existing System Conditions/Baseline Modeling Report required by Paragraph 19(a)a(3), above.

c. Third Model Iteration: Actual Updated Production Area System Conditions Upon Completion of Construction Projects

- (1) Fair Grounds shall model actual Production Area System conditions after completion of the Phase I, II, and III construction projects.
- (2) Model recalibration and revalidation is required following the criteria set forth in Appendix C.

- (3) Modeling shall be completed within 270 Days of the completion date for the Phase III construction projects, subject to predicted weather events appropriate for recalibration and revalidation. If there are not weather events sufficient for recalibration and revalidation within the required time period, Fair Grounds shall complete modeling as soon thereafter as is practicable based on predicted weather events.
 - d. Fourth Model Iteration: Update Model to Support Process Wastewater Elimination Plan (“PWWEP”) Submissions
 - (1) If Fair Grounds proposes to EPA any additional construction projects as a PWWEP under this Consent Decree, Fair Grounds shall update the model to project the impact of the proposed construction project on then-existing system conditions.
 - (2) Modeling shall be completed before submission of the PWWEP to EPA.
20. Within 30 Days of completion of the Third Model Iteration, Fair Grounds shall implement the results of the model and optimize the operation of the Outfall 002 Gate Valve. The goal of such optimization is the elimination of discharges of Process Wastewater to the MS4.
21. Within 30 Days of completion of First and Second Model Iterations, Fair Grounds shall submit a report to EPA for review and approval that includes:
 - a. The date each model run was completed;
 - b. The setup of the model;
 - c. The calibration and validation of the model;

- d. The Existing Outfall 002 Gate Valve Threshold measurement;
 - e. The Projected Future Outfall 002 Gate Valve Threshold measurement;
 - f. The supporting rationale and any documents necessary to substantiate Fair Grounds' hydraulic model setup, calibration, validation, output data and other calculations;
 - g. Description of any Production Area System improvements other than the Phase I, II, and III projects;
 - h. Assessment of the extent to which any of the completed Facility Construction Projects have reduced unlawful discharges; and,
 - i. Certification of the modeling results by a supervising Professional Engineer registered in the State of Louisiana.
22. Within 30 Days of completion of Fair Grounds' Third Model Iteration, Fair Grounds shall submit an "Updated System Conditions Modeling Report" to EPA for review and approval that includes:
- a. The date the model run was completed;
 - b. The setup of the model;
 - c. The recalibration and revalidation of the model;
 - d. The supporting rationale and any documents necessary to substantiate Fair Grounds' hydraulic model setup, recalibration, revalidation, output data and other calculations;
 - e. A comparison of the performance of the Production Area System and the system performance as predicted by the Second Model Iteration;
 - f. A description of the rainfall conditions under which the 002 Gate Valve

would actuate to discharge to the MS4; and,

- g. Certification of the modeling by a supervising Professional Engineer registered in the State of Louisiana.

23. If Fair Grounds submits to EPA any PWWEP that includes construction of additional Production Area System improvements, Fair Grounds shall include in such submission a PWWEP Modeling Report, for EPA's review and approval, that includes:

- a. The date the model run was completed;
- b. The setup of the model;
- c. Any recalibration and revalidation of the model;
- d. The PWWEP Outfall 002 Gate Valve Threshold measurement;
- e. The model's supporting rationale and any documents necessary to substantiate Fair Grounds' hydraulic model setup, recalibration, revalidation, output data and other calculations;
- f. A description of the additional Production Area System improvements proposed to eliminate all unauthorized discharges of Process Wastewater to the MS4;
- g. Production Area System improvement performance goals in comparison with CAFO requirements; and,
- h. Certification of the modeling by a supervising Professional Engineer registered in the State of Louisiana.

E. FACILITY CONSTRUCTION PROJECTS

24. Fair Grounds shall comply with application procedures and deadlines for any permits necessary for construction, operation, and any other approvals needed from EPA, LDEQ, SWBNO, or any other federal, state, or local authority in completing the Phase I, Phase II, and Phase III construction projects described below.

i. Phase I Projects

25. No later than September 1, 2021, Fair Grounds shall have completed the following Phase I Facility Construction Projects:

Installation of Gutters on Selected Barns

26. Fair Grounds shall install gutters on those identified roof sections of barns 4A, 4B, 7, 8, 9, 11, 40, 41, 50, 51 and the cafeteria as identified on the Facility Map, attached as Appendix A.

27. Fair Grounds shall ensure that all gutters installed under this Consent Decree route the roof runoff away from the Production Area to the SWBNO MS4 without passage through the Production Area System.

28. Fair Grounds shall report to EPA, in the first quarterly report required by Paragraph 60(a) following the installation of the required gutters:

- a. Identification of the specific buildings where gutter installation was completed; and
- b. Photographs and summary of completed gutter installation.

Installation of Sharp-Crested Weir

29. No later than 45 Days after the Effective Date, Fair Grounds shall install a sharp-crested weir at the Outfall 001 wet well at a suitable elevation as determined by an engineering analysis, to prevent backflow from the SWBNO MS4 into the Production Area System.
30. Fair Grounds shall ensure that the design of the sharp-crested weir at the Outfall 001 wet well is supervised and certified by a Professional Engineer, registered in the State of Louisiana.

ii. Phase II Projects

31. Construct Dedicated Horse Washing Stations. Fair Grounds shall construct horse washing stations for use by Horsemen throughout the Facility.
 - a. No later than June 1, 2021, Fair Grounds shall submit to EPA an Initial Horse Washing Station Construction Plan. The plan shall indicate the location and the number of horse washing stations to be constructed at the Facility during Phase II construction.
 - b. Fair Grounds shall complete the Phase II construction of the horse washing stations, as described in the Initial Horse Washing Station Construction Plan no later than September 30, 2022.
 - c. No later than June 1, 2022, Fair Grounds shall submit to EPA a Second Horse Washing Station Construction Plan. This Second plan shall indicate the location and number of additional horse washing stations to be constructed at the Facility during Phase III construction.
 - d. Fair Grounds shall complete the construction of the horse washing stations,

as described in the Second Horse Washing Station Construction Plan no later than September 30, 2023.

32. No later than September 30, 2023, Fair Grounds shall:
 - a. Permanently disconnect all exterior hose bibs in the Production Area;
 - b. Ensure that all horse washing stations drain to SWBNO Sanitary Sewer and that no horse wash water flows to the Production Area System or otherwise discharge into the SWBNO MS4;
 - c. Ensure that all horse washing occurs only in dedicated horse washing stations.

33. Within 30 Days of the completion of the construction of all horse washing stations:
 - a. Fair Grounds shall develop and implement BMPs pertaining to the use of the new horse washing stations and incorporate such BMPs into the Nutrient Management Plan for the Facility; and
 - b. Fair Grounds shall revise its Stall Applications to prohibit washing horses in any location other than in the dedicated wash stations and require Horsemen to follow all horse washing station BMPs.

34. Fair Grounds shall report to EPA in the quarterly reports required by Paragraph 60.a):
 - a. Any completion of construction, identifying specific stations and providing supporting documentation, such as:
 - (1) Photographs showing the new wash stations and a map showing their location;

- (2) Summary of construction work completed as well as any work still in progress;
 - (3) Date(s) for when the wash stations were first put into use.
 - b. Anticipated dates of construction, if any, in the next calendar quarter.
 - c. Explanation of any deviation from construction anticipated in previous quarterly reporting period.
 - d. Anticipated completion date for this project (all stations).
35. Fair Grounds shall ensure that the design of all horse washing stations is supervised and certified by a Professional Engineer or Architect, as appropriate, registered in the State of Louisiana.
36. Valve Installation at Outfall 003. No later than September 1, 2021, Fair Grounds shall install a valve in the outlet sewer from Outfall 003 to the SWBNO MS4 to prevent discharges of Production Area Process Wastewater to the SWBNO MS4 at all times while horses are on site.
- a. Fair Grounds shall ensure that the Outfall 003 valve is closed at all times, except as necessary during Jazz Fest and to mitigate Production Area flooding during extreme weather conditions (such as tropical storms and hurricanes), to the extent allowed by the Facility's LDEQ Permit.
 - b. Fair Grounds, in its quarterly reports required by Paragraph 60(a), shall report the anticipated and actual dates for: the start of final design, contractor procurement, construction start, and construction completion.

37. Fair Grounds shall submit a copy of the approved construction permit, if such permit is required, to EPA within 30 Days of approval (as a stand-alone report) and also include it in the next quarterly report.

iii. **Phase III Projects**

38. No later than July 15, 2023, Fair Grounds shall have completed the following Phase III Facility Construction Projects. Fair Grounds shall ensure that the design and construction of all Phase III Facility Construction Projects (except as to Guttering of Selected Barns) is supervised by a Professional Engineer registered in the State of Louisiana.

Separation Area Parking Lot and Track Area

39. Fair Grounds shall disconnect the existing Separation Area Parking Lot and Track Area storm water drainage systems from the Production Area System in the vicinity of Manhole 140, the location of which is shown on Appendix A; and, shall construct a new storm water drainage system to transport storm water flow from the Separation Area Parking Lot and Track Area storm water systems away from the Production Area and directly to the SWBNO MS4 without passage of storm water through the Production Area System. Fair Grounds shall also connect the downspouts for Barns 10, 12, 14, and 15 to the new storm water drainage system.

- a. Fair Grounds, in its quarterly reports required by Paragraph 60(a) shall report the anticipated and actual dates for: the start of final design, contractor procurement, construction start, and construction completion.
- b. Fair Grounds shall submit a copy of the approved LDEQ permit to

discharge storm water associated with construction activity, if such permit is required or LDEQ provides such approval, to EPA within 30 Days of approval as a stand-alone report and also include it in the following quarterly report.

West Parking Lot

40. Fair Grounds shall disconnect the existing West Parking Lot storm water drainage system from the Production Area System in the vicinity of Manhole 210 and 211, the location of which is shown on Appendix A; and, shall construct a new storm water drainage system to transport storm water flow from the West Parking Lot storm water system away from the Production Area and directly to the SWBNO MS4 without passage of storm water through the Production Area System.
 - a. Fair Grounds, in its quarterly reports required by Paragraph 60(a), shall report the anticipated and actual dates for: the start of final design, contractor procurement, construction start, and construction completion.
 - b. Fair Grounds shall submit a copy of the approved LDEQ permit to discharge storm water associated with construction activity, if such permit is required, to EPA within 30 Days of approval as a stand-alone report and also include it in the following quarterly report.

Guttering on Selected Barns

41. Fair Grounds shall install gutters on barns number 10, 12, 14, and 15 and shall route the roof runoff away from the Production Area through the segregation project to the SWBNO MS4 without passage through Production Area System.

F. SITE-SPECIFIC SAMPLING AND MONITORING

42. Within 30 Days of the Effective Date, Fair Grounds shall submit, for EPA's review and approval, a Site-Specific Sampling and Monitoring Plan that incorporates the sampling guidelines set forth in Appendix D (Site-Specific Sampling and Monitoring Guidelines).
43. Fair Grounds' Site Specific Sampling and Monitoring Plan shall require sampling of discharges to the SWBNO MS4 from each outfall during the following sampling periods:
 - a. Baseline sampling during Non-Racing Season, which Fair Grounds shall conduct no later than July 15, 2022.
 - b. Pre-construction reference sampling during Racing Season, which Fair Grounds shall conduct no later than March 30, 2022; and
 - c. Post-construction sampling during Racing Season, which Fair Grounds shall conduct no later than March 1, 2024.

G. RACING SEASON CERTIFICATION REPORTS

44. Racing Season Certification Reports. No later than 30 Days after the end of the first Racing Season following the completion of the Phase III Construction Projects described in Paragraphs 39 and 40 above, and no later than 30 Days after the end of each Racing Season thereafter, Fair Grounds shall submit to EPA a Racing Season Certification Report in accordance with Section XV (Notices). This Report shall identify any occasions on which Process Wastewater was discharged from the Production Area System to the SWBNO MS4 during the applicable Racing Season.

45. Each Racing Season Certification Report submitted by Fair Grounds shall be signed by an official and include the certification in Paragraph 62.
46. Determining Whether a Process Wastewater Discharge Has Occurred. When determining whether Process Wastewater was discharged from the Production Area System to the SWBNO MS4 during the applicable Racing Season, Fair Grounds shall consider all of the information listed in (a) through (e) below. None of these factors, when considered alone, are necessarily conclusive evidence that a Process Wastewater discharge has occurred.
 - a. Any inspection reports provided to Fair Grounds by EPA, LDEQ, or the SWBNO;
 - b. Fair Grounds' own site investigations and enforcement records;
 - c. The output(s) of the hydraulic model runs, including the "Post-Construction Gate Valve Threshold" value reported above;
 - d. Any sampling that occurred and Fair Grounds' observations about parameter trends when compared to previous sampling results, including results submitted to LDEQ on DMRs; and
 - e. Any investigations performed in response to sampling results, including but not limited to speciation sampling.
47. Each Racing Season Certification Report shall comply with the following:
 - a. The Racing Season Certification Report shall include a certified statement as to whether a Process Wastewater discharge occurred during each full or partial calendar month of the Racing Season; and
 - b. The statement shall be signed by a responsible official under penalty of perjury in accordance with Paragraph 62.
 - c. If Fair Grounds determines that no Process Wastewater discharges from the Production Area System to the SWBNO MS4 occurred during the Racing Season, the Report shall state this determination as well as its basis and any

information sources identified in Paragraph 46 (a) through (e) that were not considered.

d. If Fair Grounds determines that one or more Process Wastewater discharges from the Production Area System to the SWBNO MS4 occurred during the Racing Season, the Report shall state the total number of such discharges that occurred, the basis for this conclusion, and sources identified in Paragraph 46 (a) through (e) that were not considered. For each discharge identified in the Report, Fair Grounds shall provide:

- (1) The date, time and known/estimated duration of the discharge;
- (2) The known/estimated volume of the discharge;
The location of the discharge with a description of the outfall, if known;
- (3) Whether the discharge occurred during wet or dry weather;
- (4) How the discharge was discovered;
- (5) Any known or suspected cause of the discharge;
- (6) Any action taken to address or mitigate the discharge, including any specific response action taken regarding the equipment or person(s) responsible for the event (if any); any action taken to minimize or stop the discharge; or any action taken to prevent subsequent similar discharges; and
- (7) The date of the DMR in which the discharge was reported to LDEQ.

48. If EPA disagrees with any determination by Fair Grounds as to whether Process Wastewater was discharged from the Production Area System to the SWBNO MS4, EPA shall so notify Fair Grounds in writing and provide the basis for the disagreement. Within 30 Days of receipt of such notice, Fair Grounds shall either revise and resubmit the relevant Certification Report in a manner consistent with EPA's determination or invoke the Dispute Resolution procedures set forth in Section XI (Dispute Resolution) of this Consent Decree.

49. Nothing in this section shall be construed to require Fair Grounds to treat Process Wastewater discharged into the SWBNO Sanitary System.

H. CONTINGENT REQUIREMENT FOR PROCESS WASTEWATER ELIMINATION PLAN

50. If the Racing Season Certification Reports as submitted by Fair Grounds pursuant to Paragraph 44, or as revised and resubmitted pursuant to Paragraph 48, indicate that either:

- a. Three or more Process Wastewater discharges occurred (other than discharges that are the result of a qualifying rain event as defined by the Facility's LDEQ Permit) during a single Racing Season following completion of the Phase III Construction Projects;
- b. More than four Process Wastewater discharges occurred (other than discharges that are the result of a qualifying rain event as defined by the Facility's LDEQ Permit) in the first three consecutive Racing Seasons following completion of the Phase III Construction Projects; or
- c. More than six Process Wastewater discharges occurred (other than discharges that are the result of a qualifying rain event as defined by the Facility's LDEQ Permit) at any time following completion of the Phase III Construction Projects,

Fair Grounds shall submit to EPA for review and approval a PWWEP within the timeframes described in Paragraph 52 below.

51. The PWWEP shall include:
- a. A description of the proposed project(s) with the operational or design

parameters that are expected to achieve elimination of future Process Wastewater discharges to the SWBNO MS4.

- b. A statement about whether each project involves operation/management components or construction components, or both.
 - (1) Operation/management components of the PWWEP shall include:
 - (a) A detailed description of the proposed operation/management practices(s);
 - (b) Any corresponding enforcement mechanisms that Fair Grounds will put in place for monitoring implementation of the operation/management practice(s) and correcting any non-compliance;
 - (c) An explanation of how the proposed practice will eliminate Process Wastewater discharges from the Facility and achieve compliance with the CWA and its implementing CAFO regulations; and
 - (d) A detailed schedule for timely implementation.
 - (2) Construction components of a PWWEP shall include:
 - (a) A narrative description of the construction projects;
 - (b) A design plan for the construction project(s) and a detailed schedule for timely implementation;
 - (c) A design plan for the construction components that has been supervised and certified by a Professional Engineer registered in the State of Louisiana;

- (d) Procedures/schedule for applying for any necessary permits for construction or other approvals needed from EPA, LDEQ, SWBNO, or any other federal, state or local authority to carry out the construction project(s);
- (e) An explanation of how the proposed project(s) will achieve compliance with the CWA and its implementing CAFO regulations, including a computerized hydraulic model analysis for the proposed project(s) demonstrating how site-specific factors were taken into consideration; and
- (f) A modeling report conforming to the requirements of Section VI.D (Hydraulic Modeling) and Appendix C.

52. If the PWWEP includes construction components, the timing of submission of the PWWEP will depend on the cost of the proposed construction projects, as described below:

- a. If the cost of the improvements is less than \$250,000, then:
 - (1) Fair Grounds shall submit the PWWEP to EPA for review and approval within 90 Days of submitting the Racing Season Certification Report referenced in Paragraph 50 that triggered the requirement for the PWWEP.
 - (2) Fair Grounds shall submit complete applications for any required permits within three months after EPA review and approval of the PWWEP.
 - (3) Fair Grounds shall complete construction in accordance with the

EPA approved timeline.

- b. If the costs of the improvements is greater than \$250,000, then:
 - (1) Fair Grounds shall submit the PWWEP within 180 Days of submitting the Racing Season Certification Report referenced in Paragraph 50 that triggered the requirement for the PWWEP.
 - (2) Fair Grounds shall submit complete applications for any required permits within six months after EPA review and approval of the PWWEP.
 - (3) Fair Grounds shall include a construction schedule within the PWWEP that will be subject to approval by EPA.
 - (4) Fair Grounds shall complete construction in accordance with the EPA approved schedule/timeline.
- c. Fair Grounds shall submit a construction completion report to EPA within 30 Days of completion of the construction. The report must include dates when construction began, when construction was completed, and when the PWWEP was fully implemented.

VII. APPROVAL OF DELIVERABLES

- 53. After review of any plan, report, or other item that is required to be submitted pursuant to this Consent Decree, EPA will in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.
- 54. If the submission is approved pursuant to Paragraph 53, Fair Grounds shall take all actions required by the plan, report, or other document, in accordance with the

schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 53(b) or (c), Fair Grounds shall, upon written direction from EPA, take all actions required by the approved plan, report, or other item that EPA determines are technically severable from any disapproved portions, subject to Fair Grounds' right to dispute only the specified conditions or the disapproved portions, under Section XI (Dispute Resolution).

55. If the submission is disapproved in whole or in part pursuant to Paragraph 53(c) or (d), Fair Grounds shall, within 30 Days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Fair Grounds shall proceed in accordance with the preceding Paragraph.
56. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA may again require Fair Grounds to correct any deficiencies, in accordance with the preceding Paragraphs, subject to Fair Grounds' right to invoke Dispute Resolution and the right of EPA to seek stipulated penalties as provided in Section IX (Stipulated Penalties).
57. If Fair Grounds elects to invoke Dispute Resolution as set forth in Paragraphs 54 or 56, Fair Grounds shall do so by sending a Notice of Dispute in accordance with Paragraph 88 within 30 Days (or such other time as the Parties agree to in writing) after receipt of the applicable decision.

58. Any stipulated penalties applicable to the original submission, as provided in Section IX (Stipulated Penalties), accrue during the 30 Day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Fair Grounds' obligations under this Consent Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.
59. Permits. Where any compliance obligation under this Section requires Fair Grounds to obtain a federal, state, or local permit or approval, Fair Grounds shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Fair Grounds may seek relief under the provisions of Section X (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Fair Grounds has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VIII. REPORTING REQUIREMENTS

60. Fair Grounds shall submit the following reports to the United States at the addresses set forth in Section XV (Notices):
- a. Quarterly Reports. For the purposes of this Consent Decree, there shall be four three-month reporting periods in each calendar year, ending on March 31, June 30, September 30 and December 31. No later than 30 Days following the end of each reporting period, and beginning no later than 30

Days after the first full reporting period following the Effective Date, Fair Grounds shall submit to the United States a quarterly report for the preceding reporting period. Each quarterly report shall include:

- (1) A description of all of Fair Grounds' activities undertaken during the reporting period to achieve compliance with this Consent Decree, corresponding with each of the obligations set forth in Section VI (Compliance Requirements);
- (2) With respect to Production Area cleaning activities undertaken pursuant to the Consent Decree in the reporting period, include:
 - (a) Start and end dates and descriptions of all cleaning activities conducted pursuant to Paragraph 13 (iv) (Vacuum Truck BMP);
 - (b) Start and end dates and descriptions of all cleaning activities conducted pursuant to Paragraph 13 (v) (Production Area System Cleaning and Maintenance BMP); and
 - (c) Estimated total volume or tonnage of material removed from the piping system (including wet wells and sumps) during Production Area System cleaning.
- (3) All Sampling Reports developed pursuant to Appendix D;
- (4) A list of all reports made to LDEQ or the SWBNO during the reporting period, along with a copy of each such report; and;
- (5) A list of all plans, reports, and other submissions required by this

Consent Decree that Fair Grounds completed during the reporting period.

- b. Non-compliance Reports. The Quarterly Report shall also include a description of any non-compliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. Nothing in this Paragraph or the following Paragraph relieves Fair Grounds of its obligation to provide the notice required by Section X (Force Majeure).

61. Whenever any violation of this Consent Decree or any other event affecting Fair Grounds' performance under this Consent Decree, or the performance of its Facility, may pose an immediate threat to the public health or welfare or the environment, Fair Grounds shall notify EPA by telephone or by email as soon as possible, but no later than 24 hours after Fair Grounds first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

62. Each report submitted by Fair Grounds under this Section shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

63. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.
64. The reporting requirements of this Consent Decree do not relieve Fair Grounds of any reporting obligations required by the CWA or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.
65. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

IX. STIPULATED PENALTIES

66. Fair Grounds shall be liable for stipulated penalties to the United States for violations of this Consent Decree as specified below, unless excused under Section X (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Consent Decree, including any work plan or schedule approved under this Consent Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Decree.
67. Transfer of Ownership. If Fair Grounds fails to: (a) provide a copy of this Consent Decree to any proposed transferee; (b) provide written notice to the United States at least 30 Days prior to any transfer of any portion of the Facility; or (c) provide to EPA an executed copy of the written agreement with the transferee as required by Paragraph 5, Fair Grounds shall pay a stipulated penalty of \$10,000 per occurrence.

68. Late Payment of Civil Penalty. If Fair Grounds fails to pay the civil penalty required to be paid under Section V (Civil Penalty) when due, Fair Grounds shall pay a stipulated penalty of \$10,000 per Day for each Day that the payment is late.

69. Compliance Requirements.

a. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.A (Best Management Practices and Trainer Education):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 15th Day
\$2,500	16th Day through 25 th Day
\$5,000	26th Day and beyond

b. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.B (Dry Weather Discharge Monitoring):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 10th Day
\$4,000	11th through 20th Day
\$8,000	21st Day and beyond

c. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.C (Updated Nutrient Management Plan):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 10th Day
\$2,000	11th through 20th Day
\$4,000	21st Day and beyond

- d. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.D (Hydraulic Modeling):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 10th Day
\$2,500	11th through 20th Day
\$5,000	21st Day and beyond

- e. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.E (Facility Construction Projects):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 10th Day
\$4,000	11th through 20th Day
\$8,000	21st Day and beyond

- f. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.F (Site-Specific Sampling and Monitoring):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 10th Day
\$4,000	11th through 20th Day
\$8,000	21st Day and beyond

- g. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.G (Racing Season Certification Reports)

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 10th Day
\$2,000	11th through 20th Day
\$4,000	21st Day and beyond

- h. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements identified in Section VI.H (Contingent Requirement for Process Wastewater Elimination Plan) or in any approved PWWEP:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 10th Day
\$4,000	11th through 20th Day
\$8,000	21st Day and beyond

70. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements of Section VIII (Reporting Requirements):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,000	1st through 10th Day
\$2,000	11th through 20th Day
\$4,000	21st Day and beyond

71. Failure to comply with the Facility’s LDEQ Permit. The following stipulated penalties shall accrue for each Day Fair Grounds fails to comply with the terms and conditions contained in the Facility’s LDEQ Permit regarding (1) effluent monitoring parameters, (2) discharge monitoring reports, and (3) nutrient management plan requirements:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1st through 10th Day
\$4,000	11th through 20th Day
\$8,000	21st Day and beyond

72. A stipulated penalty of \$5,000 per occurrence shall accrue for any discharge of Process Wastewater from the Facility to the SWBNO MS4 or into any water of the United States, other than during a qualifying rain event as defined by the Facility’s LDEQ Permit.
73. For any violation of this Consent Decree not covered elsewhere in this Section, Fair Grounds shall pay \$1,000 per Day, per violation.
74. Stipulated penalties shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.
75. Fair Grounds shall pay any stipulated penalty within 30 Days of receiving the United States’ written demand.
76. The United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.
77. Stipulated penalties shall continue to accrue as provided in Paragraph 74, during any Dispute Resolution, but need not be paid until the following:
 - a. If the dispute is resolved by agreement of the Parties or by a decision of EPA that is not appealed to the Court, Fair Grounds shall pay accrued penalties determined to be owing, together with interest, to the United

States within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.

- b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Fair Grounds shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.
 - c. If any Party appeals the District Court's decision, Fair Grounds shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.
78. Fair Grounds shall pay stipulated penalties owing to the United States in the manner set forth in Paragraph 10 and with the confirmation notices required by Paragraph 11, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid.
79. If Fair Grounds fails to pay stipulated penalties according to the terms of this Consent Decree, Fair Grounds shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States from seeking any remedy otherwise provided by law for Fair Grounds' failure to pay any stipulated penalties.

80. The payment of penalties and interest, if any, shall not alter in any way Fair Grounds' obligation to complete the performance of the requirements of this Consent Decree.
81. Non-Exclusivity of Remedy. Stipulated penalties are not the United States' exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XIII (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to seek any other relief it deems appropriate for Fair Grounds' violation of this Consent Decree or applicable law, including but not limited to an action against Fair Grounds for statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

X. FORCE MAJEURE

82. "Force Majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Fair Grounds, of any entity controlled by Fair Grounds, or of Fair Grounds' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Fair Grounds' best efforts to fulfill the obligation. The requirement that Fair Grounds exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are

minimized. “Force Majeure” does not include Fair Grounds’ financial inability to perform any obligation under this Consent Decree.

83. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Fair Grounds shall provide notice by telephone or by email to EPA, as provided in Section XV (Notices), within 72 hours of when Fair Grounds first knew that the event might cause a delay. Within seven Days thereafter, Fair Grounds shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Fair Grounds’ rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Fair Grounds, such event may cause or contribute to an endangerment to public health, welfare or the environment. Fair Grounds shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Fair Grounds from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Fair Grounds shall be deemed to know of any circumstance of which Fair Grounds, any entity controlled by Fair Grounds, or Fair Grounds’ contractors knew or should have known.

84. If EPA agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Fair Grounds in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.
85. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Fair Grounds in writing of its decision.
86. If Fair Grounds elects to invoke the dispute resolution procedures set forth in Section XI (Dispute Resolution), it shall do so no later than 15 Days after receipt of EPA's notice. In any such proceeding, Fair Grounds shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Fair Grounds complied with the requirements of Paragraphs 82 and 83. If Fair Grounds carries this burden, the delay at issue shall be deemed not to be a violation by Fair Grounds of the affected obligation of this Consent Decree identified to EPA and the Court.

XI. DISPUTE RESOLUTION

87. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Fair Grounds' failure to seek resolution of a dispute under this Section shall preclude Fair Grounds from raising any such issue as a defense to an action by the United States to enforce any obligation of Fair Grounds arising under this Consent Decree.
88. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Fair Grounds sends DOJ and EPA a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 30 Days after the conclusion of the informal negotiation period, Fair Grounds invokes formal dispute resolution procedures as set forth below.
89. Formal Dispute Resolution. Fair Grounds shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by sending DOJ and EPA a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Fair Grounds' position and any supporting documentation relied upon by Fair Grounds.

90. The United States shall send Fair Grounds its Statement of Position within 45 Days of receipt of Fair Grounds' Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Fair Grounds, unless Fair Grounds files a motion for judicial review of the dispute in accordance with the following Paragraph.
91. Fair Grounds may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XV (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 10 Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Fair Grounds' position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.
92. The United States shall respond to Fair Grounds' motion within the time period allowed by the Local Rules of this Court. Fair Grounds may file a reply memorandum, to the extent permitted by the Local Rules.
93. Standard of Review
 - a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 89 pertaining to the adequacy or appropriateness of plans,

procedures to implement plans, schedules or any other items requiring approval by EPA under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Fair Grounds shall have the burden of demonstrating, based on the administrative record, that the position of the United States is arbitrary and capricious or otherwise not in accordance with law.

- b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 89, Fair Grounds shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of the Consent Decree as identified in Section III (Objectives).

- 94. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Fair Grounds under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 77. If Fair Grounds does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section IX (Stipulated Penalties).

XII. INFORMATION COLLECTION AND RETENTION

95. The United States and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:
- a. monitor the progress of activities required under this Consent Decree;
 - b. verify any data or information submitted to the United States in accordance with the terms of this Consent Decree;
 - c. obtain samples and, upon request, splits of any samples taken by Fair Grounds or its representatives, contractors, or consultants;
 - d. obtain documentary evidence, including photographs and similar data; and
 - e. assess Fair Grounds' compliance with this Consent Decree.
96. Upon request, Fair Grounds shall provide EPA or its authorized representatives splits of any samples taken by Fair Grounds. Upon request, EPA shall provide Fair Grounds splits of any samples taken by EPA.
97. Until five years after the termination of this Consent Decree, Fair Grounds shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Fair Grounds' performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon

request by the United States, Fair Grounds shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

98. At the conclusion of the information-retention period provided in the preceding Paragraph, Fair Grounds shall notify the United States at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States, Fair Grounds shall deliver any such documents, records, or other information to EPA. Fair Grounds may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Fair Grounds asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Fair Grounds. However, no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.
99. Fair Grounds may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Fair Grounds seeks to protect as CBI, Fair Grounds shall follow the procedures set forth in 40 C.F.R. Part 2.
100. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States pursuant to

applicable federal laws, regulations, or permits, nor does it limit or affect any duty or obligation of Fair Grounds to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XIII. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

101. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the Date of Lodging.
102. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the rights of the United States to obtain penalties or injunctive relief under the CWA or implementing regulations, or under other federal laws, regulations, or permit conditions, except as expressly specified in Paragraph 101. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Fair Grounds' Facility, whether related to the violations addressed in this Consent Decree or otherwise.
103. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, other appropriate relief relating to the Facility or violations of the CWA, Fair Grounds shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case,

except with respect to claims that have been specifically resolved pursuant to Paragraph 101.

104. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Fair Grounds is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Fair Grounds' compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Fair Grounds' compliance with any aspect of this Consent Decree will result in compliance with provisions of the CWA or with any other provisions of federal, State, or local laws, regulations, or permits.
105. This Consent Decree does not limit or affect the rights of Fair Grounds or of the United States against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Fair Grounds, except as otherwise provided by law.
106. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XIV. COSTS

107. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Fair Grounds.

XV. NOTICES

108. Unless otherwise specified in this Consent Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and sent by mail or email and addressed as follows:

As to the United States email:

eescdcopy.enrd@usdoj.gov
Re: DJ# 90-5-1-1-11342

As to the United States by mail:

EES Case Management Unit
Environment and Natural Resources
Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ# 90-5-1-1-11342

As to the United States Attorney for
the Eastern District of Louisiana:

peter.mansfield@usdoj.gov
Peter M. Mansfield
Assistant United States Attorney
Chief, Civil Division
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130
Re: DJ# 90-5-1-1-11342

As to EPA:

Herrera.esteban@epa.gov
Esteban Herrera
Section Chief, Water Enforcement
Compliance Assurance and Enforcement
Division
1201 Elm Street, Suite 500
Dallas, Texas 75270
Re: DJ# 90-5-1-1-11342

As to Fair Grounds:

Cathy.Beeding@kyderby.com
Churchill Downs Incorporated
ATTN: Legal Department
600 N. Hurstbourne Parkway
Suite 400
Louisville, KY 40222

109. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.
110. Notices submitted pursuant to this Section shall be deemed submitted upon mailing or transmission by email, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XVI. EFFECTIVE DATE

111. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket. In the event the United States withdraws or withholds consent to this Consent Decree before entry, or the Court declines to enter the Consent Decree, then the preceding requirement to perform duties scheduled to occur before the Effective Date shall terminate.

XVII. RETENTION OF JURISDICTION

112. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Consent Decree or entering orders modifying this Consent Decree, pursuant to Sections XI (Dispute Resolution) and XVIII (Modification), or effectuating or enforcing compliance with the terms of this Consent Decree.

XVIII. MODIFICATION

113. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where

the modification constitutes a material change to this Consent Decree, it shall be effective only upon approval by the Court.

114. Any disputes concerning modification of this Consent Decree shall be resolved pursuant to Section XI (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 93, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XIX. TERMINATION

115. After Fair Grounds has completed the requirements of Section VI (Compliance Requirements) and Section VIII (Reporting Requirements), has submitted at least three consecutive Racing Season Certification Reports certifying that no Process Wastewater has been discharged to the SWBNO MS4, has maintained satisfactory compliance with this Consent Decree and the terms of Fair Grounds' LPDES Permit for a period of five years, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Fair Grounds may serve upon the United States a Request for Termination, stating that Fair Grounds has satisfied those requirements, together with all necessary supporting documentation.
116. Following receipt by the United States of Fair Grounds' Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Fair Grounds has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States

agrees that the Consent Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

117. If the United States does not agree that the Consent Decree may be terminated, Fair Grounds may invoke Dispute Resolution under Section XI. However, Fair Grounds shall not seek Dispute Resolution of any dispute regarding termination until 120 Days after service of its Request for Termination.

XX. PUBLIC PARTICIPATION

118. This Consent Decree shall be lodged with the Court for a period of no less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Fair Grounds consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Consent Decree, unless the United States has notified Fair Grounds in writing that it no longer supports entry of the Consent Decree.

XXI. SIGNATORIES/SERVICE

119. Each undersigned representative of Fair Grounds, EPA, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

120. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Fair Grounds agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. Fair Grounds need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXII. INTEGRATION

121. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Consent Decree, the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

XXIII. FINAL JUDGMENT

122. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States and Fair Grounds. The Court therefore enters this judgment as a final judgment under Fed. R. Civ. P. 58.

XXIV. 26 U.S.C. § 162(f)(2)(A)(ii) IDENTIFICATION

123. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section VI (Compliance Requirements), Paragraphs 12-52; Section VIII (Reporting Requirements) Paragraphs 60-62; and Section XII (Information Collection and Retention), Paragraphs 95-98, is restitution or required to come into compliance with law.

XXV. APPENDICES

124. The following Appendices are attached to and part of this Consent Decree:
- “Appendix A” is the map of the Facility.
 - “Appendix B” is the Walking Wheel Agreement and the Stall Application.
 - “Appendix C” is the Hydraulic Modeling Procedures.
 - “Appendix D” is the Site Specific Sampling and Monitoring Plan Guidelines.

Dated and entered this __ day of _____, 20__

UNITED STATES DISTRICT JUDGE

Signature Page for the Consent Decree entered in the matter of *United States v. Churchill Downs Louisiana Horseracing LLC d/b/a/ Fair Grounds Race Course and Slots*

FOR THE UNITED STATES OF AMERICA:

JEFFREY BOSSERT CLARK
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

NICOLE VEILLEUX Digitally signed by NICOLE
VEILLEUX
Date: 2020.09.29 11:06:21 -04'00'

DATE

NICOLE VEILLEUX
Senior Counsel
Phone: (202) 532-3348
Email: nicole.veilleux@usdoj.gov
ASIA A. MCNEIL-WOMACK (Ga Bar # 821002)
Trial Attorney
Phone: (202) 305-0544
Email: asia.mcneil-womack@usdoj.gov
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, DC 20044-7611

PETER G. STRASSER
UNITED STATES ATTORNEY

s/ Peter M. Mansfield

PETER M. MANSFIELD (#28671)
Assistant United States Attorney
Chief, Civil Division
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130
Telephone: (504) 680-3047
Email: peter.mansfield@usdoj.gov

Signature Page for the Consent Decree entered in the matter of United States v. Churchill Downs Louisiana Horseracing LLC d/b/a/ Fair Grounds Race Course and Slots

Dated: _____

FOR THE U.S. ENVIRONMENTAL
PROTECTION AGENCY:

SUSAN
BODINE

Digitally signed by
SUSAN BODINE
Date: 2020.09.20
11:18:44 -04'00'

SUSAN PARKER BODINE

Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

ROSEMARIE KELLEY

Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

MARK POLLINS

Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

KRISTIN BUTERBAUGH

Attorney-Adviser
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

Signature Page for the Consent Decree entered in the matter of United States v. Churchill Downs Louisiana Horseracing LLC d/b/a/ Fair Grounds Race Course and Slots

FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION 6:

Dated: September 15, 2020



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency,
cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2020.09.15 13:30:13 -05'00'

CHERYL T. SEAGER
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500
Dallas, Texas 75270

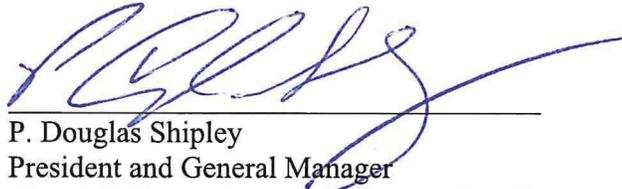
ELLEN CHANG-VAUGHAN
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 6
Office of Regional Counsel
1201 Elm Street, Suite 500
Dallas, Texas 75270

ROBYN HANSON EMESON
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 8
Office of Regional Counsel
1595 Wynkoop Street
Denver, CO 80902

Signature Page for the Consent Decree entered in the matter of *United States v. Churchill Downs Louisiana Horseracing LLC d/b/a/ Fair Grounds Race Course and Slots*

FOR DEFENDANT, CHURCHILL DOWNS LOUISIANA HORSERACING LLC:

9/14/2020
Date



P. Douglas Shipley
President and General Manager
Churchill Downs Louisiana Horseracing Company, LLC d/b/a
Fair Grounds Race Course and Slots
1751 Gentilly Blvd.
New Orleans, LA 70119

9/15/2020
Date



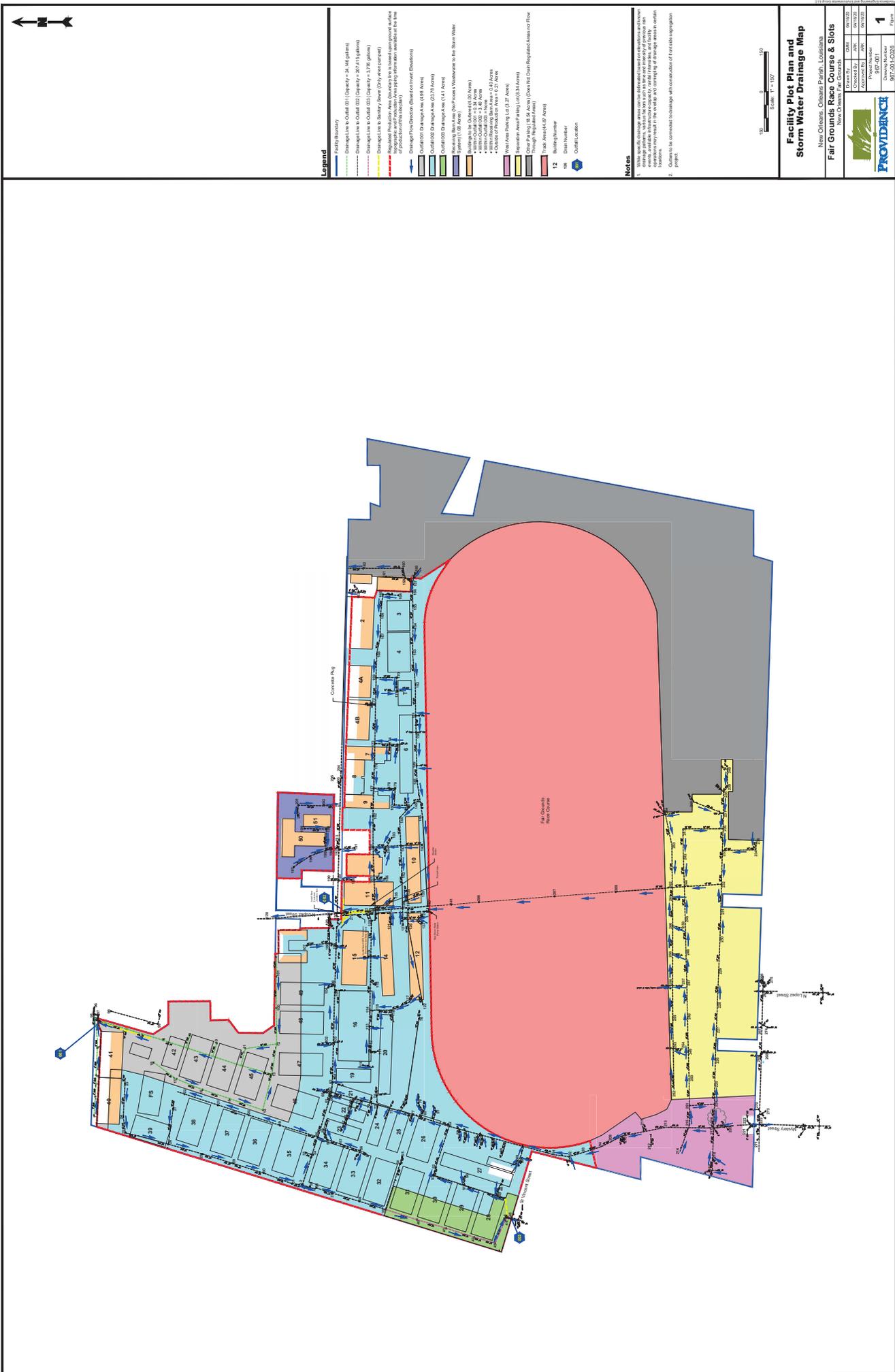
Todd S. Mikolop
Counsel to Churchill Downs Louisiana Horseracing Company, LLC
Hunton Andrews Kurth LLP
2200 Pennsylvania Ave., NW
Washington, DC 20037

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

_____)	
UNITED STATES OF AMERICA)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. _____
)	
CHURCHILL DOWNS LOUISIANA)	
HORSERACING COMPANY, LLC)	
d/b/a FAIR GROUNDS)	
RACE COURSE AND SLOTS,)	
)	
<i>Defendant.</i>)	
_____)	

CONSENT DECREE

APPENDIX A: FACILITY MAP



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

_____)	
UNITED STATES OF AMERICA)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No.
)	
CHURCHILL DOWNS LOUISIANA)	
HORSERACING COMPANY, LLC)	
d/b/a FAIR GROUNDS)	
RACE COURSE AND SLOTS,)	
)	
<i>Defendant.</i>)	
_____)	

CONSENT DECREE

APPENDIX B: WALKING WHEEL AGREEMENT AND STALL APPLICATION



2020-2021 Stall Application

WINTER 2020 - 2021 · THOROUGHBRED RACING SEASON
Thursday, November 26, 2020 — Sunday, March 28, 2021
DEADLINE FOR APPLICATION: Saturday, October 17, 2020

Applications are due on:
Saturday, October 17, 2020

IMPORTANT NOTICE: Trainers who have been allotted stalls for the 2020-2021 TB meet must have all stalls occupied no later than Monday, November 23, 2020. Any exceptions that would delay this move-in date must be approved by the Racing Secretary.

Track facility utilization information packages with applicable rules and regulations are included with this application form. Applicants shall familiarize themselves with this information prior to the arrival of their horses at the Fair Grounds and shall complete the mandatory training described therein not later than 3 business days after the arrival of their horses. Applicants shall train the personnel as necessary to implement all rules and regulations included in the information package and otherwise take other actions as needed to assure compliance with track facility utilization requirements.

PLEASE E-MAIL TO: SCOTT.JONES@FGNO.COM
OR FAX TO: (504) 949-4778

IF YOU HAVE NOT PROCESSED YOUR WORKMAN'S COMPENSATION APPLICATION, PLEASE CONTACT THE LOUISIANA HBPA AT (504) 945-1555 OR AT www.lahbpa.com

	Name of Horse	Sex/ Age	Allowance or Claiming Price	MDN (✓)	Distance	Last Start		LA Bred (✓)	Name of Owner
						Date	Track		
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									

Policies for Fair Grounds Race Meets

There will be a \$100 per arm fee for any trainers using walking wheels. This fee will cover the entire period of the race meet covered by this Stall Application. Any Applicant allotted stalls shall be required to be present for the barn checklist inspection upon arrival, along with a Fair Grounds representative. The checklist covers an overall view of stalls assigned, confirmation that all electrical and plumbing is in working order and the general cleanliness of all tack rooms and living quarters. NO ALTERATIONS ARE PERMITTED. The checklist must be signed and any deficiencies noted. Fair Grounds requires barn areas to be left in the same condition as upon arrival. See paragraphs #19 and #20 herein for further information regarding penalties for non-compliance. Applicants that are not allotted stalls will be required to use the Fair Grounds Ship-In barn area. Trainers planning to bring horses for consecutive race days must contact the stall superintendent. Fair Grounds provides bedding and gates in Ship-In stalls.

Stable Area Evacuation Policy

All owners and/or trainers are required to complete the evacuation information below prior to being allotted stalls. Fair Grounds management reserves the right to institute a mandatory stable area evacuation in the event of an approaching weather event, civil unrest or any other event which poses a risk of disrupting Fair Grounds' operations or the safety of Fair Grounds personnel or property. NOTICE: Fair Grounds may issue a mandatory evacuation prior to any other evacuation order by civil authorities and prior to the initiation of a "contraflow" evacuation. In the event of an evacuation, all trainers or owners are required to immediately remove all personnel, horses and property from Fair Grounds.

The owner/trainer of the above listed horses (or any horses under the owner/trainer's control at Fair Grounds) at the time of an evacuation order is issued will immediately evacuate all horses and personnel to _____
 (insert name of safe evacuation location where owner/trainer has made appropriate evacuation arrangements).

Travel times during evacuations are unreliable, but longer than normal travel times are expected. Plan accordingly. It

is the Applicant's duty to maintain accurate email and phone number(s) with Fair Grounds management and monitor all communications regularly for updated notices from Fair Grounds. In no event shall Fair Grounds be responsible for personnel, horses or property remaining at Fair Grounds. It is the responsibility of all owners and trainers and to make arrangements to enable immediate removal of personnel, horses and property from Fair Grounds premises in the event of an evacuation.

Environmental Compliance

As a Concentrated Animal Feeding Operation (CAFO), Fair Grounds is required to maintain certain governmental permits. These permits require that all trainers and personnel on the backside stable area of Fair Grounds comply with Fair Grounds' best management practices (BMPs) as required by the permits. By signing below, the Applicant acknowledges and agrees that Fair Grounds will use video surveillance to monitor trainers, employees, other personnel and all activities at Fair Grounds for compliance with these requirements. Further, the undersigned acknowledges and agrees that stable area is subject to inspections by Fair Grounds and various governmental agencies and inspectors such as the Louisiana Department of Environmental Quality, the New Orleans Sewage and Water Board and the Environmental Protection Agency. Track facility utilization information packages with applicable rules and regulations are included with this application form. It is the responsibility of all applicants to familiarize themselves with this information prior to the arrival of their horses at Fair Grounds and shall complete the mandatory training described therein not later than 3 business days after the arrival of their horses. Applicants shall train their personnel as necessary to implement all rules and regulations included in the information package and otherwise take other actions as needed to assure compliance with track facility utilization requirements. THERE IS A ZERO TOLERANCE POLICY FOR NONCOMPLIANCE. Violations are subject to a tiered penalty system, as follows: first offense: \$500 fine; second offense: \$1,000 fine; third offense: revocation of any rights granted pursuant to this Stall Application and prompt removal of all horses, personnel and property from Fair Grounds' stable area. The undersigned hereby obligates himself/herself to prompt payment within 30 days of all fines.

The following BMPs will be subject to the Zero Tolerance Policy for violations:

Trainers shall use only the specific Fair Grounds dumpster(s) assigned to them. All dumpsters shall have fully functioning lids that shall be closed when not in use. Trainers shall immediately report to the Fair Grounds any dumpsters that have non-functioning lids, are leaking, are not adequate for the Trainer's daily needs, or are not emptied on a daily basis.	Horses shall be washed only in designated wash areas. Hoses used for horse-washing or any other purpose shall be equipped with functioning nozzles. Hoses without with nozzles, hose splitters, and hoses that are leaking are not permitted and shall be confiscated immediately by the Fair Grounds.	Hay, manure, shavings and/or bedding wastes shall be placed only in assigned dumpsters provided by the Fair Grounds and shall not be placed directly on the ground, directly on pavements, or in any other waste containers at the Fair Grounds site.	All dishwashers, washing machines and ice machines shall be properly plumbed into the Fair Grounds potable water supply and sanitary sewer systems at the connection locations designated by the Fair Grounds. NO outdoor washing machines are permitted.
All waste materials shall be swept up and placed into dumpsters. NO water may be used flush materials into storm drains.	NO washing down of pavements, rubber mats, tarps, horse vans, horse trailers, other vehicles, or other equipment is permitted on Fair Grounds property.	No Fair Grounds potable water distribution or wastewater collection equipment may be moved or removed, such as backflow preventers or flow restrictors.	Dumpsters shall not be overfilled or otherwise loaded in a manner that prevents their lids from fully closing.
			NO storm drains may be covered or blocked

Bilingual signage will be posted throughout the backside.

Fair Grounds premises shall be monitored for violations of the BMPs and Fair Grounds (or its designee) will investigate and handle all documentation of all observed or reported violations. The warnings, steward citations, steward fines or steward evictions will be enforced and documented under the trainer's name.

This section must be complete with valid information otherwise the application will be rejected until such time as complete and accurate information is submitted.

Trainer: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Home Telephone: _____
 Barn Telephone: _____ Cellular: _____
 E-mail Address: _____

NO APPLICATION WILL BE CONSIDERED WITHOUT AN AUTHORIZED SIGNATURE AND SECTION #2 BEING INITIALED ON THE REVERSE SIDE OF THE STALL APPLICATION

The undersigned hereby certifies that i) he/she has read, understands and agrees to all provisions of this Stall Application including the terms and conditions on the reverse side and the policies stated above; ii) he/she has provided a copy of this agreement to each of the owner(s) listed hereon; iii) he/she has voluntarily signed this agreement and iv) no oral representations, statements or inducements apart from this agreement have been made.

Applicant's Signature: _____ Date: _____ See Other Side

STALL AGREEMENT • FAIR GROUNDS RACE COURSE & SLOTS

The undersigned, individually and on behalf of each owner (collectively, the "Applicant") of the horses listed on the reverse hereof (the "horses"), and in order to induce Churchill Downs Louisiana Horseracing Company, L.L.C., on behalf of Fair Grounds Race Course & Slots ("Fair Grounds") to accept this Agreement and to grant Applicant use of stall space and the Premises (as defined below), hereby represents, warrants, covenants and agrees with Fair Grounds as follows:

1. Applicant is the owner, or is authorized to act for and on behalf of each owner, of the horses. Applicant shall comply with and fulfill all conditions necessary for Applicant to apply for and be allotted stall space and use of the Premises. For purposes hereof, the term "Premises" shall mean Fair Grounds' entire property, including, but not limited to, the grandstand, clubhouse, administrative offices, parking areas, backside, barns, stalls, racing oval and other portions of the grounds.
2. Applicant does not have any claims against Fair Grounds and to the extent Applicant has any such claims, Applicant knowingly and voluntarily releases any such claims. (Initials)
3. Each person named as an owner of a horse is an actual, bona fide owner of such horse and such ownership complies with all rules and regulations of the Louisiana State Racing Commission (the "Commission") pertaining to same.
4. This Agreement is a revocable license issued by Fair Grounds to Applicant. Fair Grounds specifically reserves the right (a) to revoke this license, with or without cause, and/or (b) to refuse Applicant entry in any race for any reason or cause without prior notice to Applicant.
5. Applicant shall abide by all rules and regulations of the Commission, Condition Book and Fair Grounds, including, but not limited to, all provisions of this Agreement. Applicant shall abide by all decisions of the Commission, the Stewards and/or Fair Grounds with regard to disputes, claims and objections on all matters pertaining to racing and this Agreement, and Applicant shall accept such decision as final.
6. Applicant shall enter horses in such races listed in the Fair Grounds Condition Book for which they qualify. LACK OF PARTICIPATION IN RACES BY HORSES STABLED AT FAIR GROUNDS OR EARLY DEPARTURE OR SHIPPING TO RUN HORSES AT OTHER RACETRACKS WILL RESULT IN A REDUCTION OR REFUSAL OF STALL ALLOCATION. ALL ASSIGNED STALLS THAT ARE NOT FILLED AND TRAINERS WHO ALLOW OTHER TRAINERS TO USE THEIR ASSIGNED STALLS WILL LOSE THOSE STALLS IMMEDIATELY AND THE STALLS WILL BE REALLOCATED. Applicant shall (a) within three (3) days after notice from Fair Grounds, which notice may be given with or without cause, vacate all stalls allotted to Applicant and remove all horses, other property and personnel from the Premises; (b) within twenty-four (24) hours of a horse being claimed, sold or transferred to any person or entity that is not registered for racing at the Premises, remove such horse from the Premises, unless approved by Fair Grounds; and (c) vacate all stalls and remove all horses and other property from the Premises within five (5) days after the conclusion of the live race meeting. Applicant's failure to comply with these provisions may result in the removal of such horses, other property and/or personnel from the Premises by Fair Grounds at Applicant's expense.
7. No horse stabled off the Premises will be eligible to race on the Premises without Fair Grounds' prior written consent. A separate racing application, with past performance attached, is required and must be completed and signed by Applicant if Applicant desires to race any horse stabled off Premises.
8. Applicant shall not make any alterations, additions or modifications to any improvements on the Premises without the prior written consent of Fair Grounds' General Superintendent. Fair Grounds reserves the right to require Applicant remove, at Applicant's expense, any alterations, additions or modifications, including painting, made by Applicant, regardless of whether Fair Ground's prior consent was obtained, at the conclusion of the live race meeting and to restore, at Applicant's expense, such portions of the Premises to its condition at the inception of this Agreement.
9. Smoking and cooking are strictly prohibited in all barn and stall areas. The use of any space heater or cooking appliance, other than one (1) UL-approved microwave and one (1) UL-approved coffee maker, in any sleeping quarters is strictly prohibited. Applicant specifically assumes responsibility for, and shall indemnify Fair Grounds and be liable for any and all damages found to be in violation of these provisions by Applicant or by Applicant's employees, agents, invitees, exercise riders, jockeys or any member of any of their respective families.
10. Applicant agrees that neither Fair Grounds nor its parent or any of its affiliates, directors, employees or agents shall be liable for any loss, damage, death or injury of any kind to Applicant or to Applicant's employees, agents, invitees, exercise riders, jockeys or any member of their respective families, property or animals, regardless of whether such injury, loss, death or damage is caused by a condition of the Premises and/or any negligent act or omission of Fair Grounds, its officers, employees and agents or from any other cause. Applicant hereto specifically and knowingly assumes all risks of such injury, loss, death or damage, fully and completely.
11. Applicant shall indemnify and save harmless Fair Grounds, its parent and affiliates and all of their respective officers, directors, employees and agents from any and all liabilities, claims and demands for damage, injury, death, loss, cost or expense of any kind resulting from or arising out of or claimed to result from the presence on or use of the Premises by Applicant, its employees, agents, invitees, exercise riders, jockeys or any member of their respective families. Applicant shall defend, at its expense, any claim or suit that may arise out of, in connection with or relative to the foregoing and shall pay all attorneys' fees and expenses in connection therewith. The indemnification term of this Agreement shall survive the term of this Agreement.
12. Together with the foal registration papers, Applicant shall file with the Fair Grounds' Racing Secretary's Office certificates of insurance from insurers acceptable to Fair Grounds showing that Applicant is the named insured on (a) commercial general liability insurance policy having minimum limits of not less than One Million Dollars (\$1,000,000) for personal injury and property damage, and (b) a workers' compensation policy with statutory limits covering all employees, including exercise riders, listed on Applicant's work list filed with the Commission. Such policies shall name Fair Grounds as additional insured, provide coverage for Fair Grounds' entire live race meeting, and shall contain a clause providing that such policies shall not be cancelled without at least ten (10) days' prior written notice to Fair Grounds by certified mail.
13. Fair Grounds may broadcast by television, radio or Internet and by photograph, or any other media transmission now known or hereafter disclosed, or authorize or license the television, radio or Internet broadcasting or photographing of any horseracing activities on the Premises. Fair Grounds hereby reserves all television, radio, Internet and still photography rights with respect to any horseracing activity at the Premises, including, but not limited to, races, preparation therefore, ceremonies or proceedings thereafter and training activities. Applicant, individually and on behalf of each employee, agent, invitee, exercise rider, or jockey contracted to ride a horse and any family member of any of the foregoing, hereby consents and agrees to sign and deliver releases to Fair Grounds upon demand permitting such broadcast and photographic activities and the exhibitions thereof; provided, however, that nothing contained herein is intended to affect those rights governed by the Interstate Horse Racing Act of 1978.
14. Pet Policy: Please see the Condition Book for details.
15. Applicant and each of his/her employees, exercise riders and jockey's shall be duly licensed by the Commission and shall wear on their person at all times while on the Premises a valid picture license issued by the Commission.
16. Owners, trainers and stable employees shall park only in those areas designated by Fair Grounds. Violators are subject to fines by the Stewards.
17. Horses are permitted on track oval ONLY during training hours posted by Fair Grounds at the entrance to the track oval.

18. Horse(s) may only occupy those stalls assigned to Applicant. Any horse found in an unassigned stall or in a stall assigned to another owner or trainer will be removed from the Premises at Applicant's expense. Fair Grounds assumes no liability for injury or death, loss by fire, or theft of any horse or other property of Applicant.
19. Applicant shall properly supervise all his/her horses, employees, agents and invitees. Applicant hereby acknowledges that he/she is responsible for and will promptly pay for all damages to sleeping quarters, tack rooms, barns and stalls. Cost of damages will be determined on a case by case evaluation by Fair Grounds management and staff. Normal wear and tear expected caused by Applicant, his/her employees, agents, invitees or horses will be taken into consideration on final inspections by Fair Grounds management and staff upon departure. Applicant agrees that all sleeping quarters and tack rooms assigned to them will be cleaned and swept properly as to the conditions as they were upon arrival. Applicant agrees to pay a one hundred dollar (\$100) cleaning fee to Fair Grounds if rooms do not pass inspection by the stall superintendent. Applicant further agrees to strip stalls of any bedding materials upon departure. If stalls are left with any bedding material upon departure, Applicant agrees to pay a twenty dollar (\$20) cleaning fee per stall to Fair Grounds.
20. Fair Grounds reserves the right to charge Applicant a Two Hundred Dollar (\$200) fee for each sleeping room in the Dormitory Building. (a) Fair Grounds shall have the right, from time to time and one or more times, to conduct searches and inspections as it deems appropriate of those portions of the Premises used by Applicant, its employees, agents, invitees and/or any member of their respective families, including, but not limited to, all sleeping quarters, tack rooms, stables, barns and stalls. Applicant, individually and on behalf of his/her employees, agents, invitees and any member of their respective families, hereby consents to such searches and inspections, (b) agrees that such searches and inspections may be conducted at any time, with or without cause, and without prior notice, and (c) waives any right or exception of privacy that might otherwise exist with respect to the areas subject to search or inspection.
21. All horses entering the Premises must have a Certificate of Veterinary Inspection (CVI) issued by a licensed accredited veterinarian within seventy-two (72) hours of arrival at the race track stating the horse's temperature (101.5° F or less) and a record of vaccination for EHV1 administered not less than 14 days nor more than 90 days prior to arrival. Date of vaccination and specific product used must be noted on the CVI.
22. Horses shall not have had contact (defined as: a coming together or touching, as of objects or surfaces; the state or condition of touching or of immediate proximity) with any horse diagnosed with EHV1 or Strangles in the past 30 days.
23. Horses shipping in from LSRC-approved racetracks and training centers will be exempt, provided the training center has the same requirements for entry as Fair Grounds.
24. Race/work or go horses shall go to the receiving barn only. Those horses must enter the Premises with record of vaccination for EHV1 administered not less than 14 days nor more than 90 days prior to arrival.
25. All horses stabled on the Premises are required to maintain EHV1 vaccinations at 90-day or less intervals. Regulatory veterinarians will be doing random checks of stable vaccination records and failure to comply may result in sanctions by the stewards.
26. Trainers of claimed horses must provide vaccination history within 24 hours to successful claimant, if requested.
27. All outrider and lead ponies (used to take horses to the track or post) must enter the Premises with the CVI requirements as stated in No. 21 above.
28. A negative Coggins test within the previous 365 days must accompany or be on file for all horses entering or stabled on association grounds.
29. In no event shall Fair Grounds be responsible for the care, custody or control of any horses while on the Premises or elsewhere. Applicant assumes full responsibility for the safety and well-being of his/her employees, agents, invitees and all horses. Applicant agrees to take all reasonable measures for the protection of the horses, including providing adequate supervision for the horses while on the Premises, hiring competent personnel to care for the horses at all times, cleaning and maintaining all stalls and removing any hazardous condition from such stalls. Applicant shall keep the area adjacent to his/her assigned barn and/or stall clean and in good order. If Applicant believes or has reason to believe that a hazardous condition should be remedied by Fair Grounds, Applicant shall immediately call such condition to Fair Grounds' attention. Applicant hereby acknowledges that Fair Grounds has no obligation to remedy any condition on the Premises which may be caused by the negligence or willful misconduct of Applicant or any of his/her employees, agents or invitees and that it is Applicant's obligation to remedy such condition.
30. Any owner or trainer granted a stall allotment at Fair Grounds who sells a horse for slaughter that was previously stabled at Fair Grounds will have his/her stall allotment permanently revoked.
31. All owners, trainers and all employees of trainers agree to the Environmental Compliance provisions set forth herein and to the imposition of the fines for violations of such rules.
32. This Agreement shall include the following language from Louisiana Revised Statute 9:2795.3(F):

WARNING — Under Louisiana law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to R.S. 9:2795.3. THIS AGREEMENT IS NOT A LEASE OF ANY SPACE BUT MERELY A REVOCABLE LICENSE GRANTED ON THE TERMS OUTLINED HEREIN. THIS AGREEMENT IS NOT EFFECTIVE UNLESS AND UNTIL IT IS ACCEPTED BY FAIR GROUNDS.

NOTE: IF THIS AGREEMENT IS SIGNED OTHER THAN BY THE OWNER OF EACH HORSE NAMED ON THE REVERSE SIDE HEREOF, THE PERSON SIGNING THIS AGREEMENT WARRANTS AND REPRESENTS THAT HE/ SHE IS AUTHORIZED BY EACH SUCH HORSE OWNER TO SIGN THIS AGREEMENT ON SUCH HORSE OWNER'S BEHALF TO BIND AND OBLIGATE SUCH OWNER TO THE CONDITIONS OF THIS AGREEMENT. APPLICANT WARRANTS THAT HE/SHE HAS PROVIDED TO EACH OWNER OF EACH HORSE LISTED A COPY OF THIS AGREEMENT TO FULLY INFORM SUCH OWNER OF THE CONDITIONS, OBLIGATIONS AND PROVISIONS SET FORTH HEREIN.

STABLE AREA EVACUATION POLICY — Fair Grounds management reserves the right to institute a mandatory stable area evacuation in the event of an approaching weather event, civil unrest or any other event which poses a risk of disrupting Fair Grounds' operations or the safety of Fair Grounds personnel or property. NOTICE: Fair Grounds may issue an evacuation order prior to any other evacuation order by civil authorities and prior to the initiation of a "contraflow" evacuation. In the event of an evacuation, all trainers or owners are required to immediately remove all personnel, horses and property from Fair Grounds. Travel times during evacuations are unreliable, but longer than normal travel times are expected. Plan accordingly. It is the Applicant's duty to maintain accurate email and phone number(s) with Fair Grounds management and monitor all communications regularly for updated notices from Fair Grounds. In no event shall Fair Grounds be responsible for personnel, horses or property remaining at Fair Grounds. It is the responsibility of all owners and trainers to make arrangements to enable immediate removal of personnel, horses and property from Fair Grounds premises in the event of an evacuation.

I certify and warrant that the information contained in this Agreement is true and correct and that I have read all of the foregoing conditions and provisions on both sides of the Agreement and agree to be bound by them, for myself and the owners I represent, and I warrant my authority to act for and represent each of the owners whose names appear on the reverse hereof.

Applicant's Signature: _____

Date: _____



WALKING WHEEL AGREEMENT

Trainer agrees that, upon execution of this agreement, he/she has entered into a legally binding contract as set forth in this agreement.

Trainer further acknowledges and agrees that any debt hereby created is a racing debt and may be enforced through the stewards if full payment is not made on time. In addition, Trainer agrees that his/her HBPA Horsemen's Bookkeeper account may be debited for the amount owed if not paid on the prescribed date if Fair Grounds decides to pursue this method of collection.

Trainer agrees that he/she will be charged \$100.00 per arm, per month of use, between the times of [X] through [X]. Trainer further agrees that this contract is binding for the specified period of time. Trainer cannot void this contract at any time and is responsible for all payments set forth.

Trainer acknowledges that the Louisiana Department of Environmental Quality requires Fair Grounds to adhere to the terms of a Nutrient Management Plan set forth in Fair Grounds' Concentrated Animal Feeding Operation (CAFO) permit. Consistent with the requirements of this permit, Trainer agrees that he/she and his/her employees will do the following: (1) Perform daily maintenance on and around the walking wheel area to prevent any standing water; (2) Rake and groom the dirt/sand areas around the walking wheels on a daily basis; and (3) Remove all fecal matter from the walking wheel area on a daily basis and after every usage. Trainer further acknowledges and agrees that any failure to comply with these requirements by the Trainer or his/her employees is a violation of the Environmental Compliance requirements of the Stall Application and subject to the fines and penalties set forth therein.

DATE: _____

TRAINER NAME: _____

TRAINER SIGNATURE: _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

_____)	
UNITED STATES OF AMERICA)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No.
)	
CHURCHILL DOWNS LOUISIANA)	
HORSERACING COMPANY, LLC)	
d/b/a FAIR GROUNDS)	
RACE COURSE AND SLOTS,)	
)	
<i>Defendant.</i>)	
_____)	

CONSENT DECREE

APPENDIX C: HYDRAULIC MODELING REQUIREMENTS AND PROCEDURES

*United States of America v. Churchill Downs Louisiana Horseracing Company, LLC d/b/a
Fair Grounds Race Course and Slots*

Consent Decree, Appendix C: Hydraulic Modeling Requirements and Procedures

1. The hydraulic model shall be of a dynamic type that simulates flow rates within the Production Area System over periodic time increments not exceeding five minutes in response to Process Wastewater and storm water entering the Production Area System.
2. Conveyance System Inputs to the Model. The hydraulic model of the Production Area System shall include: all conduits eight inches or larger; all flow controls; and all pumping facilities located at the Facility that convey or regulate Production Area Process Wastewater flows and storm water to the SWBNO Sanitary System or the SWBNO MS4. Model input data shall be developed to quality Level A as is practicable, but not less than quality Level B, as specified in Table 5.1 of Water Environment Federation Manual of Practice FD - 17, Third Edition 2011 (“WEF MOP FD-17”).
3. Flow Inputs to the Model. The hydraulic model shall include all flows of Process Wastewater and storm water that enter the Facility’s Production Area System.
4. Calibration and Validation. The hydraulic model shall be calibrated utilizing at least three rainfall events of varying intensities and durations. The hydraulic model shall be validated utilizing at least one additional rainfall event not included among those events utilized for model calibration. Rainfall events utilized for hydraulic model calibration and validation shall be thunderstorm-type events that have relatively intense continuous rainfall periods of short duration without interim periods of little or no rainfall and that accumulate a minimum of 0.75 inches of rain within a period of six hours.
5. Flow Monitoring. Flow monitoring for calibration and validation shall be performed at least at the following locations:
 - a. Outfall 001 – in the outfall structure;
 - b. The Separation Area Parking Lot -- on the north side of the race track upstream of any sewer connections from the Production Area;
 - c. The West Parking Lot -- in the storm sewer southeast of Building 27, preferably in Manhole 93 as shown on Fair Grounds drawing entitled; “Facility Plot Plan and Storm Water Drainage Map” dated June April 16, 2020. Fair Grounds shall advise EPA if Manhole 93 is found to be unsuitable for flowmeter placement and the alternate location Fair Grounds chooses for this flowmeter. This flow meter shall continuously record velocity and depth and from those measurements calculate flow rate. Fair Grounds shall report flow rates at five-minute uniform intervals. Flow metering at this location may be discontinued after the storm water drainage from the West Parking Lot is isolated from the Production Area System.
 - d. Outfall 002 -- at the MS4 diversion valve; and
 - e. Outfall 003 – as near to the Facility west property line as practicable, whenever the valve installed under Consent Decree paragraph 39 is open.

6. Results. The results of the hydraulic model shall generally conform to the calibration and validation criteria set forth in Table 5.2 of WEF MOP FD-17 regarding peak flow rate, total volume, flow curve shape, and peak timing.
7. System analysis modeling runs. All model runs shall determine the total volume and peak flow rate from the Facility's Production Area System to SWBNO Sanitary System and the SWBNO MS4 for the 1-year/24-hour, 5-year/24-hour, 10-year/24-hour, and 25-year/24-hour storm events, as defined by the National Oceanic and Atmospheric Administration (Atlas 14, vol. 9, ver. 2). All model runs shall represent conditions at the Facility both as of the Effective Date and as projected after completion of the Phase III construction projects required by Section IV(E).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

_____)	
UNITED STATES OF AMERICA)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No.
)	
CHURCHILL DOWNS LOUISIANA)	
HORSERACING COMPANY, LLC)	
d/b/a FAIR GROUNDS)	
RACE COURSE AND SLOTS,)	
)	
<i>Defendant.</i>)	
_____)	

CONSENT DECREE

APPENDIX D: SITE-SPECIFIC SAMPLING AND MONITORING GUIDELINES

*United States of America v. Churchill Downs Louisiana Horseracing Company, LLC d/b/a
Fair Grounds Race Course and Slots*

Consent Decree, Appendix D: Site-Specific Sampling and Monitoring Guidelines

A. Site Sampling and Flow Monitoring

1. Fair Grounds shall sample discharges generated by a Significant Rain Event as follows:
 - a. From the Production Area System to the SWBNO MS4 at Outfalls 001, 002, and 003 during the baseline sampling period as set forth in Paragraph 42(a), during the pre-construction sampling period as set forth in Paragraph 42(b), and during the post-construction sampling period as set forth in Paragraph 42(c); and
 - b. From the Production Area System to the SWBNO Sanitary System at Outfall 002 during the baseline sampling period as set forth in Paragraph 42(a), during the pre-construction sampling period as set forth in Paragraph 42(b).
2. Fair Grounds shall submit a site-specific sampling and flow monitoring plan to EPA for review and approval within 30 days of the Effective Date. This plan shall incorporate the general guidelines set forth in this Appendix D.
3. Fair Grounds shall utilize both automated sampling and grab sampling.
4. Automated sampler placement and operation shall be performed in accordance with the following requirements:
 - a. Outfall 001: An automated sampler shall be installed in Outfall 001 wet well structure. This sampler shall collect Aliquot Samples of Production Area flows to the SWBNO MS4 generated by SREs during the baseline, pre-construction and post-construction sampling periods. This sampler shall be operated by a flow level sensor placed in the Outfall 001 wet well structure. Sampling shall commence when Production Area discharges crest the weir in the Outfall 001 wet well structure installed under Section VI(E) (“Facility Construction Projects”) and shall continue at 10-minute intervals until all bottles in the sampler are filled. The sampler shall continue to run even during periods of intermittent flow over the weir to the SWBNO MS4. If the Outfall 002 sample bottle fill requirements specified in Paragraphs 4(b)(iii) and 6(c) are met during an SRE, then the sample bottle fill requirements for Outfall 001 sampling are also considered to be met, regardless of the number of sample bottles filled.

- b. Outfall 002: Two automated samplers shall be installed at the Outfall 002 structure to collect samples from the wet well structure and/or discharge lines to the SWBNO Sanitary System and to the SWBNO MS4 during SREs.
 - i. One automated sampler shall collect Aliquot Samples of Production Area flows to the SWBNO Sanitary System generated by SREs during the baseline and pre-construction sampling periods. No sampling is necessary during the post-construction sampling periods. Sampling during SREs shall commence when water level in the Outfall 002 wet well activates the 1 HP sanitary pump that discharges from the Outfall 002 wet well and piping system to the SWBNO Sanitary System, and sampling shall continue at 10-minute intervals until flow is diverted to the MS4.
 - ii. The second automated sampler shall collect Aliquot Samples of Production Area flows to the SWBNO MS4 generated by SREs during the baseline, pre-construction and post-construction sampling periods. This sampler shall be operated by a sensor that detects the open/closed position of the valve at the Outfall 002 structure that allows the diversion of Production Area flows to the SWBNO MS4. Sampling of Production Area flows to the SWBNO MS4 shall commence when the diversion valve at Outfall 002 initially opens to divert flows to the SWBNO MS4 and shall continue at 10-minute intervals while the valve is open until all bottles in the sampler are filled.
 - iii. At least 12 Aliquot Sample bottles from the Outfall 002 MS4 automated sampler shall be filled sufficiently to perform the analyses required under Paragraph 9.c.
- c. Outfall 003: An automated sampler shall be available to collect Aliquot Samples of Production Area flows to the SWBNO MS4 from the Outfall 003 structure when the valve is open as provided in Paragraph 39(a). Fairgrounds shall install the sampler prior to opening the valve as provided in Paragraph 39(a). Fairgrounds need not maintain the sampler in this location when the valve is closed. Sampling of Production Area flows shall commence when a discharge begins to flow through the connecting pipe to the SWBNO MS4 downstream of Outfall 003 and shall continue at 10-minute intervals until all bottles in the sampler are filled. The sampler shall continue to run even during periods of intermittent flow to the SWBNO MS4. If the Outfall 002 sample bottle fill requirements for Production Area flows to the SWBNO MS4 specified in Paragraphs 4(b)(iii) and 6(c) are met during an SRE, then the sample bottle fill requirements for Outfall 003 sampling are also considered to be met, regardless of the number of sample bottles filled at Outfall 003.
- d. Individual Aliquot Samples collected at Outfalls 001, 002 and 003 during the baseline sampling period and pre-construction sampling period shall be analyzed individually in accordance with the requirements of Paragraph 9.c.

- e. Additionally, the contents of the sets of Aliquot Samples collected at each separate Outfall during the baseline, pre-construction and post-construction sampling periods shall be composited to create an additional single Composite Sample for that Outfall, which shall be analyzed in accordance with the requirements of Paragraph 9.c. Fair Grounds shall create these Composite Samples by combining equal-volume specimens from each Aliquot Sample bottle filled or partially filled during the sampling event. The Composite Sample shall be assembled by staff that are trained in proper sample handling procedures. Chain of custody documentation shall be completed for all samples collected and shall be provided with sample testing results.
5. Manual Grab Samples of Production Area flows to the SWBNO MS4 generated by SREs shall be collected in accordance with the following requirements:
 - a. Fair Grounds shall collect Grab Samples of the Production Area flows to the SWBNO MS4 at Outfalls 001, 002 and 003 during the same SREs that the automated sampling described under preceding Paragraph 4 is performed.
 - b. Grab Samples shall be collected in the 20- to 30-minute time window after the initiation of Production Area flows to the SWBNO MS4 and again in the 50- to 60-minute time window during the baseline, pre-construction, and post-construction sampling periods. The purpose of these grab samples is to assure that a sample is collected in the event that the minimum aliquot samples (12) are not achieved during an SRE. If the minimum number of aliquots (12) are obtained at Outfall 002, then the analysis of these grab samples is not required.
 - c. Fecal coliform samples and pH samples shall each be collected as separate grab samples to facilitate compliance with analytical maximum sample holding time requirements. These samples shall be collected as soon as possible, but no later than 30 minutes after flows from the Production Areas begin to discharge to the SWBNO MS4.
 - d. Grab Samples shall be analyzed in accordance with the requirements of Paragraph 9.c.
 6. Baseline sampling period requirements:
 - a. Fair Grounds shall conduct baseline sampling of Production Area Process Wastewater flows generated by SREs during the first full Non-Racing Season after the Effective Date. If weather conditions during the first full Non-Racing Season preclude the collection of the Baseline sample, then the Baseline sample may be collected no later than the following full Non-Racing Season.
 - b. Sampling shall be performed after completing the cleaning of the Production Area described in Section VI(A)(v) (“Production Area System Cleaning and Maintenance BMP”) of the Consent Decree and before horses return to the site.

- c. Fair Grounds shall collect 10-minute interval Aliquot Samples, an equal portion of each to be composited into the Aliquot Composite Sample; Grab Samples collected in accordance with Paragraph 5(c); and, Grab Samples collected in accordance with Paragraphs 5(b) and 5(c) from the Production Area Process Wastewater flows to the SWBNO MS4 at Outfalls 001, 002 and 003 and the SWBNO Sanitary System at Outfall 002. If the minimum number of aliquots (12) are obtained from the Outfall 002 MS4 automated sampler, then analyses of the Grab Samples collected in accordance with Paragraphs 5(a) and 5(b) are not required. During the Baseline Sampling period, samples shall be collected during the first SRE, where an SRE is forecasted and where it is practicable for Fair Grounds to mobilize and collect samples.
- d. If another SRE is forecast to occur at the Facility after the sampling performed under Paragraph 6(c) is performed, Fair Grounds shall collect second 10-minute interval Aliquot Sample sets, Aliquot Composite Samples, and Grab Sample sets at Outfalls 001, 002 and 003 as described in Paragraph 6(c).
- e. Fair Grounds shall collect Samples following the approved site-specific sampling plan requirements.
- f. Fair Grounds shall report the baseline sample analysis results in the following manner:
 - i. If Fair Grounds is able to collect only one set of samples during the baseline sampling period, it shall report, by Outfall, the analysis results from these samples as the “baseline sampling results.”
 - ii. If Fair Grounds is able to collect more than one set of Samples, Fair Grounds shall report the individual analysis results of the 10-minute interval Aliquot Sample sets as well as the Aliquot Composite Samples by outfall and Grab Samples collected in accordance with Paragraph 5(c) If the automated sampling requirements presented in Paragraphs 4(b)(iii) and 6(c) are not met at Outfall 002, then Fair Grounds shall report results of the individual Grab Samples collected in accordance with Paragraphs 5(a) and 5(b) at that Outfall in lieu of individual Aliquot Sample results and Aliquot Composite Sample Results. Where Fair Grounds is able to collect more than one Aliquot Sample set at a particular sampling location, Fair Grounds shall also report individually the numerical averages (within each 10-minute timestep) of the Aliquot Sample analysis results for all of the Samples collected at that location for each 10-minute interval. Where Fair Grounds is able to collect more than one Grab Sample set at a particular sampling location, Fair Grounds shall also report individually the numerical averages of all the Grab Sample analysis results for 1) the 20- to 30-minute interval Samples; and 2) the 50- to 60-minute interval Samples.
 - iii. Fair Grounds shall report all analysis results, and Grab Sample analysis results in a summary table to be included in the “Sampling Report of Baseline Site Conditions.” This table shall present, by Outfall and by

Sample type, the laboratory test results for each analyzed parameter, including: the numeric results, the date/time the Sample was taken, and the location where the sample was taken. If Fair Grounds is able to collect more than one set of samples in accordance with Paragraph 5(c), pH shall be reported as maximum and minimum and fecal coliform shall be reported as a geometric mean.

- iv. The Sampling Report shall also describe the activities in the Production Area on the sampling days and the three days prior to the sampling days, including: rainfall events (duration and total rainfall), maintenance activities that may impact Production Area runoff, other activities at the Facility that may impact Production Area runoff, and the last day that horses were on-site prior to the initial sampling date.
- v. The underlying Sample analysis data utilized to generate the Sampling Report shall be maintained as required by Paragraph 96 and provided to EPA upon request within 5 business days of receipt of EPA's request.
- vi. Fair Grounds shall provide the Sampling Report of Baseline Site Conditions as part of the first quarterly report that follows the sampling period.

7. Pre-construction sampling period requirements:

- a. Fair Grounds shall conduct pre-construction sampling of Production Area Process Wastewater flows generated by SREs during first full Racing Season after the Effective Date while horses are on-site.
- b. Fair Grounds shall collect at least two 10-minute interval Aliquot Sample sets, an equal portion of each to be composited into two Aliquot Composite Samples, two Grab Sample sets in accordance with Paragraph 5(c), and two Grab Sample sets as described in Paragraphs 5(a) and 5(b) of Production Area Process Wastewater flows to the SWBNO MS4 at Outfalls 001, 002 and 003 and to the SWBNO Sanitary System at Outfall 002. If the automated sampling requirements presented in Paragraphs 4(b)(ii) and 6(c) are met at Outfall 002, then the analyses of the grab samples collected at any Outfall in accordance with Paragraphs 5(a) and 5(b) are not required.
- c. Fair Grounds shall collect samples in accordance with the approved site-specific sampling plan.
- d. Fair Grounds shall report the pre-construction sampling results in the following manner:
 - i. Fair Grounds shall report the individual analysis results for the 10-minute interval Aliquot Sample sets as well as the Aliquot Composite Samples by outfall. Fair Grounds shall also report the Grab Sample results (collected in accordance with Paragraph 5(c)) in accordance with the reporting requirement in Paragraph 6(f)(iii). If the automated sampling requirements

presented in Paragraphs 4(b)(iii) and 6(c) are not met at Outfall 002, then Fair Grounds shall report results of the individual Grab Samples collected in accordance with Paragraphs 5(a) and 5(b) at that Outfall in lieu of Aliquot Sample and Aliquot Composite Sample results. Individual Aliquot Samples shall be averaged for each 10-minute interval. Where applicable, analysis of Grab Samples collected in accordance with paragraphs 5(a) and 5(b) shall be averaged separately for the 20- to 30-minute interval Sample and for the 50- to 60-minute interval Sample.

- ii. Fair Grounds shall report all analysis results in a summary table to be included in the “Sampling Report of Pre-Construction Site Conditions during the Racing Season.” This table shall present, by Outfall and by Sample type, the laboratory test results for each analyzed parameter, including: the numeric results, the date/time the sample was taken, and the location where the Sample was taken. pH shall be reported as maximum and minimum. Fecal coliform shall be reported as a geometric mean. The summary table shall also include comparative columns presenting respective sample analysis results from the baseline sampling program.
 - iii. The Sampling Report shall also describe the activities in the Production Area on the sampling days and the three days prior to the sampling days, including: rainfall events (duration and total rainfall), maintenance activities that may impact Production Area runoff, average number of horses on-site, average number of horse walkers in use each day, and other horse exercise activities, and racing activities.
 - iv. The underlying sample analysis data utilized to generate the Sampling Report shall be maintained as required by Paragraph 96 and provided to EPA upon request within 5 business days of receipt of EPA’s request.
 - v. Fair Grounds shall provide the “Sampling Report of Pre-Construction Site Conditions during the Racing Season” as part of the first quarterly report that follows the pre-construction sampling period.
8. Post-construction continuous sampling period requirements:
- a. Fair Grounds shall conduct post-construction sampling of Production Area flows generated by SREs during the first full Racing Season after completion of the Phase III Projects. Sampling shall be conducted while horses are on-site and during each subsequent Racing Season until the Consent Decree is terminated.
 - b. Fair Grounds shall collect at least two Aliquot Composite Sample sets; two Grab Sample sets in accordance with Paragraph 5(c); and two Grab Sample sets in accordance with Paragraphs 5(a) and 5(b) of each of the Production Area flows to the SWBNO MS4 at Outfalls 001, 002 and 003. Sampling of Production Area flows to the SWBNO Sanitary System at Outfall 002 is not required. If the automated sampling requirements presented in Paragraphs

4(b)(ii) and Paragraph 6(c) are met at Outfall 002, then the analyses of the Grab Samples collected at any Outfall in accordance with Paragraphs 5(a) and 5(b) are not required.

- c. Fair Grounds shall report the post-construction sampling analysis results in the following manner:
 - i. Fair Grounds shall report the averages of analysis results of the Aliquot Composite Samples by outfall. If the automated sampling requirements presented in Paragraphs 4(b)(ii) and 6(c) are not met at Outfall 002, then Fair Grounds shall report results of individual Grab Samples collected in accordance with Paragraphs 5(a) and 5(b) at that outfall in lieu of the Aliquot Composite Sample Results. Fair Grounds shall also report the Grab Sample results (collected in accordance with Paragraph 5(c)) in accordance with the reporting requirement in 6.f.iii. Where applicable, analysis of Grab Samples collected in accordance with Paragraphs 5(a) and 5(b) shall be averaged separately for the 20- to 30-minute interval Sample and for the 50- to 60-minute interval Sample.
 - ii. Fair Grounds shall report all analysis results in a summary table to be included in "Sampling Report of Post-Construction Site Conditions during the Year ____ Racing Season," This table shall present, by Outfall and by Sample type, the laboratory test results for each analyzed parameter, including: the numeric results, the date/time the sample was taken, and the location where the sample was taken. pH shall be reported as maximum and minimum. Fecal coliform shall be reported as a geometric mean. The summary table shall also include comparative columns presenting respective Sample analysis results from the baseline sampling program, the pre-construction sampling program, and all previous post-construction sampling programs.
 - iii. Fair Grounds shall include in each Sampling Report, following each Post-Construction Racing Season, a series of graphs showing changes in pollutant concentrations over time as Fair Grounds has progressed through the baseline sampling period, the pre-construction sampling period and subsequent post-construction sampling period. The graphs shall depict, by Outfall and for each analyzed parameter, individual Aliquot Composite Sample analysis results, Grab Sample results collected in accordance with Paragraph 5(c), and, if required in accordance with Paragraphs 5(a) and 5(b), Grab Sample analysis results for the 20- to 30-minute interval Samples and results for the 50- to 60-minute interval Samples. Each Sampling Report shall also include a narrative analysis of the trends and anomalies in pollutant concentrations over time as depicted in the graphs and the factors influencing those trends and anomalies.

- iv. The Sampling Report shall also describe the activities in the Production Area on the sampling days and the three days prior to the sampling days, including: rainfall events (duration and total rainfall), maintenance activities that may impact Production Area runoff, average number of horses on-site, average number of horse walkers in use each day, other horse exercise activities, and racing activities.
- v. The underlying Sample analysis data utilized to generate each year's Sampling Report shall be maintained as required by Paragraph 96 and provided to EPA upon request within 5 business days of receipt of EPA's request.
- vi. Fair Grounds shall provide the "Sampling Report of Post-Construction Site Conditions during the Year ___ Racing Season" as part of the first quarterly report that follows each post-construction sampling period.

9. Sample analysis:

- a. Fair Grounds shall follow procedures of 40 CFR part 136 to collect the Aliquot Samples, Composite Samples and Grab Samples, and if the rain event constitutes an SRE, shall analyze the Samples for the parameters listed in Paragraph c. using a NELAP or LELAP certified laboratory.
- b. The Aliquot Samples contained in the automated samplers during the sampling process shall be kept between 2° C and 8° C by refrigeration or icing. Aliquot Samples removed from the automated Composite Samples created and Grab Samples collected shall also be kept between 2° C and 8° C until laboratory analyses can be performed. Bacterial analyses shall be initiated not more than 8 hours after the Grab Sample is taken.
- c. Samples shall be analyzed for the following parameters:
 - i. Conventional pollutants: BOD5 and TSS
 - ii. Nutrients: total phosphorus, total nitrogen, and ammonia-N
 - iii. Bacteria: fecal coliform quantified per the IDEXX Colilert-18 Method.
 - iv. pH (instantaneous testing shall be performed on the Grab Samples collected)

10. Flow metering:

- a. No later than 45 days after the Effective Date, Fair Grounds shall install flow measurement devices at each of the three locations identified below and shall also utilize the existing flow metering device at Outfall 002 to determine Production Area flows to the SWBNO MS4 generated by SREs:
 - i. Location 1: in the Outfall 001 structure. This flow measurement device shall measure flow levels over the sharp-crested weir in this structure at

not greater than one-minute intervals. Fair Grounds shall report the flow rates determined from these flow levels at 10-minute uniform intervals generally at the same times that Samples are collected. Flow rates shall be determined by weir equation based upon the level measurements recorded and the hydraulic properties of the weir. This flow meter shall also be utilized to trigger operation of the automated sampler at Outfall 001 and to detect Production Area flows to the SWBNO MS4 during dry weather.

- ii. Location 2: in the Outfall 002 structure. This flow measurement device shall measure the existing Production Area flows to the SWBNO MS4 during SREs. Fair Grounds shall report flow rates at 5-minute intervals and shall note the flow rates measured at the approximate times that Aliquot Samples and any Grab Samples were taken.
- iii. Location 3: in the connecting pipe to the SWBNO MS4 downstream of the sump in the Outfall 003 wet well structure. The flowmeter shall be in place during the Racing Season when the valve at Outfall 003 installed as part of Phase I construction is open but may be removed at Fair Grounds' option during times when the valve is closed. Flow metering of Production Area flows generated by SREs shall commence not later than the beginning of a discharge through the connecting pipe to the SWBNO MS4. This flow meter shall continuously record flow velocity and depth, and from those measurements, calculate flow rates at this location. Fair Grounds shall report flow rates at 5-minute uniform intervals for the duration of any discharge and shall highlight the flow rates measured at the approximate times that Aliquot Samples and Grab Samples were taken. This flow meter shall also trigger operation of the automated sampler at Outfall 003.