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Clean Water Act Enforcement: U.S. Environmental Protection Agency and Churchill Downs Louisiana Horseracing Company LLC Enter into Consent Decree

10/01/2020

The United States Environmental Protection Agency (“EPA”) and Churchill Downs Louisiana Horseracing Company LLC, d/b/a Fair Grounds Corporation (“Churchill Downs”) entered into a September 29th judicial Consent Decree (“CD”) addressing alleged Clean Water Act violations.

The proposed CD is being filed in the United States District Court for the Eastern District of Louisiana.

Churchill Downs is a horseracing facility in New Orleans, Louisiana. The facility is described as including a large concentrated animal feeding operation (“CAFO”). It encompasses stables or confines that include more than 500 horses for at least 45 days a year.

Churchill Downs also includes a 38.8 acre production area which includes stables, horse stall barns and receiving barns, horse wash racks, horse walkways, horse walkers, manure storage areas, and storage areas for raw materials. Also encompassed is a one-mile dirt track and 7/8-mile turf racetrack, infield area, grandstand, casino, and associated parking areas.

EPA alleges that Churchill Downs violated the Clean Water Act.

The alleged violations involve certain terms and conditions of its Louisiana Pollutant Discharge Elimination System (“LPDES”) permit. This includes an allegation that since at least 2012, untreated process wastewater has been discharged into the New Orleans municipal separate storm sewer system. Unauthorized discharges are alleged to have occurred during rain events.

Unauthorized discharges of horse wash water and other contaminated wastewater are alleged to have occurred more than 250 times between 2012 and 2018. Such untreated process wastewater is stated to have contained manure, urine, horse wash water, and other biological materials.

Additional alleged violations include:

- Failure to comply with a Nutrient Management Plan
- Failure to submit discharge monitoring reports in a timely manner
- Failure to report discharges in annual reports
- Failure to include all appropriate monitoring and reporting data for fecal coliform in quarterly reports

The CD requires that Churchill Downs:

- Implement Best Management Practices in construction projects designed to eliminate unauthorized discharges and ensure compliance with its LPDES permit
- Perform site-specific sampling, monitoring and hydraulic modeling to determine whether remedial actions are successful in eliminating unauthorized discharges
- Implement additional remedial measures if these measures do not successfully eliminate unauthorized discharges

A civil penalty of \$2,790,000 is assessed.

A copy of the CD can be downloaded [here](#).