

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No. CV-16-5442

-against-

(DeArcy Hall, J.)
(Pollak, M.J.)

THE NEW YORK RACING ASSOCIATION, INC.,

Defendant.

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CONSENT JUDGMENT AND DECREE

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WHEREAS, Plaintiff, the United States of America (“United States”), on behalf of the United States Environmental Protection Agency (“EPA”), has filed a complaint (“Complaint”) concurrently with this Consent Judgment and Decree (the “Decree” or “Consent Decree”), alleging that the New York Racing Association, Inc. (“Defendant”) has violated Section 301(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 1311(a);

WHEREAS, the Complaint alleges that Defendant has violated Section 301 of the CWA by discharging pollutants into waters of the United States from Defendant’s Aqueduct Racetrack (the “Racetrack”) in violation of conditions of its New York State Department of Environmental Conservation (“NYSDEC”) State Pollutant Discharge Elimination System (“SPDES”) General Permit for Concentrated Animal Feeding Operations (“CAFO General Permit”) and the CWA;

WHEREAS, on August 5, 2015, EPA issued an Information Request and Administrative Compliance Order (“ACO”) to Defendant, requiring immediate implementation of short term measures to reduce and eliminate process wastewater discharges to the storm sewer system from the Racetrack and also required Defendant to develop a long term plan to eliminate all process wastewater no later than October 1, 2015;

WHEREAS, Defendant requested an extension of the compliance date contained in the ACO;

WHEREAS, Defendant failed to comply with the requirements of the ACO by October 1, 2015;

WHEREAS, Defendant has represented to the United States that it has secured all permits and approvals necessary to be obtained from the New York City Department of

Environmental Protection and New York State, and has provided a list of all necessary permits and approvals to EPA;

WHEREAS, Defendant completed construction of two wash stalls in each barn where washing of the horses is conducted at the Racetrack and the drains in those stalls have been connected to the sanitary sewer in accordance with the plans attached hereto as Appendix A;

WHEREAS, NYRA represented to the United States that it has permanently capped and disabled the external hydrants presently adjacent to the 60 small storm drains adjacent to the barns that were previously used as horse washing areas;

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

WHEREAS, entry of this Consent Decree by the Court will resolve the civil claims of the United States for the violations alleged in the Complaint through the Date of Lodging of this Consent Decree;

WHEREAS, the United States and Defendant (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, with the consent of the Parties, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION AND VENUE

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

and over the Parties. Venue properly lies in this district pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. § 1395(a) because Defendant resides and is located in this judicial district. For purposes of this Consent Decree, or any action to enforce this Consent Decree, Defendant consents to the Court's jurisdiction over this Consent Decree and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant 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 Defendant, and any officials, agents, servants, employees, successors, assigns or other entities or persons otherwise bound by law.

4. No transfer of Defendant's ground lease of, or operation of the Racetrack, or any part thereof, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of this Consent Decree are implemented. No change in ownership or operation of Belmont Park shall release Defendant from its obligation to perform the Supplemental Environmental Project required under Section X. At least 30 Days prior to any transfer of any portion of the Racetrack or Belmont Park, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide to EPA and the United States, in accordance with Section XVII (Notices), written notice of the prospective transfer, together with a copy of the proposed written agreement. No later than five days after the completion of such transfer, Defendant shall

provide an executed copy of the written agreement to the United States in accordance with Section XVII (Notices). Any attempt to transfer ownership or operation of the Racetrack or Belmont Park, or any part thereof, without complying with this Paragraph constitutes a violation of this Consent Decree and shall be subject to the stipulated penalties described in Paragraph 44.

5. Defendant shall provide a copy of this Consent Decree to all officers, employees and agents whose duties might reasonably include compliance with any provisions of this Consent Decree, as well as to any contractor retained to perform work required under this Consent Decree when such work occurs after the Date of Lodging. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree. Defendant shall require that such contractors provide a copy of this Consent Decree to their subcontractors to the extent the subcontractors are performing work subject to this Consent Decree. Such contractors and subcontractors shall be deemed agents of Defendant for the purposes of this Consent Decree.

6. In any action to enforce this Consent Decree, Defendant 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 remedial measures required by this Consent Decree. All remedial measures and other obligations of this Consent Decree or resulting activities required by this Consent Decree shall have the objective of causing the Defendant to come into and

remain in full compliance with the terms and conditions of Defendant's SPDES General Permit and to meet the objectives of the CWA, with the goal of eliminating process wastewater discharges, as these terms are defined in Section IV of this Consent Decree.

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 shall apply:

"Administrative Order" shall mean the CWA Administrative Order (Enforcement Action Number: 02-2016-0004) that was issued to Defendant by EPA on August 5, 2015.

"Approval by EPA" or "Approved by EPA" or "Approved or Approval by the United States" shall mean the issuance of a written approval document from EPA approving, approving with conditions, and/or modifying a submission in accordance with Section IX (Approval of Submissions).

"CAFO General Permit" shall mean the NYSDEC SPDES General Permit for Concentrated Animal Feeding Operations issued to Defendant on April 29, 2004, originally as General Permit GP-99-01 and superseded by General Permit GP-04-02.

"Complaint" shall mean the complaint filed by the United States in this action.

"Consent Decree" or "Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Decree and any appendix, this Decree shall control.

"CWA" shall mean the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), as amended, 33 U.S.C. §§ 1251-1387.

"Date of Lodging" shall mean the Day this Consent Decree is filed for lodging with the Clerk of the Court for the United States District Court for the Eastern District of New York.

“Day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

“Defendant” shall mean The New York Racing Association, Inc.

“Effective Date” shall have the definition provided in Section XVIII (Effective Date).

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

“Municipal Separate Storm Sewer System” shall mean the sewer at the Racetrack that is connected to the City of New York and New York State Department of Transportation storm sewer located on North Conduit Avenue, Ozone Park, Queens, New York.

“NYSDEC” shall mean the New York State Department of Environmental Conservation.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or a lower case letter.

“Parties” shall mean the United States and Defendant.

“Process Wastewater” shall mean any process-generated wastewater in the operation of an Animal Feeding Operation including: (i) spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing of pens, barns or manure pits; (ii) direct contact swimming, washing or spray-cooling of animals; (iii) leachate from silage and feed storage areas; (iv) wastewater generated in the production of intermediate or final products such as eggs and milk; and (v) precipitation which comes into contact with any area where organic materials are stored, fed, or wasted such as silos, bunk silos, organic bedding storage, grain storage, commodity buildings, feed bunks, and manure or wastewater storage or treatment facilities, as defined in the CAFO General Permit. For the purposes of this Consent Decree, “Process Wastewater” shall not include uncontaminated water inadvertently spilled from Defendant’s water truck filling operation during the filling of water trucks where animals do not congregate.

“Racetrack” shall mean the Aqueduct Racetrack located at 110-00 Rockaway Boulevard, Ozone Park, New York.

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Supplemental Environmental Project” or “SEP” shall mean the project specified in Section X and Appendix D.

“United States” shall mean the United States of America.

“Year” shall mean 365 days.

V. INTERIM COMPLIANCE MEASURE

9. Effective upon the Date of Lodging and until completion of all Long Term Measures set forth in Section VI, below, Defendant shall not dispose of any waste water resulting from the washing of horses, feed bins or horse-related equipment or any other Process Wastewater, including, but not limited to, wastewater, feed, bedding, and manure, into the storms drains at the Racetrack.

VI. LONG TERM COMPLIANCE MEASURES

In accordance with the terms of this Consent Decree, Defendant shall implement the following Long Term Measures:

10. Within 20 days of the Lodging of this Consent Decree, submit to the United States for its approval, a Process Wastewater Elimination Plan. The plan shall include at a minimum the following:

a. Designation of one or more employees who are responsible for ensuring that there is no dumping of pollutants into storm drains. The name, title and phone number of such person(s) shall be included in the Process Wastewater Elimination Plan (the "designated employees").

b. Procedures and enforcement protocols to prevent the discharge of process wastewater into the 60 storm drains adjacent to the barns.

c. Procedures for installation, activation and operation of a telemetry monitoring system that detects dry weather flow in the storm sewer system from the Racetrack prior to entering the Municipal Separate Storm Sewer System, as set forth in Appendix B. The telemetry monitoring system shall:

i. Provide continuous and in real time detection of dry weather flow;

- ii. Transmit an alert to designated employees in the event of dry weather flow in the storm sewer system; and
 - iii. Store and be capable of storing 12 months of flow data.
 - d. The procedures for the telemetry monitoring system shall include:
 - i. Investigation of any dry weather flow alerts by the designated employees and elimination of any dry weather flow of process wastewater as soon as possible and no later than 24 hours after detection; and
 - ii. A log of such dry weather flow alerts, investigations and remedies, that shall be maintained at the Facilities Office at the Raceway. Defendant shall make the log, and any related stored data, available for inspection by EPA or its representatives.
 - e. Procedures for monitoring and documenting daily pump run hours at the storm sewer system pump station at the Racetrack, for the purposes of identifying dry weather pump running and estimating flow.
 - f. A system for compelling future compliance by any trainer or other person who allows or causes the illegal disposal of pollutants into the storm drains, including notice to be provided to all personnel at the Racetrack connected with the horses and/or barns advising them of the illegality of disposal of pollutants into the storm drains.
 - g. A system for ensuring that all washing of vehicles and equipment at the Racetrack will be conducted in the vehicle maintenance building, which is connected directly to the New York City sanitary sewer.
 - h. Implementation and documentation of weekly stormwater control inspections, which shall include inspections of straw/manure storage bins, entrances and

exterior of the barns, horse walkways, wash areas and catch basins. Weekly stormwater control inspection reports shall be generated, and will include any deficiencies noted and associated remedies.

11. Within 20 days of the Lodging of this Decree, submit to the United States for its approval a plan for horse washing procedures at the Racetrack. The plan should include at a minimum:

- a. Standard operating procedures for washing horses.
- b. Standard operating procedures for use and storage of disinfectant and detergent.
- c. A form notice to be provided to trainers containing all horse washing, disinfectant and detergent procedures.

12. Upon approval of each by the United States, implement the Process Wastewater Elimination Plan and the horse washing, disinfectant and detergent procedures.

13. Upon EPA approval of the Process Wastewater Elimination Plan, weekly stormwater inspection results and compliance status as well as copies of Quarterly Compliance Reports as defined in Section VIII (Reporting Requirements) will be posted to the stormwater related page on NYRA's public website within 7 business days of completion.

14. Within 20 Days of the Date of Lodging, submit to EPA a certification that all process wastewater discharges to the Municipal Separate Storm Sewer System have been permanently eliminated.

15. Within 15 Days of the Date of Lodging, and annually on August 31st of each year thereafter through August 31, 2019, provide the notice required in Paragraph 10.f to all

affected employees and trainers and submit to EPA certification that such notice has been provided with a list of employees and trainers to whom it was provided.

16. By August 31, 2017, submit to EPA, a certification that no process wastewater discharges to the Municipal Separate Storm Sewer System have occurred in the previous year, except as reported pursuant to Paragraph 17 hereof.

17. Commencing on August 31, 2017, and on each anniversary thereafter, Defendant shall submit to EPA an annual report describing each Process Wastewater discharge that occurred during the previous year, and for each discharge, a description of the cause(s) thereof, the response taken regarding the person(s), if any, responsible for the discharge, and actions taken to prevent subsequent similar occurrences.

VII. CIVIL PENALTY

18. Within 30 Days after the Effective Date, Defendant shall pay the sum of \$150,000 as a civil penalty, together with interest accruing from the Date of Lodging, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.

19. Defendant shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice in accordance with written instructions annexed to this Consent Decree as Appendix C. At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter to the United States and EPA in accordance with Section XVII (Notices). The transmittal letter shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in U.S. v. The New York Racing Association, Inc., and shall reference the civil action number and USAO

Case Number: 2016V00758. Notice shall also be sent via email to

cinwd_acctsreceivable@epa.gov; and by mail to:

EPA Cincinnati Finance Office
26 West Martin Luther King Drive
Cincinnati, Ohio 45268
Attention: Finance, Mail Code: NWD

20. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section XI (Stipulated Penalties) in calculating its federal income tax.

VIII. REPORTING REQUIREMENTS

21. Within 30 Days after each Reporting Period (defined below), Defendant shall submit Compliance Reports to EPA. From the Effective Date through Termination of the Decree in accordance with Section XXI, the Reporting Periods shall be three-month periods ending on March 31st, June 30th, September 30th, and December 31st. Each Compliance Report shall include, at a minimum, the following items:

- a. A description of the activities undertaken during the Reporting Period directed at achieving compliance with this Consent Decree;
- b. A description of any proposed changes to the remedial measures prescribed in plans Approved by EPA;
- c. An identification of all plans, reports, and other submissions required by this Consent Decree that Defendant completed and submitted during the Reporting Period;
- d. A description of the activities Defendant plans to undertake during the next Reporting Period in order to achieve compliance with this Consent Decree; and

e. An identification of any noncompliance with the requirements of this Consent Decree. If any noncompliance is reported, the notification shall include the following information:

- i. A description of the noncompliance;
- ii. A description of any actions taken or proposed by Defendant to comply with any lapsed requirements;
- iii. A description of any factors that tend to explain or mitigate the noncompliance; and
- iv. For any actions proposed by Defendant to comply with any lapsed requirements, the date by which Defendant will perform such proposed action.

22. For the Supplemental Environmental Project (“SEP”) described under Section X and Appendix D of this Consent Decree, a monthly report shall be submitted. The report shall include the required information regarding the SEP implementation, as set forth in Section X.

23. Whenever any violation of this Consent Decree or any other event affecting Defendant’s performance under this Decree may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA orally and by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in Paragraph 21.

24. All reports shall be submitted to the persons designated in Section XVII (Notices).

25. Each report and certification submitted by Defendant under this Section or as otherwise required in this Decree shall be signed by an official of Defendant. Each report

submitted by Defendant, other than emergency or similar notifications where compliance would be impractical, shall 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

26. The reporting requirements of this Consent Decree do not relieve Defendant of its obligation to submit any other reports or information as required by the CWA or implementing regulations, or by any other federal, state or local law, regulation, permit, or other requirement.

27. 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. APPROVAL OF SUBMISSIONS

28. After review of any plan, schedule, report, or other item that is required to be submitted for approval by EPA pursuant to this Consent Decree, including but not limited to plans required by Section VI, EPA shall in writing: (a) approve, in whole or in part, the submission; (b) approve, in whole or in part, the submission based upon specified conditions; (c) modify, in whole or in part, the submission to cure any deficiencies; (d) disapprove, in whole or in part, the submission, directing that Defendant modify the submission; or (e) any combination of the above.

29. In the event of approval, approval upon conditions, and/or modification by EPA, the plan, schedule, report, or other item, or portion thereof, as approved, approved with conditions, and/or modified by EPA shall be enforceable under this Consent Decree, and Defendant shall take all actions required to implement such plan, schedule, report, or other item, or portion thereof, in accordance with the approval, approval with conditions, and/or modification issued by EPA, subject to Defendant's right to dispute the specified conditions or modifications under Section XIII (Dispute Resolution).

30. In the event that EPA modifies the submission, or portion thereof, to cure any deficiencies, EPA retains its right to seek stipulated penalties for Defendant's submission of a deficient plan, schedule, report, or other item, or portion thereof, which shall constitute an unapprovable submission subject to stipulated penalties, as provided in Section XI (Stipulated Penalties).

31. Upon receipt of a written notice of disapproval, Defendant shall, within 30 Days or such other time as Defendant and the United States agree in writing, correct the deficiencies and resubmit the plan, schedule, report, or other item, or portion thereof, for approval, subject to Defendant's right to dispute the disapproval under Section XIII (Dispute Resolution). Any stipulated penalties applicable to the original submission shall accrue during the 30-Day period or other specified period, but shall not be payable unless the resubmission is untimely and/or disapproved as provided in Paragraph 28; provided that, if the original submission was disapproved by EPA in whole, stipulated penalties applicable to the original submission shall be due and payable upon demand notwithstanding any subsequent resubmission.

32. Any resubmitted plan, schedule, report, or other item, or portion thereof, shall be subject to review and Approval by EPA, as provided under this Section. If Defendant fails to resubmit a plan, schedule, report, or other item, or portion thereof after a disapproval, or if, upon resubmission, the plan, schedule, report, or other item, or portion thereof, is disapproved or modified by EPA, Defendant shall be deemed to have failed to submit such plan, schedule, report, or other item, or portion thereof, timely and adequately, unless Defendant invokes the dispute resolution procedures set forth in Section XIII (Dispute Resolution) and Defendant's position is upheld.

33. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 28(d), Defendant shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Defendant of any liability for stipulated penalties under Section XI (Stipulated Penalties) for the deficient portions.

X. SUPPLEMENTAL ENVIRONMENTAL PROJECT

34. Defendant shall implement a supplemental environmental project (“SEP”) at Defendant’s Belmont Park Racetrack in accordance with Appendix D. The SEP comprises the planting of trees to reduce stormwater runoff through rainfall interception and evapotranspiration (“Stormwater SEP”). The purpose of the Stormwater SEP is to reduce contaminated stormwater runoff that flows into Jamaica Bay, the water body which receives stormwater that flows from both Aqueduct and Belmont Park.

35. Defendant shall complete the SEP by December 31, 2016. Defendant shall monitor the trees planted as part of the SEP for three years after the Stormwater SEP is completed, and shall replace any trees that die.

36. Certifications. Defendant certifies the truth and accuracy of each of the following:

a. All cost information provided to EPA in connection with EPA's approval of the Stormwater SEP is complete and accurate and that Defendant, in good faith, estimates that the cost to implement the SEP is at least \$101,904;

b. As of the Date of Lodging, Defendant is not required to perform or develop the Stormwater SEP by any federal, state, or local law or regulation, and is not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. Defendant is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the Stormwater SEP, and that there is no such open federal financial assistance transaction that is funding or could be used to fund the same activity as the Stormwater SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of Defendant's execution of this Consent Decree (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose performance period has not yet expired;

d. The Stormwater SEP is not a project that Defendant was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Consent Decree;

e. Defendant has not received and will not receive credit for the Stormwater SEP in any other enforcement action;

f. Defendant has not received and will not receive any reimbursement for any portion of the Stormwater SEP from any other person or entity; and

g. For federal income tax purposes, Defendant agrees that it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the Stormwater SEP.

37. EPA's Certification of the SEP. EPA's approval of the Stormwater SEP or certification of its completion shall not be construed as a permit, modification to a permit, or determination concerning compliance with any local, state or federal law.

38. SEP Completion Report. Within 30 days after completion of the Stormwater SEP, Defendant shall submit to the United States a SEP Completion Report in accordance with Section VIII. The report shall contain the following:

a. A detailed description of the SEP as implemented;

b. A description of any problems encountered in completing the SEP and the solutions thereto;

c. A Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Decree;

d. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollution reductions, if feasible); and

e. The certification set forth in Paragraph 25.

39. EPA may, in its sole discretion, require information in addition to that described in the preceding Paragraph, in order to evaluate Defendant's SEP Completion Report.

40. EPA's Acceptance of SEP Completion Report. After receiving the SEP Completion Report, the United States shall notify Defendant whether or not it finds that Defendant has completed the Stormwater SEP. If the United States finds that Defendant has not completed the Stormwater SEP in accordance with this Consent Decree, stipulated penalties may be assessed as set forth in Section XI (Stipulated Penalties). Disputes concerning the satisfactory performance of the Stormwater SEP may be resolved under Section XIII (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

41. SEP Monitoring Reports. Defendant shall submit, on the third anniversary of the completion of the Stormwater SEP, a report regarding the health of the trees planted as part of the SEP and regarding the replacement of any trees since completion of the SEP.

42. Public Statements by Defendant. In any public statements, oral or written, in print, film or other media, made by Defendant publicizing the Stormwater SEP, Defendant shall include the following language: "This project was undertaken in connection with the settlement of United States v. New York Racing Association, Inc., an enforcement action taken by the United States for violations of the Clean Water Act."

XI. STIPULATED PENALTIES

43. Defendant shall be liable for stipulated penalties to the United States for violations of this Consent Decree, as specified in this Section, unless excused under Section XII (Force Majeure). A violation includes failure to perform any obligation required by the terms of this Consent Decree, including any work plan or schedule approved by EPA under this Decree, according to all applicable requirements of this Consent Decree and within the specified time schedules established by or approved under this Decree.

44. Transfer of Ownership. A stipulated penalty of \$5,000 per occurrence shall accrue for each failure by Defendant: (a) to provide a copy of this Consent Decree to any proposed transferee or to provide written notice to the United States at least 30 Days prior to any transfer of any portion of the Racetrack; and (b) to provide to EPA an executed copy of the written agreement with the transferee as required by Paragraph 4.

45. Late Payment of Civil Penalty. If Defendant fails to pay the civil penalty required to be paid under Section VII (Civil Penalty) when due, Defendant shall pay a stipulated penalty of \$5,000 per Day for each Day that the payment is late.

46. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of each reporting requirement of Section VIII and of Paragraph 38, and the certification requirement of Paragraphs 25 and 36:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$1,500	1st through 10th Day
\$3,000	11th through 20th Day
\$5,000	21st Day and beyond

47. Compliance Measures. The following stipulated penalties shall accrue per violation per Day for each violation of a requirement of Sections V, VI and X (Interim and Long Term Measures and Supplemental Environmental Projects):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,500	1 st through 10 th Day
\$4,000	11 th through 20 th Day
\$7,000	21 st Day and beyond

48. A stipulated penalty of \$4,000 shall accrue for each discharge of Process Wastewater from the Racetrack to the Municipal Separate Storm Sewer System.

49. 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 the Day performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

50. Defendant shall pay any stipulated penalty within 30 Days of receiving the United States' written demand.

51. The United States may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

52. Stipulated penalties shall continue to accrue as provided in Paragraph 49, during any dispute resolution, but need not be paid until the following:

- a. If the dispute is resolved by agreement or by a decision of the United States that is not appealed to the Court, Defendant 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, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in Paragraph 52.c.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

53. Obligations Prior to the Effective Date. Upon the Effective Date, the stipulated penalty provisions of this Decree shall be retroactively enforceable with regard to any and all violations of Sections V and VI that have occurred prior to the Effective Date, provided that stipulated penalties that may have accrued prior to the Effective Date may not be collected unless and until this Consent Decree is entered by the Court.

54. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant 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 Defendant's failure to pay any stipulated penalties.

55. Subject to the provisions of Section XV (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the CWA, Defendant shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violations.

XII. FORCE MAJEURE

56. “Force Majeure,” for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant’s contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant’s best efforts to fulfill the obligation. The requirement that Defendant 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 such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. “Force Majeure” does not include Defendant’s “financial inability to perform any obligation under this Consent Decree.”

57. 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, Defendant shall provide notice orally and by electronic or facsimile transmission to the United States within 72 hours of when Defendant first knew that the event might cause a delay. Within seven Days thereafter, Defendant shall provide in writing to the United States 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; Defendant’s 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 Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant 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 Defendant 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. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known.

58. If the United States 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 the United States 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. The United States will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the Force Majeure event.

59. If the United States does not agree the delay or anticipated delay has been or will be caused by a Force Majeure event, the United States will notify Defendant in writing of its decision. The United States' position shall be binding unless Defendant invokes Dispute Resolution pursuant to Section XIII (Dispute Resolution).

60. If Defendant elects to invoke the dispute resolution procedures set forth in Section XIII (Dispute Resolution), it shall do so no later than 15 Days after receipt of the United States' notice. In any such proceeding, Defendant 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 Defendant complied with the requirements of Paragraphs 56 and 57. If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to the United States and the Court.

XIII. DISPUTE RESOLUTION

61. 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. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States to enforce any obligation of Defendant arising under this Decree.

62. 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 Defendant sends the United States a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute and shall be sent within 15 Days after Defendant receives notice of the event giving rise to the dispute. If Defendant fails to give such notice, it shall be deemed to have waived any right to invoke dispute resolution regarding such dispute, and the position advanced by the United States shall be considered binding. The period of informal negotiations shall not exceed 20 Days from the date of the applicable Notice of Dispute, unless that period is modified by written agreement.

63. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States shall be considered binding unless, within 21 Days after the

conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

64. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States 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 Defendant's position and any supporting documentation relied upon by Defendant.

65. The United States shall serve its Statement of Position within 45 Days of receipt of Defendant's 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 Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph. The United States shall maintain an administrative record of the dispute, which shall contain all statements of the Parties, including supporting documentation, submitted pursuant to this Section.

66. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XVII (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within 14 Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's 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.

67. The United States shall respond to Defendant's motion within the time period allowed by the Federal Rules of Civil Procedure and the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Federal Rules of Civil Procedure and the Local Rules.

68. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 64 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, Defendant shall have the burden of demonstrating, based upon 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 64, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better furthers the objectives of this Consent Decree.

69. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant 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 52. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XI (Stipulated Penalties).

XIV. RIGHT OF ENTRY/INFORMATION COLLECTION AND RETENTION

70. The United States, and its representatives, including attorneys, contractors, and consultants, shall have the right of entry into the Racetrack or any other facility covered by this 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 Defendant or its representatives, contractors, or consultants;
- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Decree.

71. Upon request, Defendant shall provide EPA or its authorized representatives splits of any samples taken by Defendant. Upon request, EPA shall provide Defendant with splits of any samples taken by EPA.

72. Until three years after the termination of this Consent Decree, Defendant 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 Defendant's

performance of its obligations under this Consent Decree. This information retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. Defendant may meet its obligations under this Paragraph with respect to a contractor or agent by: (a) requesting that such contractor or agent provide Defendant with copies of all documents, records, or other information required to be preserved under this Paragraph; and (b) receiving and preserving any copies received from any contractor or agent for three years after the termination of this Consent Decree. At any time during this information-retention period, upon request by the United States, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

73. Ninety Days prior to the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall provide to the United States a file index of all documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States made prior to the end of the information-retention period provided in the preceding Paragraph, Defendant shall deliver any such documents, records, or other information to EPA. Defendant 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 Defendant 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 Defendant. However, no documents, records, data,

reports or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

74. Defendant 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 Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2.

75. 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 Defendant to maintain documents, records, or other information imposed by applicable federal, state or local laws, regulations, or permits.

XV. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

76. 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.

77. This Consent Decree supersedes Defendant’s obligations under the Administrative Order. The Administrative Order is terminated upon the Effective Date.

78. The United States reserves all legal and equitable remedies available to enforce the provisions of this Consent Decree except as expressly stated in Paragraph 76. 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. 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, the Racetrack, whether related to the violations addressed in this Consent Decree or otherwise.

79. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, civil penalties, or other appropriate relief relating to Defendant's violations of the CWA, Defendant 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 this or the subsequent proceeding were or should have been brought in the instant case, except with respect to claims specifically resolved pursuant to Paragraph 76.

80. This Consent Decree is not a permit, or a modification of any existing permit, under any federal, state, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, state, and local laws and regulations, and permits, and Defendant's 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 Defendant's 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. Application for construction grants, or any other grants or loans, or other delays caused by inadequate planning or plans and specifications on the part of Defendant shall not be cause for extension of any required compliance date in this Consent Decree. Except as expressly provided herein, this Consent Decree shall not be

construed to constitute EPA approval of any specific equipment or technology installed by Defendant under the terms of this Consent Decree.

81. This Consent Decree does not limit or affect the rights of Defendant 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 Defendant, except as otherwise provided by law. 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.

XVI. COSTS

82. 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 any stipulated penalties due under Section XI (Stipulated Penalties) but not paid by Defendant.

XVII. NOTICES

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

As to the United States:

United States Attorney's Office
271 Cadman Plaza East
Brooklyn, New York 11201
Attention: AUSA Deborah B. Zwany
Deborah.Zwany@usdoj.gov

As to the EPA:

Phyllis Feinmark
Chief, Water and General Law Branch
Office of Regional Counsel

U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, New York 10007
Feinmark.Phyllis@epa.gov

Kimberly McEathron, Enforcement Officer
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency, Region 2
290 Broadway, 20th Floor
New York, New York 10007
McEathron.Kimberly@epa.gov

As to Defendant:

Donald W. Stever, Esq.
B. David Naidu, Esq.
K&L Gates LLP
599 Lexington Avenue
New York, NY 10022-6030
Don.Stever@klgates.com
David.Naidu@klgates.com

The New York Racing Association, Inc.
P.O. Box 90
Jamaica, NY 11417
Attention: William McCarthy, Esq.

84. Defendant shall provide all submissions and notices required to be submitted to the United States and EPA via electronic mail no later than the due date(s) specified in this Consent Decree, in addition to providing a hard copy in accordance with the terms of this Paragraph. Defendant shall provide complete copies to both the EPA Enforcement Officer and EPA Enforcement Counsel of all other submissions and notices required to be made by Defendant to EPA pursuant to this Decree; except that with respect to copies of reports, schedules, plans, and other items required to be submitted pursuant to Sections V and VI (Interim and Long Term Measures) and VIII (Reporting Requirements), only copies of the transmittal letters need be provided to the EPA Enforcement Counsel.

85. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

86. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XVIII. EFFECTIVE DATE

87. The Effective Date 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; provided, however, that Defendant hereby agrees that it shall be bound to perform all duties scheduled to occur prior to the Effective Date. In the event the United States withdraws or withholds consent to this Decree before entry, or the Court declines to enter the Consent Decree, then the preceding requirement to perform all duties scheduled to occur before the Effective Date shall terminate.

XIX. RETENTION OF JURISDICTION

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

XX. MODIFICATION

89. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

90. Any disputes concerning modification of this Decree shall be resolved pursuant to Section XIII (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 68, 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).

XXI. TERMINATION

91. After Defendant has (a) completed all of the requirements of Sections V and VI (Interim and Long Term Measures), Section VIII (Reporting Requirements) and Section X (Supplemental Environmental Project), and has thereafter for a period of three years maintained continuous compliance with this Consent Decree, (b) paid the civil penalty and all accrued stipulated penalties and all accrued interest thereon, as required by Sections VII (Civil Penalty) and XI (Stipulated Penalties), Defendant may serve upon the United States a Request for Termination of this Consent Decree, stating that Defendant has satisfied those requirements, together with all applicable supporting documentation.

92. Following receipt by the United States of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that this Decree may be terminated, the Parties shall file with the Court a joint stipulation terminating the Decree.

93. If the United States does not agree that the Decree may be terminated, Defendant may invoke dispute resolution under Section XIII (Dispute Resolution). However, Defendant

shall not seek dispute resolution of any dispute regarding termination until 60 Days after service of its Request for Termination.

94. Upon termination of the Decree, Defendants shall maintain all records that relate in any manner to Defendant's performance of its obligations under this Consent Decree for a period of three years following Termination of the Decree. At Termination, Defendant shall obtain all records retained by its contractors and agents in accordance with Paragraph 72 of this Consent Decree and will preserve them for the three year period. Under this Paragraph, Defendant shall preserve all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form). 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, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

XXII. PUBLIC PARTICIPATION

95. This Consent Decree shall be lodged with the Court for a period of not 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 received disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper or inadequate. Defendant 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 Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

XXIII. SIGNATORIES/SERVICE

96. Each undersigned representative of Defendant and the Deputy Section Chief of the U.S. Department of Justice, Environment and Natural Resources Division, Environmental Enforcement Section 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.

97. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant 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.

XXIV. INTEGRATION/APPENDICES

98. This Consent Decree and Judgment constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than submissions that are submitted and Approved by EPA pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

99. The following appendices are attached to and part of this Consent Decree:

“Appendix A” is the Interior Wash Basin and Sanitary Sewer Connection Plan.

“Appendix B” is the Telemetry Monitoring System Plan.

“Appendix C” is the EFT instruction.

“Appendix D” is the Stormwater SEP Plan

100. 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 Defendant.

The Court finds that this Consent Decree and Judgment is a reasonable and fair settlement and adequately protects the public interest in accordance with the Clean Water Act. Entered as a final Judgment and Decree and order of this Court this ____ day of _____ 2016.

UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

FOR THE UNITED STATES:

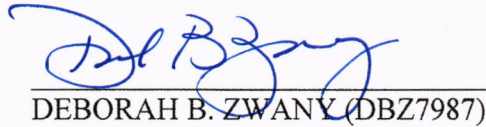
Dated: Sept. 30, 2016



ELLEN M. MAHAN
Deputy Section Chief
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section

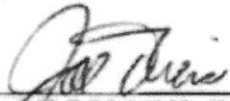
ROBERT L. CAPERS
United States Attorney
Eastern District of New York
Attorney for Plaintiff United States
271 Cadman Plaza East
Brooklyn, New York 11201

By:




DEBORAH B. ZWANY (DBZ7987)
Assistant U.S. Attorney
(718) 254-6010

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



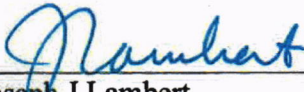
Mr. MARK POLLINS, Director
Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460



ERIC SCHAAF
Regional Counsel, Region 2
United States Environmental Protection Agency

FOR THE NEW YORK RACING ASSOCIATION, INC.:

Dated: 9-23, New York
, 2016



Joseph J. Lambert
General Counsel
The New York Racing Association, Inc.
P.O. Box 90
Jamaica, NY 11417

Dated: , New York
, 2016


DONALD STEVER, Esq.
K&L Gates LLP
Attorneys for Defendant NYRA
599 Lexington Avenue
New York, New York 10022

FOR THE NEW YORK RACING ASSOCIATION, INC.:

Dated: , New York
, 2016

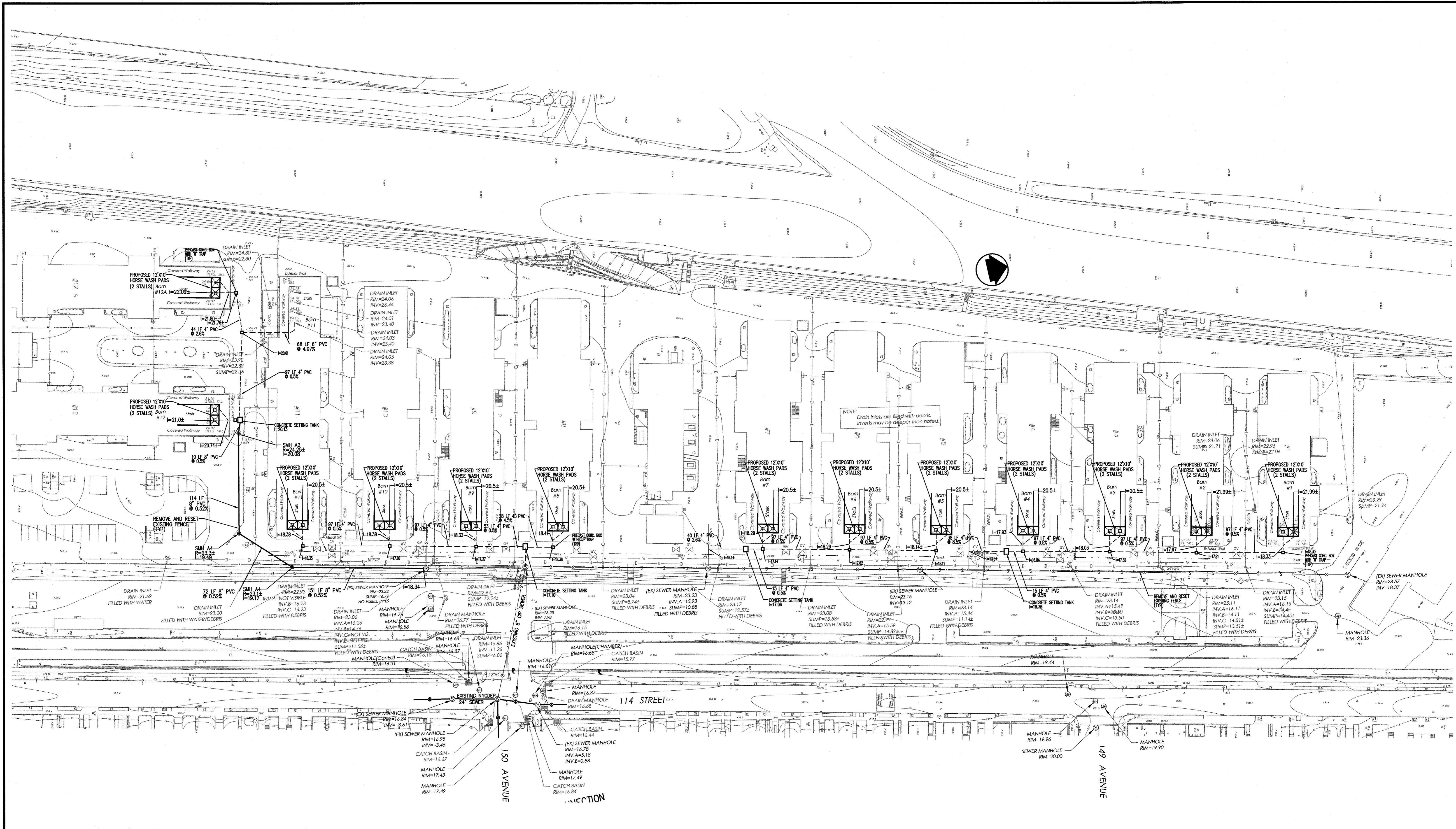
Joseph Lambert
General Counsel
The New York Racing Association, Inc.
P.O. Box 90
Jamaica, NY 11417

Dated: ~~New York~~, New York
September 23, 2016

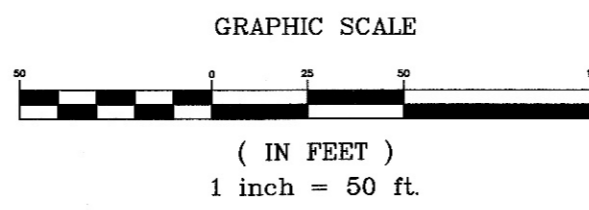


DONALD STEVER, Esq.
K&L Gates LLP
Attorneys for Defendant NYRA
599 Lexington Avenue
New York, New York 10022

APPENDIX A



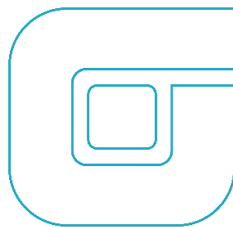
- LEGEND**
- = SANITARY SEWER MANHOLE
 - = PRECAST CONCRETE BOX WITH 'U' TRAP
 - = 8\"/>
 - = 4\"/>



THIS PLAN NOT VALID FOR CONSTRUCTION WITHOUT ENGINEERS SEAL & SIGNATURE	11/12/15 ISSUE 10/9/15	INTERIOR WASH PADS AQUEDUCT RACE TRACK 110-00 ROCKAWAY BLVD. JAMAICA, NY	sheet 1 2
	Site Plan		dolph rotfeld engineering, p.c. 200 White Plains Road, Tarrytown, NY 10591 <small>(914) 631-8800</small>

ANY ALTERATIONS OR REVISIONS OF THESE PLANS, UNLESS DONE BY OR UNDER THE DIRECTION OF THE NYS LICENSED AND REGISTERED ENGINEER THAT PREPARED THEM, IS A VIOLATION OF THE NYS EDUCATION LAW.

APPENDIX B



OBG | There's a way

September 16, 2016

Sent via email: gkozak@nyrainc.com

Glen Kozak, Vice President
Facilities and Racing Services
New York Racing Association
2150 Hempstead Turnpike
Elmont, NY 11003

RE: USEPA Stormwater Compliance Assistance
Aqueduct Dry Weather Stormwater Monitoring Design
FILE: 15049/63755

Dear **Glen**:

O'Brien & Gere (OBG) is pleased to present this report to the New York Racing Association, Inc. (NYRA) detailing an engineering design concept to install stormwater monitoring equipment in select manholes at the Aqueduct racetrack for the purpose of evaluating the presence of dry weather wastewater discharges. This engineering design has been developed based in part on discussions with USEPA personnel in the Region 2 Water Quality Branch, discussions and information provided by NYRA personnel, and limited field inspections of the stormwater conveyance system at Aqueduct.

To facilitate your review, this report is organized as follows:

- Background
- Proposed Stormwater Monitoring Plan
 - » Objectives
 - » Institutional Controls
 - » Engineering Controls
 - › Description of Control
 - › Cost Summary
 - » Implementation Schedule

BACKGROUND

The Aqueduct Racetrack was inspected by USEPA Region 2 personnel in 2016. The results of this inspection indicated the potential discharge of wastewater to the municipal stormwater system associated with horse cleaning activities at the horse stable barns on the eastern corner of the facility. USEPA has requested that actions be taken to eliminate these discharges using institutional and engineering controls. OBG has been contracted to develop an engineering plan that will notify NYRA personnel of dry weather flow from select catch basins in the area of the horse barns. The presence of flow in stormwater conveyance systems during dry weather may be indicative of unauthorized connections or use of stormwater drains to dispose of wastewater associated with horse washing activities.



On July 14 and August 3, 2016 OBG engineers met with NYRA facilities staff to inspect the facility stormwater system. Based on these inspections, discussions with NYRA personnel, and review of available Aqueduct utility drawings, stormwater is consolidated in a stormwater wet well and then is pumped to the municipal system at the southeast corner of the facility at 114th Street and North Conduit Avenue.

Prior to the wet well, stormwater from the horse barn area consolidates in two catch basins. A stormwater management recharge gallery exists between the northern catch basin and the wet well. Stormwater on the southeast side of the property enters the stormwater basins and is conveyed directly to the wet well. The stormwater conveyance system for the horse barn area and features applicable to this project are identified on **Figure 1**.

PROPOSED STORMWATER MONITORING PLAN

■ Objectives

Based on discussions with Ms. Kimberly McEathron of USEPA Region 2's office, USEPA is requesting an engineering control that will notify NYRA personnel in the event of a dry weather discharge at the horse barn area, which will enable personnel to take immediate action to investigate such a discharge. A combination of engineering and institutional controls will reduce the potential for such a discharge from occurring in the future or occurring a second time once a dry weather discharge is investigated and mitigated.

■ Institutional Controls

According to NYRA personnel select institutional controls have already been implemented. A listing of proposed and implemented controls are as follows:

- » elimination of the outdoor water hydrants/faucets to reduce the potential for the outside washing of horses (implemented)
- » strict policy that horse washing is to be conducted inside where wastewater is conveyed to the sanitary sewer, with fines/ penalties (implemented)
- » posting of signs in select areas informing animal and service workers that wash water is not to be discharged to stormwater drains (pending)
- » notification system connected to security badging notifying workers that the discharge of wastewater to stormwater drains is illegal (pending)
- » weekly stormwater control inspections (implemented)

■ Engineering Controls

OBG proposes two monitoring systems to assess for the presence of dry weather discharges as described below:

» Stormwater Catch Basin Dry Weather Flow Monitoring

Based on OBG's field inspections and information provided by NYRA personnel, there are two manholes that collect stormwater from the horse barn areas prior to discharge to the wet well/pump station connected to the municipal sewer at the corner of 114th Street and North Conduit Avenue. (See **Figure 1**) It is proposed that Wireless Solar Powered Water Detection Sensors be installed at the invert of the pipe discharges at each of these manholes. When water is discharged from these stormwater basins the wet sensors will send a signal to an Ethernet Gateway, which will send a message to the external subscription based monitoring company. Messages will then be sent to NYRA personnel via e-mail and text message. NYRA personnel would then investigate the cause of the dry weather alert and eliminate any process wastewater within 24 hours of detection, if warranted. A stormwater management log will be maintained by NYRA personnel to document dry weather discharges and corrective actions. A figure

depicting a typical installation detail is presented as **Figure 2**. Proposed installation description and equipment specification sheets are presented in **Attachment A**.

OBG has estimated equipment and labor costs based on data obtained from distributor websites and NYRA. A summary is as follows:

Estimated Costs	
Material/Equipment Costs	
Monnit MNS-9-IN-WS-WD-L03-WP-SOL-PA Wireless Water Detection Sensors (2 @ \$235 each)	\$470
Monnit MNG-9-EG-EGW Ethernet Gateway	\$230
iMonnit Premiere Software (Annual Subscription Required)	\$39/yr
Miscellaneous (e.g., drilling bits, steel pipe, etc.)	\$350
Consultant Costs	
Design and Planning	\$9,900
Labor Costs	
Electrician (40 hrs X \$87.40/hr)	\$3,496
Laborer (40 hrs X \$42.80/hr)	\$1,712
Total Cost (Approximate)	\$16,158 + \$39/yr

» Stormwater Pump Station/Wet Well Sump Monitoring

A stormwater pump station is located at the wet well, which discharges stormwater to the municipal stormwater system. To further monitor the potential for a dry weather discharge it is proposed that the pump station be monitored on a daily basis. Specifically, it is proposed that a log be maintained documenting the run time of the pumps and weather events (visual observations) each working day for period up to twelve months. Institutionally, pump-on events that occur when there are no corresponding precipitation events would necessitate that NYRA personnel investigate if there was dry weather flow, the source of the flow, and its elimination within 24 hours of detection.

This engineering control can be implemented by installing a runtime hour meter on the pump panel. Proposed installation summary and equipment specification sheets are presented in **Attachment A**.

Estimated Costs	
Equipment Costs	
ENM T50A4 Run Time Hour Meters 24VAC (2 @ \$50 each)	\$100
Miscellaneous	\$50
Labor Costs	
Electrician (8 hrs X \$87.40/hr)	\$699.2
Laborer (8 hrs X \$42.80/hr)	\$342.4
Total Cost (Approximate)	\$1,191.6

■ Implementation Schedule

It is reasonably expected that this work can be completed within 60 days.

Should you have any questions concerning the information contained herein, please contact me or Nathan Wheeler at (914) 345-1616, ext. 13 or ext. 14, respectively.

Very truly yours,
O'BRIEN & GERE ENGINEERS, INC.



Mark A. Randazzo, CHMM, CSP
Project Manager

Attachments: Figure 1 – Stormwater Conveyance System Layout
Figure 2 – Dry Weather Flow Monitoring Detail Plan
Attachment A – Equipment Installation Description and Specification Sheets

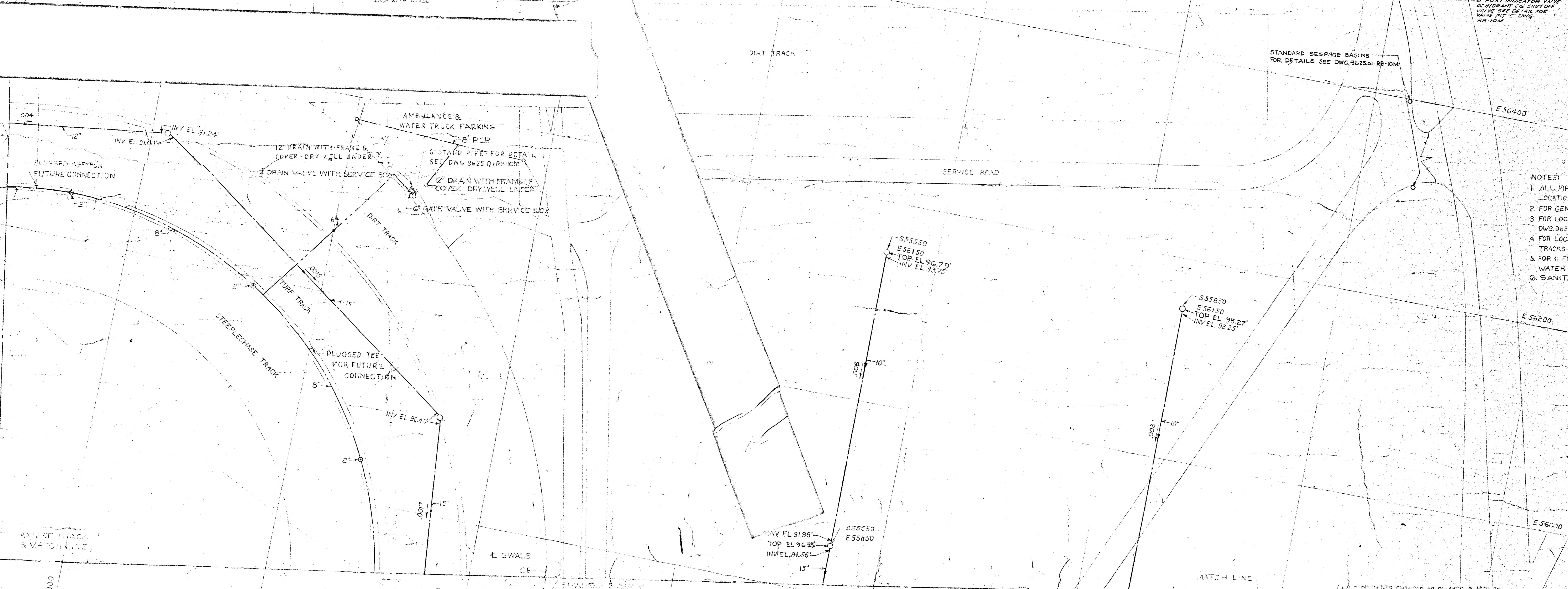
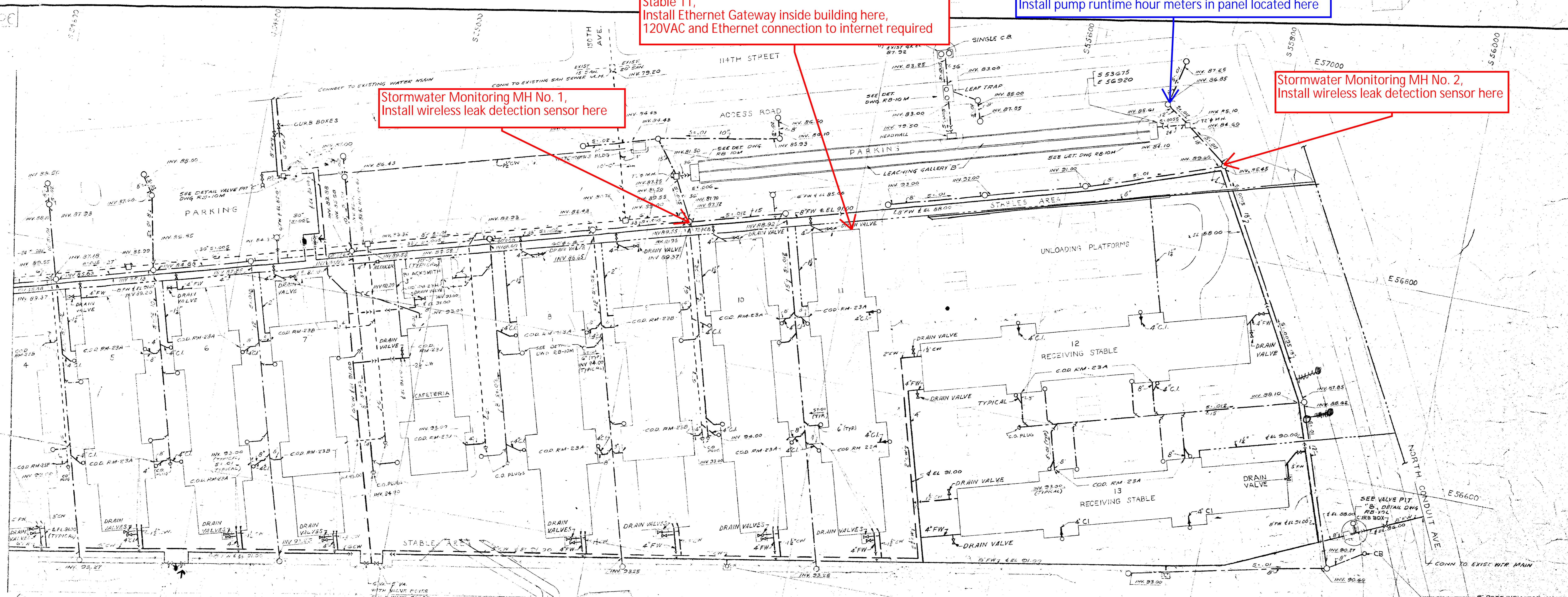
cc: Glen Kozak – NYRA
Lowell Kachalsky, PE – OBG
John Topf – OBG
Nathan Wheeler, PE – OBG

Stable 11.
Install Ethernet Gateway inside building here,
120VAC and Ethernet connection to internet required

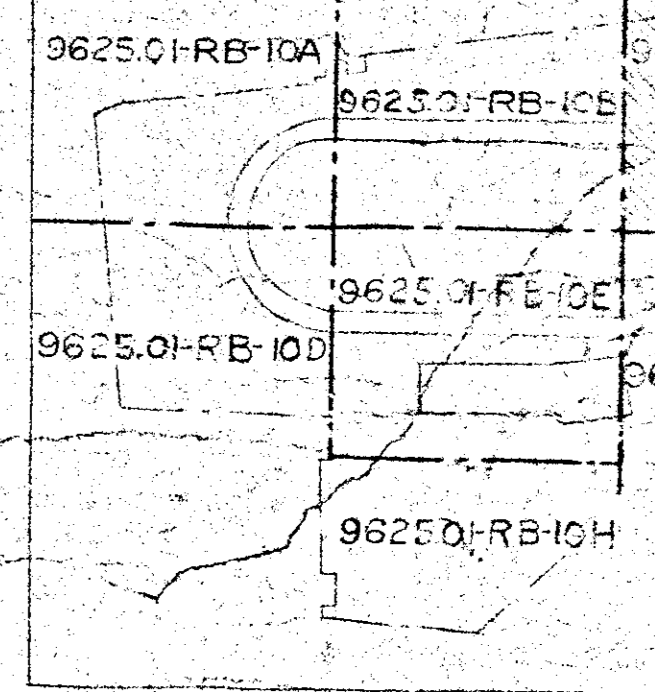
Wet Well.
Install pump runtime hour meters in panel located here

Stormwater Monitoring MH No. 2.
Install wireless leak detection sensor here

Stormwater Monitoring MH No. 1.
Install wireless leak detection sensor here



- NOTES
1. ALL PIPING SHOWN DIAGRAMMATICALLY ONLY EXCEPT AS NOTED, EXACT LOCATION TO BE DETERMINED IN FIELD.
 2. FOR GENERAL NOTES & LEGEND-SEE DWG 9625-01-RB-10A
 3. FOR LOCATION OF CATCH BASINS BETWEEN DIRT & TURF TRACKS-SEE DWG 9625-01-RB-10F
 4. FOR LOCATION OF STREET WAGERS BETWEEN TURF & STEEPLECHASE TRACKS-SEE DWG 9625-01-RB-10E
 5. FOR ELEVATION ON FIRE PROTECTION, WELL WATER & CITY WATER LINES OTHER THAN STABLE AREA SEE DWG 9625-01-RB-10A
 6. SANITARY SEWER TO SLOPE 1/8" PER FOOT



APPROVED: *Edward P. Blasi*
LICENSED PROFESSIONAL ENGINEER, NO. 38600
STATE OF NEW YORK

YARD PIPING-SH.3

NEW AQUEDUCT RACE TRACK
THE GREATER NEW YORK ASSOCIATION INC.
ARTHUR FROBLICH, A.A.A. ARCHITECT & ASSOCIATES
STONE & WEBSTER ENGINEERING CORPORATION

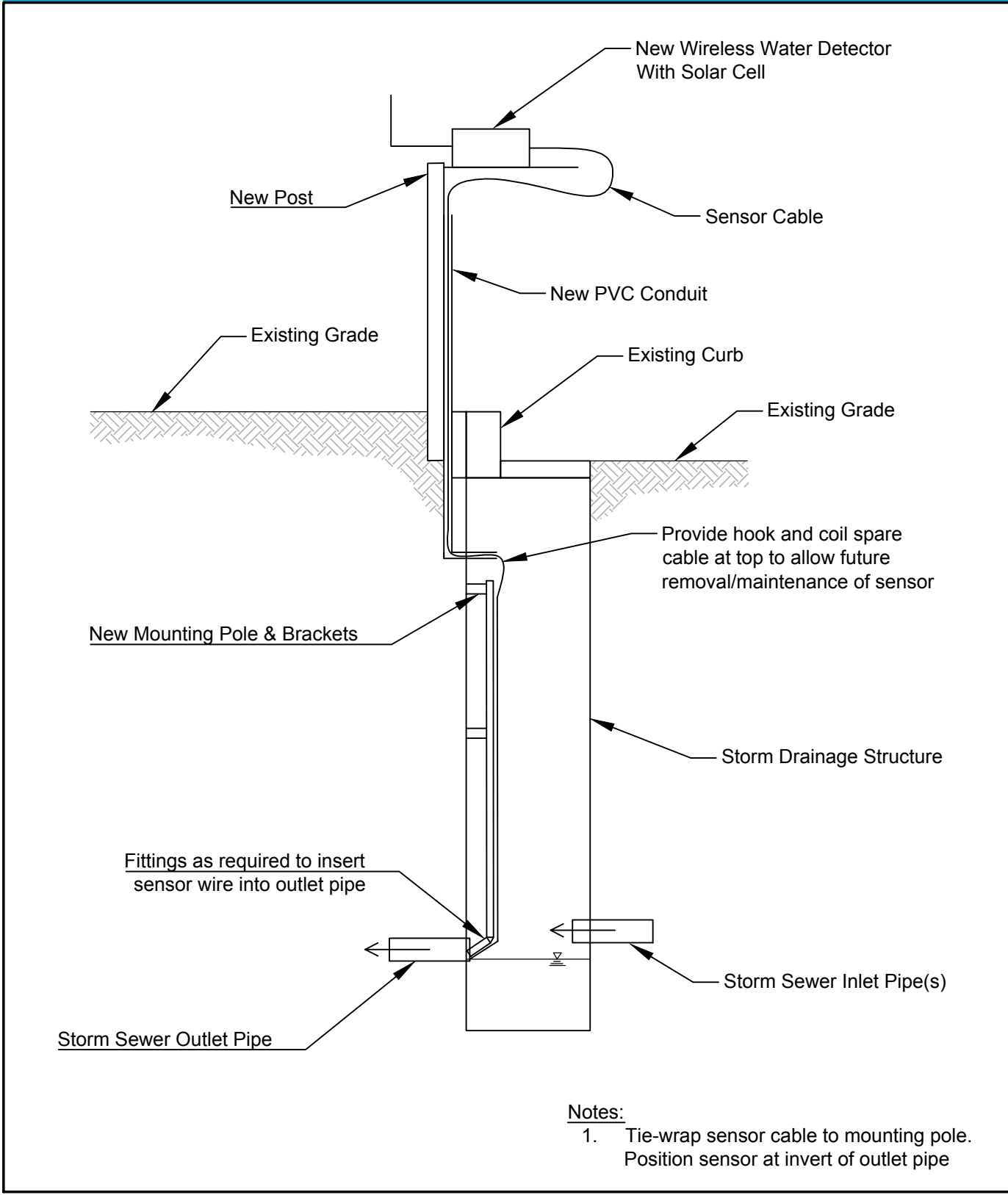
NO.	DESCRIPTION	CHKD.	INSP.	CONR.	APPR.
5	PIPING ADDED & CHANGED				
4	SEEPAGE BASINS RELOCATED				
3	PIPING ADDED IN STABLE AREA				
2	PIPING & DRAIN ADDED, NOTE CHANGED				
1	NOTES REMOVED, ELEV'S CHANGED, SEEPAGE BASINS ADDED				
0	ORIGINAL ISSUE				

NO.	DESCRIPTION	CHKD.	INSP.	CONR.	APPR.
7	...				
6	...				
5	...				
4	...				
3	...				
2	...				
1	...				

PROJECT NUMBER: 9625-01-RB-10C
DRAWING NUMBER: 9625-01-RB-10C

8/8/2016 4:44 PM

I:\Ny-Racing.15049\63755.Stormwater-Desi\Docs\DWG\Sheets\63755_Dry Weather Monitoring-Belmont.dwg




NEW YORK RACING ASSOCIATION
 BELMONT PARK
 ELMONT, NEW YORK

PROPOSED DRY WEATHER FLOW
 MONITORING DETAIL PLAN

FILE NO. 15049.63755
 AUGUST 2016





**Equipment Installation
Description and
Specification Sheets**

NYRA – AQUADUCT STORMWATER COMPLIANCE CONTROLS DESCRIPTION

Storm Water Pump Runtime Monitoring

In order to monitor the storm water sump pumps, runtime hour meters will be installed in the storm water sump panel. The runtime hour meters (2) manufactured by ENM Company, model T50A4 will be purchased and installed for this purpose. The runtime hour meters will be installed on the front of the panel door so they are visible from outside the panel. These meters operate on 24VAC, and will be wired to the pump run indicator lights which are also mounted on the panel door. These are non-resettable hour meters. See the manufacturers data sheet, marked up panel wiring diagram, and pictures for more information.

Storm Water Flow Monitoring

In order to monitor water flow from any Stable into the storm water sump, water detectors will be installed in 2 separate locations, and will provide indication of water flow from any of the stables. Due to the remote locations of the storm drains, without power available, Monnit Industrial Wireless Water Detection Sensors (2) model MNS-9-IN-WS-WD-L03-WP-SOL-PA will be used. These sensors will need to be ordered with custom length cables. They also include a solar powered recharger so that battery replacement will not be required. The actual cable length needed will have to be verified in the field before ordering. These sensors will also require the installation of (1) MonnitLink Ethernet Gateway model MNG-9-EG-EGW.

The Monnit Industrial Wireless Water Detection Sensors will be mounted remotely at the storm drain locations. These sensors are self-contained battery powered units. These units should be mounted to a post which will need to be installed directly next to the storm drains to be monitored. A bracket should be used to mount the detector to the post, so that the solar panel is pointing upwards. A conduit will need to be installed that will run from the post to go down and inside the storm drain near of the top to protect the sensing wire. Once inside the storm drain, another piece of conduit, or pole, or pipe should be mounted vertically to the sidewall of the manhole, and the wire which senses the leak, should be ty-wrapped to this. The end of the sensing wire, which has 2 leads sticking out, should be tied at the proper height so that it will sense water when the smallest amount is flowing out the discharge pipe, but not sense water when there is no flow. This level is critical to the proper operation of the detector. If set too low, it will always indicate water flow, and if too high, it will not indicate water flow when flow is present.

The Monnit Ethernet Gateway will be mounted in a location central to both of the wireless water detection sensors, but the location should not be more than 300-350 feet from either sensor. Based on the piping drawing used for reference, the gateway should be mounted on the east wall of stable 11 inside, near the south corner. A standard 120 VAC outlet and Ethernet connection with internet access will be required at the mounting location.

A subscription to the IMonnit Software is required to maintain records, as well as text and/or email of alarm conditions when they occur. IMonnit Premiere Software part number MNW-IP-006 is recommended for this application. It will maintain unlimited history for up to 6 sensors, as well as allow text and email to unlimited number of users. See the manufacturers data sheets and basic storm drain installation sketch for more information.

Equipment Costs	
ENM T50A4 Run Time Hour Meters 24VAC (2 @ \$50 Each)	\$100
Monnit MNS-9-IN-WS-WD-L03-WP-SOL-PA Wireless Water Detection Sensors (2 @ \$235 Each)	\$470
Monnit MNG-9-EG-EGW Ethernet Gateway	\$230
iMonnit Premiere Software (Annual Subscription Required)	\$39/Yr
Total	\$839



Electronic Hour Meter, AC Hour Meter T50 Series



T50A2, T50B2

Features

- Low Power Consumption
- Solid State Electronic Drive Circuit
- Quartz-Crystal for Accurate Timing
- Non-reset
- UL/cUL Recognized, CE & RoHS Compliant
- High Impact, Tamperproof Plastic Case
- IP65
- Indicates Operating Time in Hours and Tenths
- No Battery Back-Up Required
- Quiet operation
- MADE IN THE U.S.A.

ENM's Series T50 electronic AC hour meter is a low cost reliable hour meter incorporating the latest state-of-the-art in electronics. It's quartz-crystal time base insures accurate long term time-keeping. A reliable electromechanical wheel-type indicator is used to store accumulated hours.

This compact tamperproof meter is sealed against the environment to provide years of service.

The T50 elapsed time indicator was designed for use on test and recording equipment, for providing maintenance control, for establishing warranty programs, for measuring machine utilization and production time, or for any application where time-in-use is to be determined.

Specifications

Time Scale:	6-digits 99,999.9 Hours Automatic recycle to zero
Figures:	Hours - White on black Tenths - Red on white Height - 0.140"
Operation Voltage:	230, 115, 48, 24 VAC $\pm 10\%$ 50/60 Hz Other voltage available
Power Consumption:	Less than 0.4 Watts
Accuracy:	Better than $\pm 0.02\%$ over entire range
Temperature:	-40°F to +185°F (-40°C to +85°C)
Vibration Resistance:	Withstands 10-80 Hz at 20g's max. (SAE J1378)
Shock:	55g at 9-13 ms (SAE J1378)
Humidity:	95% (SAE J1378)
Terminations:	1/4" male blade terminals
Configuration:	Round SAE Bezel with new push-on retaining ring Round 3-Hole Bezel

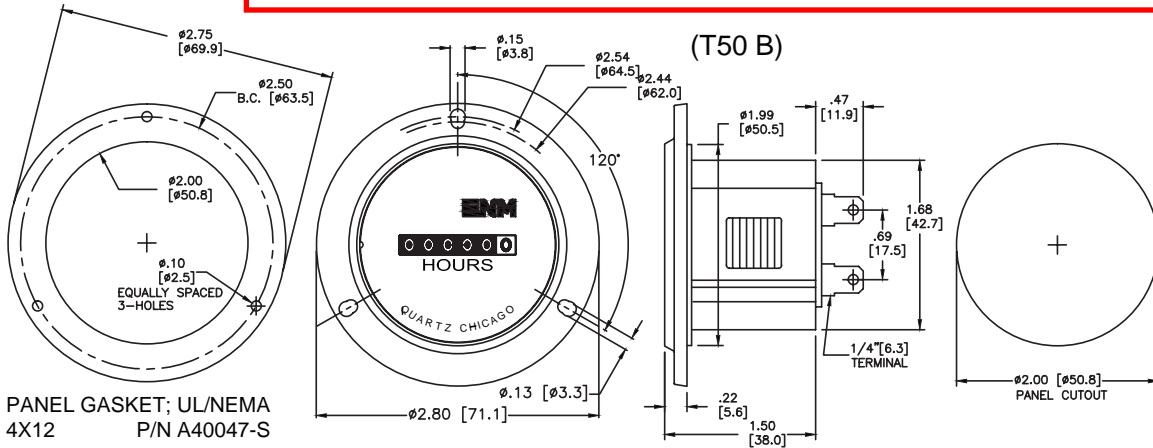
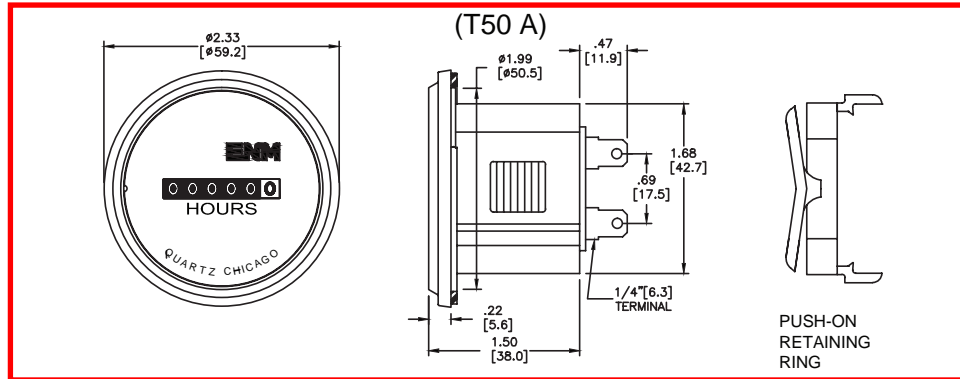


T50 Series

Dimensional Data

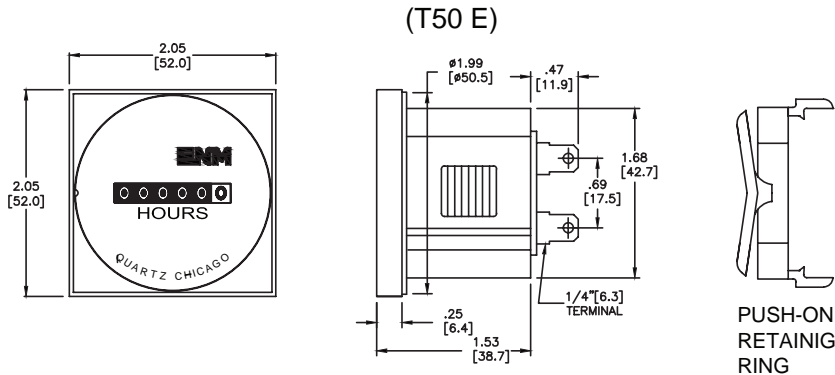
211

T50 Series



PANEL GASKET; UL/NEMA 4X12 P/N A40047-S

PANEL GASKET; UL/NEMA 4X12 WITH MTG HARDWARE; P/N B20017



2013 ENM Co.®

LIMITED WARRANTY

ENM Company resettable electromechanical counters are warranted to the consumer to be free from defects in material and workmanship for a period of 3 years. All ENM products which fall within the warranty period due to defects in material or workmanship will be repaired or replaced, at ENM's option, without charge to the consumer when returned with proof of purchase to any authorized ENM dealer in the United States, transportation charges prepaid, provided there is no evidence of improper installation, tampering, or other abuse. All implied warranties, including any implied warranty of merchantability or fitness for a particular purpose, shall be limited in duration to the express warranty period specified above. ENM disclaims any liability for consequential damages due to breach of any written or implied warranty on its products. Datasheet information subject to change.



ENM Company

5617 Northwest Highway, Chicago, IL 60646-6135

(773) 775-8400 • Fax: (773) 775-5968 • Toll Free (888) 372-0465

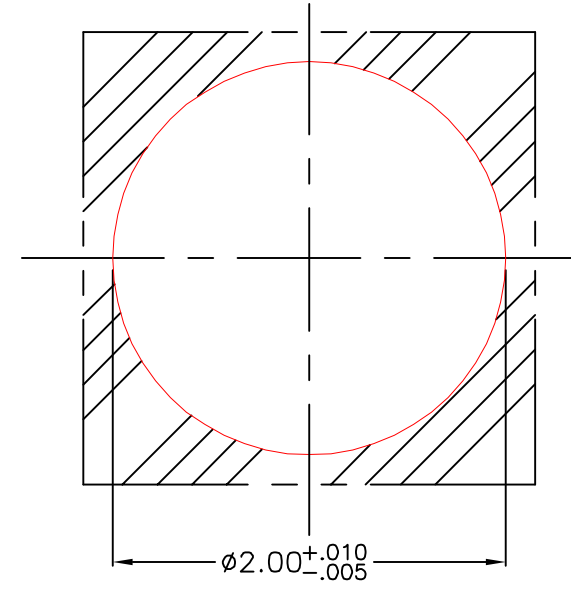
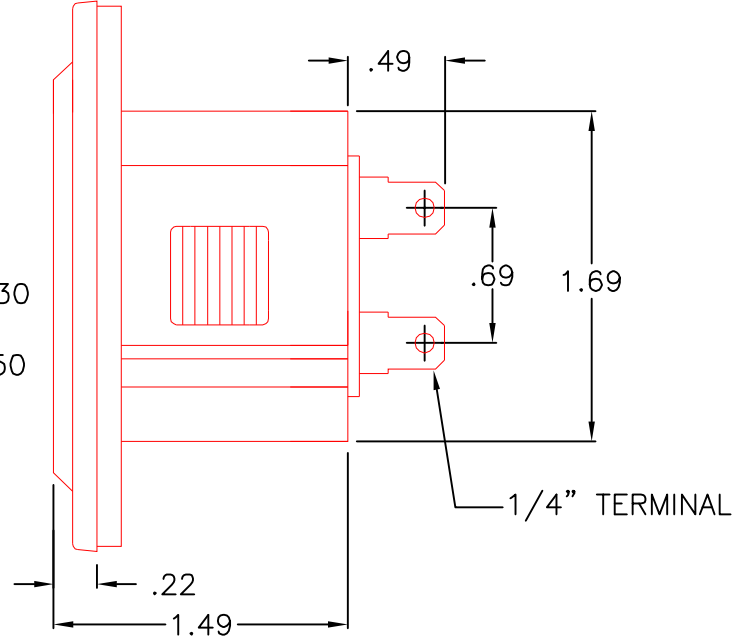
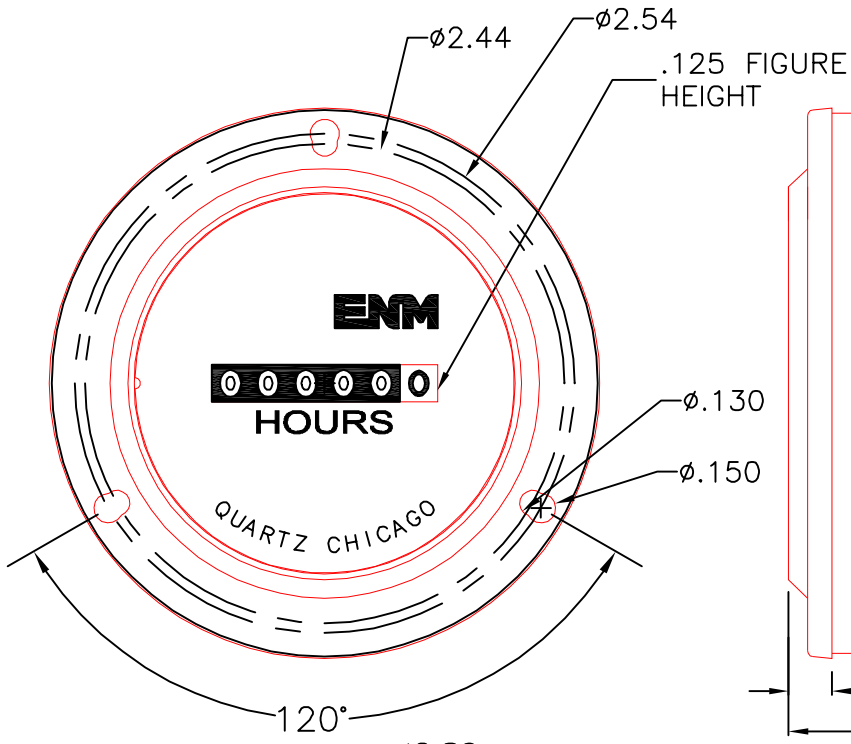
e-mail: customerservice@enmco.com

ISO 9001:2000

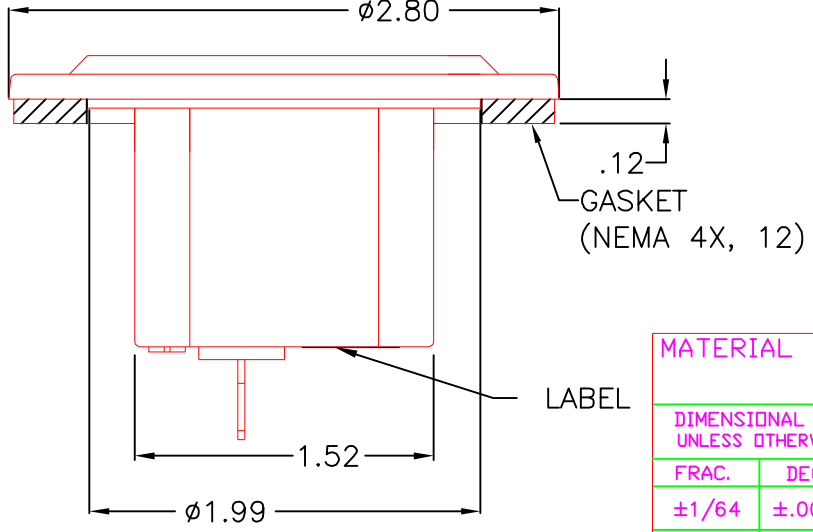
web site: www.enmco.com

REVISIONS

SYM	DESCRIPTION	DATE	APPROVAL
-----	-------------	------	----------




PANEL CUT-OUT



NOTES:
 OPERATING VOLTAGE: 440 - 480 VAC 50/60 Hz
 LOW POWER CONSUMPTION: 0.15W. - 0.6W.
 TAMPERPROOF PLASTIC CASE
 TOTALLY SEALED
 OPERATING TEMPERATURE; -40°F (-40°C) TO $+185^\circ\text{F}$ (85°C)
 MTG. HARDWARE ARE BULK PACK IN PLASTIC BAG.

THIS PRINT IS THE PROPERTY OF ENM COMPANY AND IS LOANED SUBJECT TO RETURN UPON DEMAND. TITLE TO SAME IS NEVER SOLD OR OF DESIGN OR INVENTION ARE RESERVED. PRINT IS NOT NECESSARILY TO SCALE.

MATERIAL			FINISH			HEAT TREAT WEIGHT		
DIMENSIONAL TOLERANCES UNLESS OTHERWISE SPECIFIED			TITLE HOUR METER			 Chicago, Illinois		
FRAC.	DEC.	ANG.						
$\pm 1/64$	$\pm .005$	$\pm 30''$						
	.XX $\pm .01$		SCALE 1:1			DRAWING NUMBER S-T50B5912		
NEXT ASSY.			DRAWN j.g.			ISSUE 01		
			CHECKED			DRAWING NUMBER S-T50B5912		
			APPROVED			ISSUE 01		

277/480 VOLTS

277/480 VOLTS

PUMP 1

PUMP 2



⚠ DANGER 460V
HAZARD OF ELECTRIC SHOCK, BURN OR EXPLOSION
DISCONNECT ALL POWER SUPPLY SOURCES (INCLUDING ANY FOREIGN CIRCUITS) BEFORE WORKING ON THIS CONTROLLER

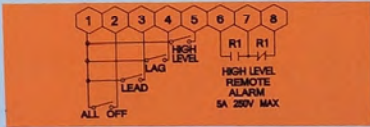
Drill 2" Hole and mount new hour meters directly below each pump H-O-A switch



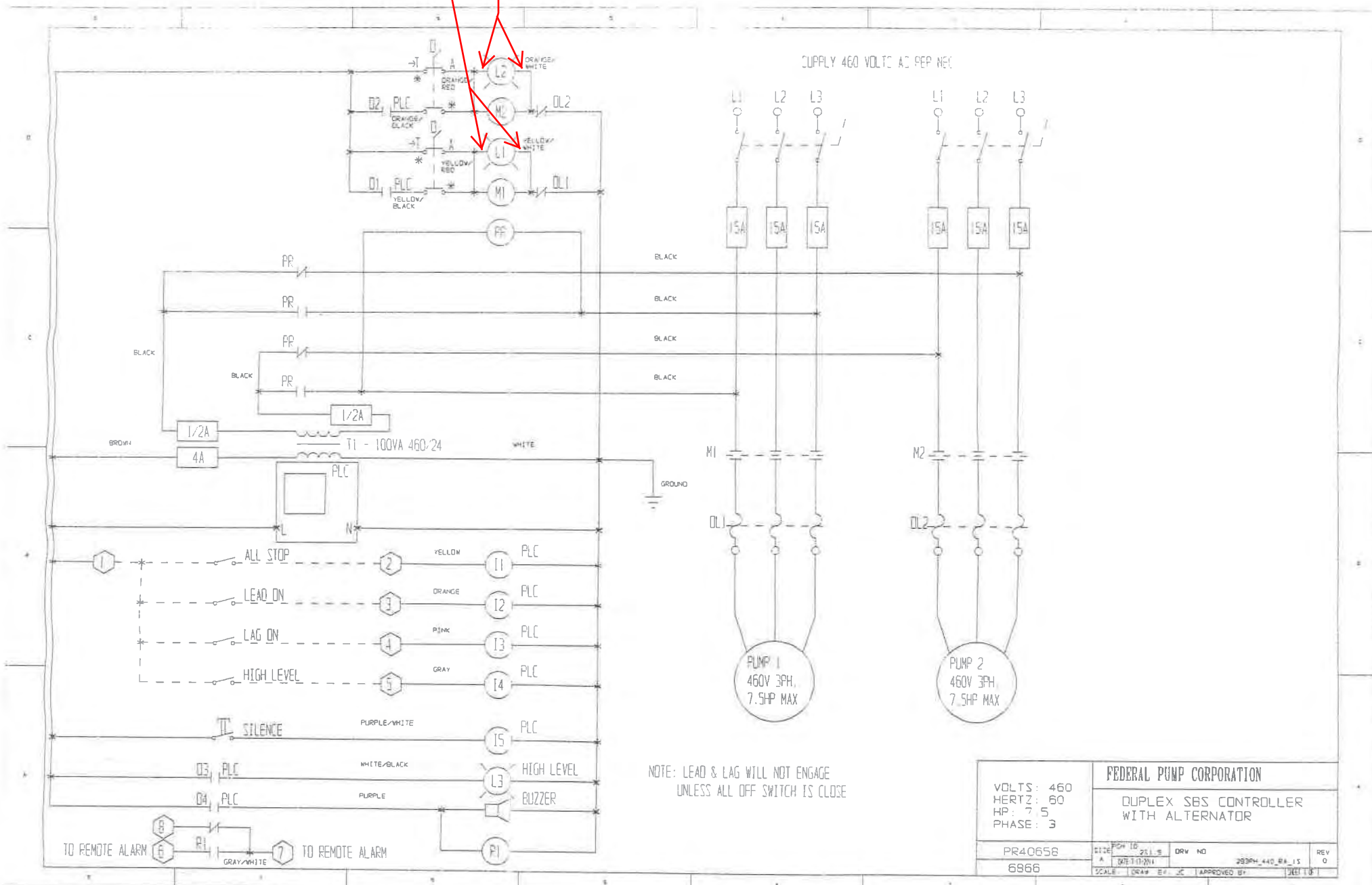
WARNING!
HAZARDOUS VOLTAGE PRESENT

Wire new hour meters to pump run indicator lights already wired on panel door

DUPLEX SBS CONTROLLER
460 VOLTS 3 PHASE 7.5HP
RECORD# PR40658
S/N 6866
FEDERAL PUMP CORP.



Wire Four Meters to Energize with
 respective indicator light already
 mounted and wired on panel door.



VOLTS: 460		FEDERAL PUMP CORPORATION	
HERTZ: 60		DUPLIX SBS CONTROLLER	
HP: 7.5		WITH ALTERNATOR	
PHASE: 3			
PR40656		SCALE	DRW NO
6866		DATE	APPROVED BY

Monnit Industrial

Wireless Water Detection Sensor

Technical Overview

General Description

Monnit's industrial wireless water detection sensors alert you of potential property damage that results from flooding or leaks. Place this sensor anywhere flooding or faulty plumbing could cause a problem. This sensor can also be used to detect a lack of water, allowing you to know when a container is nearing empty.

Features

- 3 ft. leaded wires.
- Immediately detects water.
- Free iMonnit basic online wireless sensor monitoring and notification system to configure sensors, view data and set alerts via SMS text and email.

Principle of Operation

The Monnit industrial wireless water detection sensor detects when water is present by completing the circuit between the two leaded wires. When water is present the sensor will immediately turn on the RF radio and transmit the data to the wireless gateway and iMonnit Online Sensor Monitoring and Notification System, allowing the user to immediately receive an SMS text or email alert. The sensor can be configured to detect both the presence and non-presence of water.

Solar Power Option

Monnit Industrial Sensors are powered by a replaceable 3.6 V battery (included).

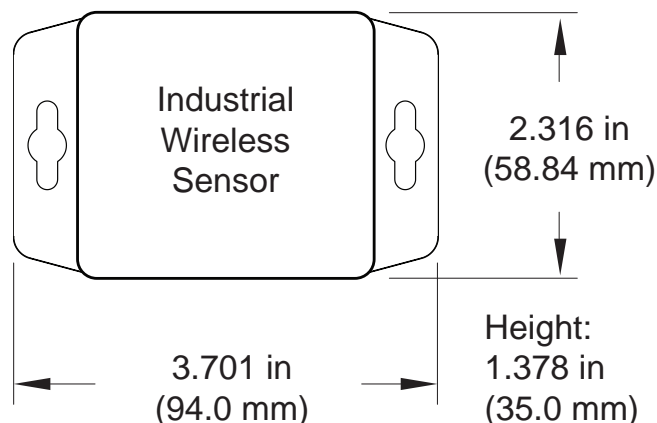
An optional solar powered version is also available. The solar powered sensor uses a Lithium Iron Phosphate rechargeable battery in conjunction with a solar power cell, extending the life of the battery.



Monnit Industrial Sensor Electronics Specifications

- Power: replaceable 3.6V battery (included)
- Communication: RF 900, 920, 868 and 433 MHz
- Dimensions: 3.7" x 2.23" x 1.38"
- Antenna: 3dBi RP SMA antenna
- Operating Temperature: -40° to 85°C (-40° to 185°F)
- Transmission Range: 300 - 350 ft. non-line-of-sight*
- Battery Life: at 1 hour heartbeat setting, battery will last ~ 4-5 years.**


* Actual range may vary depending on environment.
 ** Battery life is determined by sensor reporting frequency and other variables.



Applications

- Water heater monitoring.
- Boiler leak monitoring.
- Plumbing leak detection.
- Sump monitoring.
- Reservoir level monitoring.

The Leader in Low Cost Wireless Sensors

Technical Specifications	
Supply Voltage	2.0 - 3.6 VDC *
Current Consumption	0.7 μ A (sleep mode) 2 mA (radio idle/off mode) 2 mA (measurement mode) 25 mA (radio RX mode) 35 mA (radio TX mode)
Operating Temperature Range (Board Circuitry and Battery)	-40°C to +85°C (-40°F to +185°F) **
Optimal Battery Temperature Range (Battery)	+10°C to +60°C (+50°F to +140°F)
Lead Wire Length	3 ft. (36 in.)
Detection Wires	High Impedance
Enclosure Rating	NEMA 1, 2, 4, 4x, 12 and 13 rated, sealed and weather proof
Certifications	 900 MHz product; FCC ID: ZTL- RFSC1 and IC: 9794A-RFSC1. 920 MHz product; ARIB STD-T108 R210-103733. 868 and 433 MHz product tested and found to comply with: CISPR 22:2008-09 / EN 55022:2010 - Class B and ETSI EN 300 220-2 V2.4.1 (2012-05).

* Hardware cannot withstand negative voltage. Please take care when connecting a power device.

** At temperatures above 100°C, it is possible for the board circuitry to lose programmed memory.

Type 1, 2, 4, 4X, 12 and 13 NEMA Rated Enclosure:

Monnit's Industrial sensors are enclosed in reliable, weatherproof NEMA rated enclosures. Our NEMA rated enclosures are constructed for both indoor or outdoor use and protect the sensor circuitry against the ingress of solid foreign objects like dust as well as the damaging effects of water (rain, sleet, snow, splashing water, and hose directed water).

- Safe from falling dirt.
- Protects against wind blown dust.
- Protects against rain, sleet, snow, splashing water, and hose directed water
- Increased level of corrosion resistance
- Will remain undamaged by ice formation on the enclosure



For more information about our products or to place an order, please contact our sales department at 801-561-5555.

Visit us on the web at www.monnit.com.

Monnit Corporation
4403 South 500 West
Murray, UT 84123
801-561-5555
www.monnit.com

MONNITLINK™

Ethernet Gateway

Technical Overview



General Description

The MonnitLink™ Ethernet gateway allows your Monnit Wireless Sensors to communicate with the iMonnit™ Online Wireless Sensor Monitoring and Notification System without the need for a PC. Simply plug this device into any open network port with internet connection and it will automatically connect with our online servers. This is the perfect solution for commercial locations where there is an active internet connection.

With the graphical iMonnit software, you can easily configure your network, view collected sensor data and set alarms through SMS or e-mail, all from any web enabled browser. The system allows for complete configuration and customization at a sensor, local network, or client wide level.

Monnit's Ethernet gateway is specifically designed to respond to the increasing market need for global technology that accommodates a variety of vertical M2M application segments and remote wireless sensor management solutions.

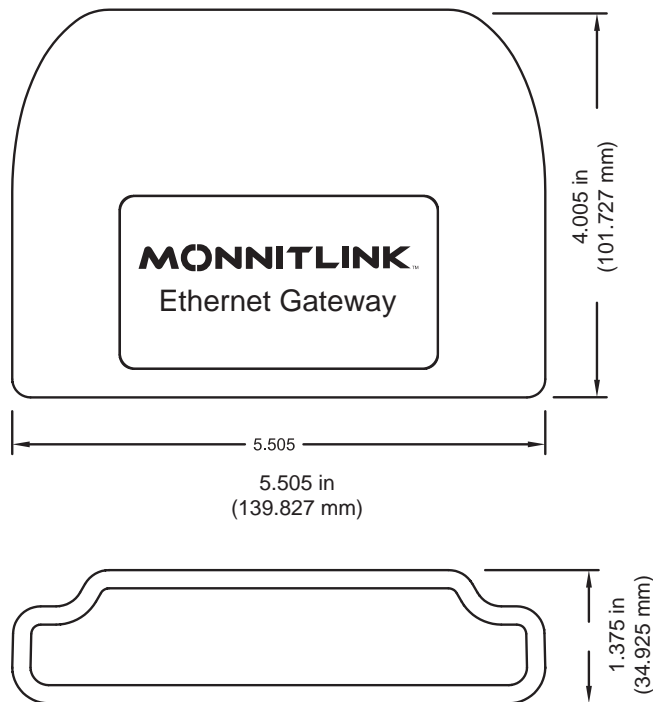
The gateway is available in global frequencies of 900, 868 or 433 MHz. Enjoy reliable, low cost, wireless monitoring of your facilities or specific applications, with Monnit wireless sensor networks.

Applications


- Commercial Facilities Monitoring
- Industrial Facilities Monitoring
- Property Management
- Data Center Monitoring
- Convenience Store Monitoring

MonnitLink™ Ethernet Gateway Features

- Supports multiple RF technologies including 900, 868 and 433 MHz sensor solutions
- Plug & Sense, no hassle set-up
- No PC required for operation
- Remote software upgrade capability
- Local status LEDs with transmission and online status indicators
- 16,000 sensor message memory
- On-line heart-beat control
- Power outage notification
- AC power supply or Power-Over-Ethernet



The Leader in Low Cost Wireless Sensors

Monnit Ethernet Gateway Specifications	
Ethernet	
Ethernet Types:	Standard, POE
Antenna	Connector: SMA Gain: 5.0 dBi (900 MHz Product) 3.0 dBi (868 and 433 MHz Product)
Hardware:	10/100 Ethernet Controller
IEEE Standard Compliance:	802.3-2002
Operation:	Full- and Half-Duplex
Cross-Over Correction:	Automatic MDI/MDI-X
Addressing:	Pre-programmed MAC Address
Host Address:	t1.sensorsgateway.com
Default Port:	3000
Protocols Supported:	UDP, DHCP, TCP, SNMP, MODBUS
Cable Connector:	Cat 5
Device Memory:	16,000 sensor messages (Sensor messages will be stored in the event of Internet outage and transferred when connection is restored)
Power	
Power Supply	5.5 V AC adapter or 5.5 V Power-Over-Ethernet adapter
Mechanical	
LEDs	H/W status, iMonnit connection status, sensor data activity
Enclosure	ABS plastic
Dimensions	139.85 x 101.75 x 34.95 mm
Weight	12.6 ounces
Environmental	
Operating Temperature	-10 to +70 °C (14 to 158 °F)
Storage Temperature	-20 to +85 °C (-4 to 185 °F)
Certifications:	 900 MHz product; FCC ID: ZTL- RFSC1 and IC: 9794A-RFSC1. 868 and 433 MHz product tested and found to comply with: CISPR 22:2008-09 / EN 55022:2010 - Class B and ETSI EN 300 220-2 V2.4.1 (2012-05).

Data Capturing Options:

Data collected by the Ethernet Gateway from the sensors in the network can be accessed when these interfaces are turned on. Multiple interfaces can be active at the same time. All interfaces require that the Ethernet gateway be set to a Static IP address. (By default, the unit uses DHCP).

SNMP Poll and Trap Interface - Use SNMP software to pull in gateway and sensor data. Monnit provides a .MIB file. (www.monnit.com/support/downloads)

MODBUS TCP Interface - Use MODBUS TCP software to pull in gateway and sensor data. Monnit provides a register map.

Real Time TCP Interface - Poll on the gateway's assigned port to retrieve gateway and sensor data.

For more information about our products or to place an order, please contact sales department at 801-561-5555 or visit us on the web at www.monnit.com.



Monnit Corporation
4403 South 500 West
Murray, UT 84123
801-561-5555
www.monnit.com

Monnit Software

Wireless Sensor Monitoring and Notification Systems

iMONNIT™

ONLINE WIRELESS SENSORS PORTAL

iMonnit Basic

Online Sensor Monitoring
FREE with no ongoing costs!

&

iMonnit Premiere

Online Sensor Monitoring
Minimal Annual Fee!

iMonnit™ Online Wireless Sensor Monitoring

iMonnit™ is a secure cloud based monitoring and notification system dedicated to Monnit Wireless Sensors and Gateways. The system allows for complete configuration and customization at a sensor, local network, or client wide level. iMonnit allows for management of sensor data as well as the ability to setup alerts via SMS text or email to one or many people. It is also accessible from all internet enabled devices including smart phones. **iMonnit Basic** is included for free with all wireless sensors, providing basic features for you to configure and monitor your sensors online. **iMonnit Premiere** allows for enhanced functionality of your wireless sensors and includes an advanced software feature set, all for a minimum annual cost. (For complete feature comparison see reverse side.)

System Requirements

- Internet access for USB and Ethernet gateways

iMONNIT™
EXPRESS™

PC SOFTWARE FOR SENSORS

iMonnit Express™ PC Software

iMonnit Express™ PC Software is an alternative to online monitoring that runs as a standalone PC application without the need for an Internet connection. This system is meant to provide a simple and effective way for customers to manage a smaller network of sensors using on-screen alerts and email notifications to remotely alert the user. iMonnit Express allows for the same basic sensor network configuration and customization as the online version and can be used with all Monnit wireless sensors and gateway products.

Minimum System Requirements

- Windows Vista, Windows 7 or Windows 8 with 1024 MB available RAM and 20 Megabytes free disk space. ASP.NET 3.5

iMONNIT™
ENTERPRISE™

ENTERPRISE SENSOR SOLUTIONS

iMonnit Enterprise™

iMonnit Enterprise is available for large organizations with specific data usage requirements. It provides the same feature set as the iMonnit Premiere online system while allowing the organization to host and maintain their own sensor data.

Minimum System Requirements

- Windows Server®, Web Server IIS 7, ASP.NET 4.0
Minimum: 2 GB RAM, 2.0GHz Processor
Recommended: 4 GB RAM, 2 x 2.0GHz Processor
- SQL Server® 2005 or Newer (Database Server)

Monnit Wireless Sensor Network Monitoring - Feature Comparison				
Feature	iMonnit™ Basic	iMonnit™ Premiere	iMonnit Express™	iMonnit Enterprise™
	Online Sensor Monitoring	Advanced Online Sensor Monitoring	Standalone PC Software	Self Hosted Enterprise Software
Price	FREE	Starting at \$39 Year	Starting at \$79	Call For Pricing**
Basic Sensor Configurations Name Sensor, Set Heartbeat, Select Unit of Measurement*, Sensor Alerts, Inactivity Alerts	✓	✓	✓	✓
Advanced Sensor Configurations Recovery Attempts, Sub Heartbeat Assessments*, Aware State*		✓	Available in higher versions of the software.	✓
Sensor Data History Reports	✓	✓	✓	✓
Sensor Data Visual Charts	✓	✓	✓	✓
Sensor Data Export	✓	✓	✓	✓
Sensor Calibration*	✓	✓	✓	✓
Monnit Link USB Gateway Support	✓	✓	✓	✓
Monnit Link Ethernet & Cell Gateway Support	✓	✓	✓	✓
Works With Monnit Wi-Fi (MoWi) Sensors	✓	✓	✓	✓
Accessible Anywhere via Internet	✓	✓		✓
Does Not Require Internet Connection			✓	✓
History of Sent Alerts	✓	✓	✓	✓
Alerts and Notifications to Multiple Recipients		✓		✓
Sensor Configuration by Group	✓	✓	✓	✓
Permission Based Access Control and Reporting		✓		✓
Notifications via Email and SMS Text	✓	✓	Email Only	✓
On Screen Alerts and Notifications	✓	✓	✓	✓
Sensor Mapping Tool (Visual Placement)		✓		✓
Minimum Heartbeat (Sensor Check-In)	2 Hours	10 Minutes	1 Second	1 Second
# of Networks Supported	1	20	1	Unlimited
# of Sensors Supported	500 Per Network	500 Per Network	Up to 50***	500 Per Network
# of Gateways Supported	100	1,000	10	Unlimited
# of Users Supported	1	Unlimited	1	Unlimited
Sensor History Storage	45 Days	Unlimited	5,000 Records	Unlimited
Monnit Customer Support	Online Only	Online Only	Online Only	Online / Phone / Optional On-Site

* Applies to certain types of sensors only.

** iMonnit Enterprise installation support available. Call for pricing.

*** Higher version of iMonnit Express only. (20 sensors supported in all other versions).



Monnit Corporation
7304 South Cottonwood
Suite #204
Midvale, Utah 84047
801-561-5555
www.monnit.com

For more information about our products or to place an order, please contact our sales department at 801-561-5555.

Visit us on the web at www.monnit.com.

APPENDIX C

FEDWIRE Electronic Funds Transfer
to the
United States Department of Justice

Notice Date: 09/27/2016

Expected Date: 09/30/2016

The New York Racing Association Inc.,

To transfer funds electronically to the Federal Reserve/United States Treasury Department in New York City located at 33 Liberty Street, New York, NY 10045, for Credit to the United States Department of Justice, the following information must be provided to the bank from which the funds are to be transferred. This information will enable the sending bank to complete those fields associated with the beneficiary bank of a "*FedWire Structured Third Party Format*" electronic funds transfer.

ITEM	DESCRIPTION	CODING INFORMATION FOR FEDWIRE FORMAT
2	Receiving Bank ABA Code	021030004
3	Message Type Code	1000
7	Wire Amount	\$150,000.00
9	Receiver ABA name/Business Func code	TREAS NYC/CTR
10	Beneficiary Name	U.S. DEPARTMENT OF JUSTICE
11	Account No.	15030001
12	Required Beneficiary Information: *Collection Office Identifier *Debtor Name *DJ Number *CDCS Number *EFT No.	USAO/NYE The New York Racing Association Inc., NYE16E021

ATTENTION FINANCIAL LITIGATION PERSONNEL:

The debtor/debtor's attorney must provide this form to the bank from which the funds are to be transferred to ensure that the electronic transfer of funds is accomplished and properly credited to the United States Department of Justice/Debt Accounting Operations Group.

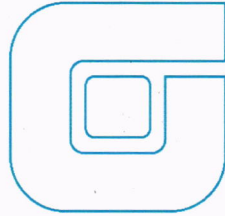
AUTHORITY:

The above information requirements are in accordance with the United States Treasury Department "Treasury Requirements Manual/Part 6 - Chapter 8000"; Appendix E of the "Federal Reserve Bank Funds Transfer Systems Manual"; and 31 CFR Part 206 (Federal Register - Vol. 59 , No. 20).

Questions regarding this FedWire EFT should be directed to the responsible Collection Office:

POINT OF CONTACT: Marilyn Chin
TELEPHONE NUMBER: (718)-254-6071

APPENDIX D



OBG | There's a way

September 16, 2016

Sent via email: gkozak@nyrainc.com

Glen Kozak
Vice President
Facilities and Racing Services
New York Racing Association
2150 Hempstead Turnpike
Elmont, NY 11003

RE: USEPA Stormwater Compliance Assistance
Tree Planting Supplemental Environmental Project
Belmont Park Racetrack
FILE: 15049/63755

Dear **Glen**:

O'Brien & Gere (OBG) is pleased to present this report to the New York Racing Association, Inc. (NYRA) detailing the proposed Supplemental Environmental Project (SEP) for Belmont Park Racetrack, located in Elmont, New York. The details of the proposed SEP have been developed based in part on discussions with United States Environmental Protection Agency (USEPA) personnel in the Region 2 Water Quality Branch, NYRA facility personnel, and limited field inspections.

To facilitate your review, this report is organized as follows:

- SEP Description
- Estimated Implementation Costs
- Implementation Schedule
- SEP Performance Statement

SEP DESCRIPTION

As part of preparation of a Consent Agreement/Final Order, NYRA proposes to conduct SEP at Belmont Park. The SEP involves planting 62 trees in the area of horse barns on the southeast side of the facility as depicted on Figure 1. Trees will be planted in existing pervious areas that receive flow from impervious areas such as roofs and paved areas. A table listing the quantity, planting location, and species name is presented on Table 1. Some of the environmental benefits of these trees are as follows:

- Reduce stormwater runoff through rainfall interception and evapotranspiration
- Abate soil erosion
- Provide wildlife habitat
- Reduce urban "heat island" effect



22 Saw Mill River Road, First Floor
Hawthorne, NY 10532



p 914-345-1616
f 914-345-1611



OBG
www.obg.com

As part of this SEP, USEPA has requested that the stormwater reduction benefit of planting additional trees be quantified. OBG utilized the "Runoff Reduction Worksheets" (<http://www.dec.ny.gov/chemical/8694.html>) published by the New York State Department of Environmental Conservation (NYSDEC) to quantify the effect of tree planting as a Runoff Reduction technique specified in the New York State Stormwater Design Manual (the Manual; NYSDEC 2015). As discussed with Ms. Kimberly McEathron, USEPA Region 2, Water Compliance Branch, quantification of stormwater "Runoff Reduction" using the method described in this Manual is acceptable.

■ Stormwater Analysis

The total area within which NYRA proposes to plant is approximately 117 acres, 79 acres of which is estimated to be impervious surface area (*e.g.*, building, asphalt pavement, gravel). Based on Figure 4.1 of the Manual, the 90th percentile rainfall expected for the area is 1.5 inches. The water quality volume (WQv) estimated for this area using this value and the NYSDEC worksheet is 418,993 ft³ (9.62 acre-feet).

Consistent with the Runoff Reduction Worksheets, the following assumptions were used within the spreadsheet to calculate the runoff reduction:

- » For mature trees with up to a 16-foot diameter canopy, the area considered for reduction shall be ½ the area of the tree canopy. For mature trees with greater than a 16-foot diameter canopy, the area considered for reduction shall be 100 ft².
- » For the tree species selected, a 30-foot diameter canopy of each mature tree was assumed.
- » 62 trees to be planted.

Based on these assumptions, the following WQv reduction "credits" were calculated:

- » Surface area of 6,200 square feet (sf)
- » Runoff volume of 0.14 acre-feet.

Based on these assumptions and calculations the stormwater runoff reduction would be 1.4%. The NYSDEC data summary sheet for the project area is presented in **Attachment A**.

The species proposed for planting are consistent with the list of species identified in the Manual for use in stormwater management. If the proposed species are not available at the time of planting, NYRA shall provide a list of substitutes to OBG for approval prior to planting. All substitutes shall consist of species identified within the Manual and native to the region.

■ Description of Stormwater Flow from Belmont Park to Jamaica Bay

The park has a stormwater conveyance system, which directs stormwater by gravity to a manhole on the southeast corner of the property near Barn No. 36 with the exception of the racetrack and exercise track areas. Stormwater from the track areas accumulates in an on-site retention basin and is then pumped to the gravity system. Stormwater leaving the facility enters Nassau County's stormwater system on Hempstead Avenue. The county system discharges to Valley Stream to the southeast, which in turn flows southwest to Jamaica Bay. (Information obtained verbally from Mr. Tim Kelly, Department of Public Works, Nassau County; discussions with NYRA facilities management; and a review of available engineering drawings provided by NYRA.)

SEP COSTS

Costs to implement this SEP were based on the following labor (inclusive of taxes and benefits) and material costs.

SEP Estimated Costs	
Material Costs	
Tree Purchase	
Tulip (4) \$595/each	
Northern Red Oak (9) \$595/each	
Tilia Americana (36) \$1,200/each	
"Princeton" American Elm (6) \$910/each	\$68,859
White Oak (5) \$1,050/each	
Sweet Gum (2) \$735/each	
Delivery \$300	
Estimated Tax \$5,444	
Tree stakes	\$1,113
Compost	\$1,320
Wire, Rubber Hose, and Self Watering Bags	\$1,432
Consultant Costs	
Planning	\$2,500
Labor Costs	
Planning/Design Costs (24 hrs X \$75.00/hr)	\$1,800
Equipment Operator (208 hrs X \$43.48/hr)	\$9,044
Laborer (370 hrs X \$42.80/hr)	\$15,836
Estimated Total Costs	\$101,904

Labor hours were estimated by NYRA based on planning and design; temporary on-site staging of trees; pre-planting site preparation at each planting location to remove remnant stumps and obstructions; excavation and planting trees; staking and wiring; and limited post planting care. Material costs were based on vendor quotes presented in **Attachment B**. Exact costs will be determined at the time of purchase based on availability. Multiple tree vendors may need to be accessed in order to obtain the quantity and variety of tree species needed. Selected trees will be native to the region and approved by OBG.

IMPLEMENTATION SCHEDULE

NYRA's anticipated schedule to complete the SEP is as follows:

- Design and planning for tree planting project – completed August 10, 2016
- Trees to be dug at off-site nursery's after leaf drop – October/November 2016 (Dormant period providing greatest chance for survival.)
- 5 working days to prepare proposed tree planting locations (*e.g.*, remove stumps, obstructions, *etc.*)
- 2 working days to unload trucks (4 deliveries) and temporarily stage trees (cover with chips for preservation following delivery)
- 12 working days to plant trees
- 5 working days –water, stake, tie trees, and install slow release watering bags.



Work to be completed no later than December 31, 2016. According to Mr. Glen Kozak, NYRA Vice President of Facilities and Racing Surfaces, NYRA will be able to execute an agreement for work with a contractor within 90 days following the entry of an Order.

SEP PERFORMANCE STATEMENT

According to Mr. Glen Kozak, NYRA Vice President of Facilities and Racing Surfaces, NYRA is not required to perform this SEP by federal, state, or local law, and they will not receive credit for the SEP in any other enforcement action, nor will they receive reimbursement for any portion of the SEP from another entity.

Should you have any questions concerning the information contained herein, please contact me or Nathan Wheeler at (914) 345-1616, ext. 13 or ext. 14, respectively.

Very truly yours,
O'BRIEN & GERE ENGINEERS, INC.



Mark A. Randazzo, CHMM, CSP
Project Manager

Attachments: Table 1 – Summary of Tree Planting Data
Figure 1 – Tree Planting Location Map
Attachment A – Stormwater Reduction Data Sheet
Attachment B – Vendor Cost Quotations

cc: Paul Zukowski – NYRA
Kyle Buelow, CPESC, CPSWQ, Env SP – OBG
Lowell Kachalsky, PE – OBG
Nathan Wheeler, PE – OBG



TABLE 1 | SUMMARY OF TREE PLANTING DATA

TABLE 1
BELMONT PARK - SUMMARY OF TREE PLANTING DATA

No. of Trees	Planting Location	Type of Tree
1	Cottage 51/52	Tulip
2	Barn 51 South West	Northern, Red or White Oak
4	Barn 48 North	Tilia Americana
2	Barn 48 South	Tulip
1	Barn 47 North West	"Princeton" American Elm
1	Barn 41 South West	"Princeton" American Elm
4	Barn 40 South (North Side Road)	Tilia Americana
2	Barn 40 South (South Side Road)	Tilia Americana
1	Barn 31 West	"Princeton" American Elm
4	Cottage 31A	Northern, Red or White Oak
2	Barn 24 West Horse Path	Northern, Red or White Oak
1	Barn 24 South East Paddock	"Princeton" American Elm
1	Barn 25 South	Tilia Americana
1	Barn 10 North-Replacement	Tilia Americana
1	Barn 22 East/South	Tilia Americana
1	Barn 22 East/North	Northern, Red or White Oak
1	Barn 2 North Near Cottage	Tilia Americana
1	Barn 1 North Near Cottage	Tilia Americana
2	Barn 15 South Along Turnpike	Northern, Red or White Oak
7	Barn 12 North Horse Path	Tilia Americana
1	Barn 14 West	Tilia Americana
2	Barn 23 South	Tilia Americana
1	Barn 28 South	Tilia Americana
1	Barn 28 North East	Tilia Americana
1	Barn 8 Center	"Princeton" American Elm
1	Barn 60 North West	Sweet Gum
1	Cottage 58 West	Sweet Gum
1	Barn 57/58 By Cottage	Northern, Red or White Oak
1	Barn 56 North East	Tilia Americana
1	Barn 53 South West	Tilia Americana
2	Barn 62 North East	Tilia Americana
3	Barn 28 South Along Turnpike	Tilia Americana
1	Barn 34 South Along Turnpike	Northern, Red or White Oak
1	Cottage 28A South Along Turnpike	"Princeton" American Elm
1	Barn 18 South East Paddock	Tulip
1	Barn 22 South East Quad	Tilia Americana
1	Barn 22 South West Corner	Tilia Americana
1	Barn 9 North East Horse Path	Northern, Red or White Oak

Source: New York Racing Association, Inc.



FIGURE 1



LEGEND

- BUILDING/STABLE
- PROPOSED TREE LOCATION



NEW YORK RACING ASSOCIATION
 BELMONT PARK
 ELMONT, NEW YORK

**PROPOSED TREE
 PLANTING PLAN**



FILE NO. 15049.62606
 AUGUST 2016

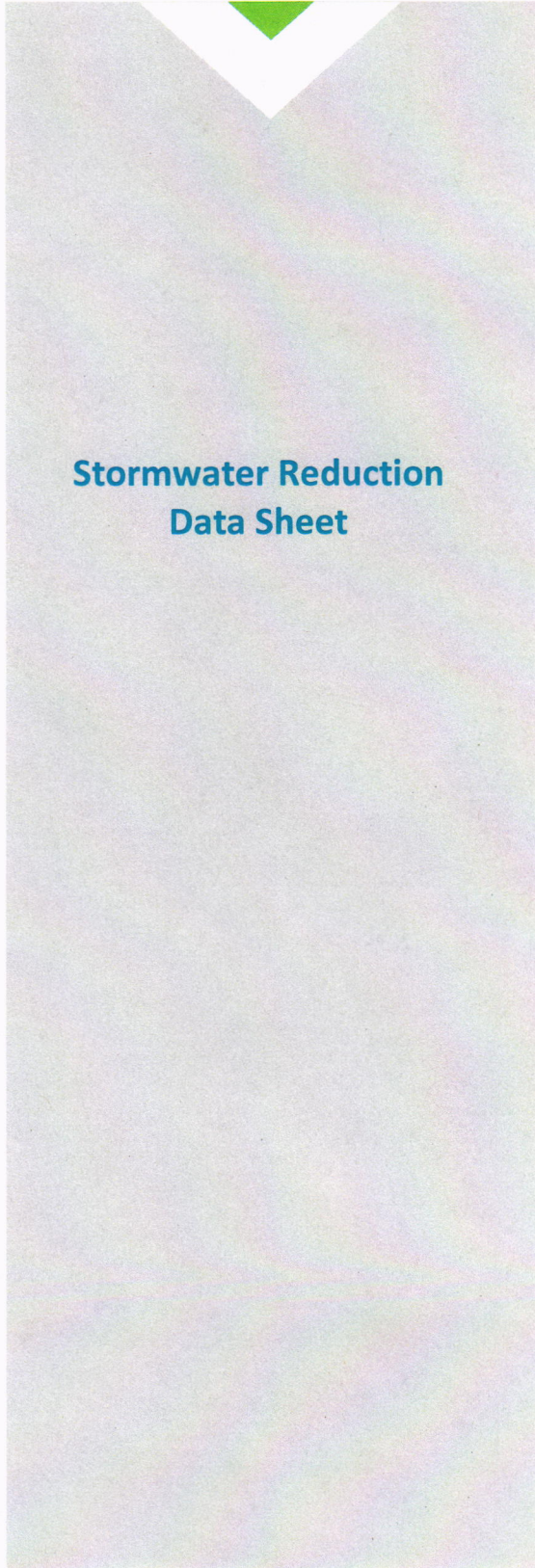


O'BRIEN & GERE ENGINEERS, INC.

I:\Ny-Racing_1004962606_Stormwater-Design\DWG-Sheets\637195_Tree Placement-Belmont.dwg
 8/25/2016 3:07 PM



ATTACHMENT A



**Stormwater Reduction
Data Sheet**

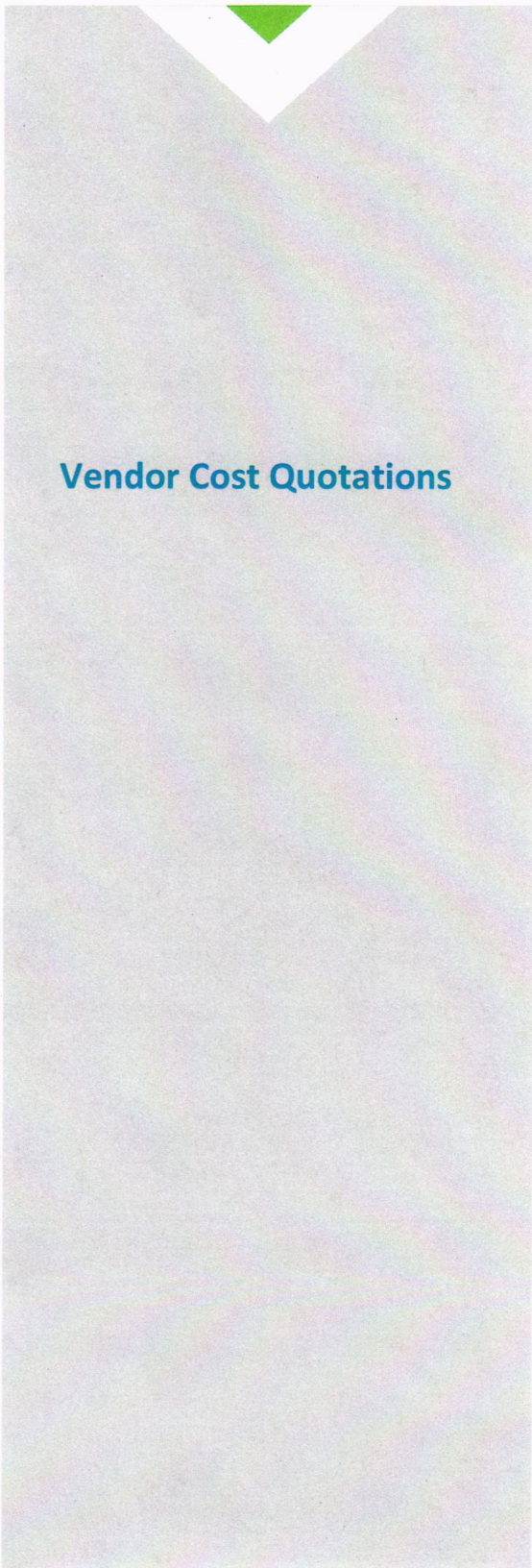


Tree Planting/Tree Pits

Design Point:	Pt of Study						
Enter Site Data For Drainage Area to be Treated by Practice							
Catchment Number	Total Area (Acres)	Impervious Area (Acres)	Percent Impervious %	Rv	WQv (ft ³)	Precipitation (in)	Description
1	117.00	79.00	0.68	0.66	418992.75	1.50	Tree Planting/Tree Pit
Do you intend to use this practice for area reduction or volume reduction?			Area	Design practice using criteria below			
Design Elements							
Is another area based practice applied to this area?			No				
Diameter of Mature Canopy			30	ft			
Area Reduced per Tree			100	sf	For up to a 16-foot diameter canopy of a mature tree, the area considered for reduction shall be ½ the area of the tree canopy		
Number of Trees			62				
Total Area Reduced			6200	sf			
			0.14	af			
Area Ratio: Total to Impervious area			1.5				
Are All Criteria in Section 5.3.4 met?			Yes				
Area Reduction Adjustments							
<i>Subtract</i>			117.00	<i>Acres from total Area</i>			
<i>Subtract</i>			79.00	<i>Acres from total Impervious Area</i>			



ATTACHMENT B



Vendor Cost Quotations



DeLea Landscape Supplies

444 Elwood Road
East Northport, New York 11731
(631) 368-8022

New York Racing Association
Attn: Glen Kozak
PO Box 169
Ozone Park, 11417

7/15/2016

Quote #: 2016-7/15/16

Dear Glen,
Please find below the price quote for Fine Screened Compost delivered to Belmont Race Track.

Fine Screened Compost:

40 yards Fine Screened Compost delivered to Belmont Race Track

Price per Yard:
\$33.00/yard

Expected price: 40 yards at \$33.00 Delivered= \$1,320

Regards,
Reed Jarvis
Delea Landscape Supplies
444 Elwood Rd.
East Northport, New York, 11731
rjarvis@deleasod.com



BISSETT NURSERY CORP.

QUOTATION

E-mail: info@bissettnursery.com
 Website: www.bissettnursery.com

Quote #	934500-000
Quote Date	8/05/16

Page # 1

Customer # 0002095
Sold To: New York Racing Association Inc
 PO Box 170169
 Ozone Park, NY 11417-0169

1
Ship To / Job Site: Belmont Park Greenhouse
 Map 4 D-23
 Hempstead Tpke
 Elmont, NY 11003

Purchase Order #	Salesman#	Ship Date	Shipped Via	Terms
paul	99 /	0/00/00	Flatbed #32 - HG	Charge 30 Day

Notes:

Qty Ordered	U/M	Item#	Description	Unit Price	Disc	Extension
200	EA	50346	STAKE- 8' TREE, CEDAR	4.950		990.00

All prices are FOB our nursery unless otherwise stated.
Prices quoted are valid for 60 days. Subject to availability.
Pricing on plant material is based on award of this COMPLETE QUOTATION.

Sub Total	990.00
Delivery	35.00
Tax 8.625%	88.41
Quote Total	1,113.41

TERMS: Our regularly stated terms are: 30 days NET. Past due accounts will be assessed a service charge of 2% per month or a rate not to exceed lawful limits. All claims for errors or unsatisfactory stock must be reported upon receipt and confirmed by written memorandum received by us within 5 days. In the event it becomes necessary for our firm to enforce payment, we shall be entitled to court costs, attorney's fees in the sum of 1/3 of the unpaid balance and interest at the rate of 2% per month on all amounts due and payable.

"WARRANTY OF MERCHANTABILITY" is waived by the purchaser.

Quote given by: JEN

7:22:58



BISSETT NURSERY CORP.

QUOTATION

E-mail: info@bissettnursery.com
 Website: www.bissettnursery.com

Quote #	934608-000
Quote Date	8/05/16

Page # 1

Customer # 0002095
Sold To: New York Racing Association Inc
 PO Box 170169
 Ozone Park, NY 11417-0169

1
Ship To / Job Site: Belmont Park Greenhouse
 Map 4 D-23
 Hempstead Tpke
 Elmont, NY 11003

Purchase Order #	Salesman#	Ship Date	Shipped Via	Terms
Paul/quote	99 /	0/00/00	Flatbed #32 - HG	Charge 30 Day

Notes:

Qty Ordered	U/M	Item#	Description	Unit Price	Disc	Extension
62	EA	29016	TREE GATOR-DRIP/SELF WATER 20G	16.750		1038.50
2	EA	25459	TREE WIRE-#14 SOL.GL/50LB.ROLL	69.000		138.00
4	BX	21862	TREE HOSE TIE-18"X5/8"ID 50BX	26.750		107.00

All prices are FOB our nursery unless otherwise stated.
Prices quoted are valid for 60 days. Subject to availability.
Pricing on plant material is based on award of this COMPLETE QUOTATION.

Sub Total	1,283.50
Delivery	35.00
Tax 8.625%	113.72
Quote Total	1,432.22

TERMS: Our regularly stated terms are: 30 days NET. Past due accounts will be assessed a service charge of 2% per month or a rate not to exceed lawful limits. All claims for errors or unsatisfactory stock must be reported upon receipt and confirmed by written memorandum received by us within 5 days. In the event it becomes necessary for our firm to enforce payment, we shall be entitled to court costs, attorney's fees in the sum of 1/3 of the unpaid balance and interest at the rate of 2% per month on all amounts due and payable.

"WARRANTY OF MERCHANTABILITY" is waived by the purchaser.

Quote given by: JEN

11:22:24



BISSETT NURSERY CORP.

QUOTATION

E-mail: info@bissettnursery.com
 Website: www.bissettnursery.com

Quote #	924176-000
Quote Date	8/06/16

Page # 1

Customer # 0002095
Sold To: New York Racing Association Inc
 PO Box 170169
 Ozone Park, NY 11417-0169

2
Ship To / Job Site: Belmont Park Race Track
 Map 4 D-23
 2150 Hempstead Tpke
 REVISED
 Elmont, NY 11003

Purchase Order #	Salesman#	Ship Date	Shipped Via	Terms
Revised	12 / 33	10/21/16		Charge 30 Day

Notes:

Qty Ordered	U/M	Item#	Description	Unit Price	Disc	Extension
11	EA	69999	ACER RUBRUM 5-6"	595.000		6545.00
4	EA	69999	SUGAR MAPLE 5-6"	595.000		2380.00
31	EA	61547	LINDEN GREENSPIRE 5-6"	595.000		18445.00
3	EA	63758	ZELKOVA GREEN VASE 5-6"	595.000		1785.00
4	EA	69999	TULIP TREE 5-6"	595.000		2380.00
9	EA	62495	OAK RED 5-6"	595.000		5355.00
1	EA	69999	SWEETGUM 5-6"	735.000		735.00
1	EA	69999	ELM AMER PRINCETON 6"	910.000		910.00
1	EA	69999	OAK ENGLISH 5-6"	910.000		910.00

All prices are FOB our nursery unless otherwise stated.
Prices quoted are valid for 60 days. Subject to availability.
Pricing on plant material is based on award of this COMPLETE QUOTATION.

TERMS: Our regularly stated terms are: 30 days NET. Past due accounts will be assessed a service charge of 2% per month or a rate not to exceed lawful limits. All claims for errors or unsatisfactory stock must be reported upon receipt and confirmed by written memorandum received by us within 5 days. In the event it becomes necessary for our firm to enforce payment, we shall be entitled to court costs, attorney's fees in the sum of 1/3 of the unpaid balance and interest at the rate of 2% per month on all amounts due and payable.

"WARRANTY OF MERCHANTABILITY" is waived by the purchaser.

Sub Total	39,445.00
Delivery	
Tax 8.625%	3,402.13
Quote Total	42,847.13

Quote given by: BILL

8:29:57



THE GARDEN DEPT.
 650 DEER PARK AVE
 DIX HILLS, NY 11746
 Phone 631-242-DEPT (3378) Fax 631-667-3378
 Email: dixhills@gardendept.com
 Website: www.gardendept.com

QUOTE

Quote #	2-11619
Quote Date	8/9/16

Page 1 of 1

Sold To: Customer # 1-11147
THE NEW YORK RACING ASSOC.
 PO BOX 169 ATTN: ACCOUNTS PAYABLE
 P.O. BOX 169
 OZONE PARK, NY 11417

Ship To: THE NEW YORK RACING ASSOC.
 PO BOX 169 ATTN: ACCOUNTS PAYABLE
 P.O. BOX 169
 OZONE PARK, NY 11417

Job or Purchase Order #			Salesman #	Ship Date	Ship Via	Terms
QUOTE			GP			NET 30 DAYS
Quantity	U/M	Item#	Description		Unit Price	Extension
31	EACH	4769	TILIA AMERICANA 5-6"		1,200.00	37,200.00
4	EACH	4682	TULIP TREE 5-6"		1,050.00	4,200.00
9	EACH	6586	OAK, SCARLET 5-5.5"		1,050.00	9,450.00
9	EACH	6786	ELM, PRINCETON 5-6"		1,100.00	9,900.00
9	EACH	4676	SWEETGUM 5-6"		1,200.00	10,800.00
1	EACH	DF	DELIVERY FEE PER TRAILER		150.00	150.00
1	EACH	4777	OAK, RED 5-6"		1,050.00	1,050.00
1	EACH	4404	OAK, WHITE 5.5-5"		1,050.00	1,050.00
1	EACH	3540	OAK, COLUMNAR ENGLISH 5-6"		1,250.00	1,250.00

NOTE: All prices FOB our facility. Prices quoted are in lieu of full awarded order. Price Quotes are valid for 30 days and are subject to availability at time of order.

Quote Sub total	\$75,050.00
------------------------	--------------------

If this quote becomes an order, and needs to be delivered freight charges will be assessed based upon time and distance. Also be aware depending on the size of the order will determine if multiple delivery vehicles must be used to deliver the entire order. If multiple delivery vehicles or multiple delivery trips are necessary there will be multiple delivery charges. Please inquire for current delivery fees to this project.

** Order may be subject to sales tax.
 ** Order may be subject to delivery fees

Please read carefully: The Garden Dept. is not responsible for any property damage whatsoever. Because of heavy weight of delivery vehicles and materials, all deliveries are to be made curbside, any other location is strictly at the customers liability. We are not responsible for materials dumped or placed in the wrong location.

Terms: Our regular stated terms are 30 days net. Past due accounts will be assessed a service charge 2% per month or a rate not to exceed lawful limits. All claims for quantity errors or unsatisfactory stock must be noted upon receipt and confirmed in writing received by us within 5 days. In the event it becomes necessary for our firm to enforce payment, we shall be entitled to court cost, and attorney fees in the sum 1/3 of the unpaid balance and interest at the rate of 2% per month on all amounts due. **We express and give no warranty on survivability and or mortality of our merchandise such as nursery stock, and all perishable items we sell.** By acceptance of the merchandise you are agreeing with the terms and conditions stated on this invoice as well as quantities invoiced and stated, and agree product is in healthy and good condition. Claims for shortages or damaged merchandise will not be honored if bill of lading (Invoice) is not properly notated. We do not accept returns on merchandise after 48 hours of the original sale. To be considered for store credit material must be in good and in healthy condition. If returned merchandise appears to be considered not salable at the time of return store credit will not be issued. All returns and or refunds will be strictly issued in the form of store credit.

Black Mulch is a dyed product and The Garden Dept. is not responsible for color run off from rain or other causes.
We specifically exclude any warranty of merchantability or fitness for a particular purpose of any of our merchandise.

Signature _____

Print Name _____

Thank You for your business from the Caroleo family!

Tell us about your experience! go to www.gardendept.com and click the "Customer Feedback" icon.





OBG

THERE'S A WAY

