



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to *7 Del. C. § 6005*

Order No. 2023-A-0023

Issued To:

Bally's Dover Casino Resort
Attn: Dalton Dittmeier
Director of Facilities
1131 North Dupont Highway
Dover, DE, 19901

Registered Agent:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE, 19801

This Assessment and Secretary's Order serves to notify Bally's Dover Casino Resort ("Respondent") that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of state air regulations and its permit. Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order pursuant to *7 Del. C. §6005(b)(3)*.

BACKGROUND

Respondent owns and operates a facility located at 1131 North Dupont Highway in Dover, Delaware ("facility") where horse and auto racing activities take place. The facility also includes a casino and hotel. Equipment at Respondent's facility includes one 10.35 MMBTU/hr boiler fired on natural gas; two 3.0 MMBTU/hr condensing boilers fired on natural gas; one

10,000 gallon fuel oil storage tank; one 2,000 kW emergency generator fired on diesel fuel; one 1,644 kW emergency generator fired on diesel fuel and one 122 HP fire pump fired on diesel fuel. Because the potential to emit nitrogen oxides (“NO_x”) from this equipment would exceed the 25 tons per year (“tpy”) major source threshold for Kent County, Respondent’s operations would require a permit pursuant to the State of Delaware’s Title V Operating Permit Program. However, Respondent accepted facility-wide rolling twelve-month emission limits as well as limitations on emergency generator and fire pump operating hours, to reduce NO_x emissions to below this level to become a Synthetic Minor source. Respondent currently operates under the requirements of **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 10)(NSPS)(GACT)(SM)**, (“SM Permit APC-2001/0308-Amendment 10”) which was issued on February 4, 2022.

The Department conducted a federal fiscal year 2023 full compliance evaluation (“FFY23 FCE”) at Respondent’s facility on October 11, 2022. The time period for which records were requested for review during the FFY23 FCE, was January 1, 2019, through September 30, 2022 (“records review period”). Respondent’s operations were governed by multiple SM Permit versions for the records review period. They were **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 8)(NSPS)(GACT)(SM)**, (“SM Permit APC-2001/0308-Amendment 8”) issued December 20, 2018; **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 9)(NSPS)(GACT)(SM)**, (“SM Permit APC-2001/0308-Amendment 9”) issued December 10, 2019; and **SM Permit APC-2001/0308-Amendment 10**. Respondent was unable to produce many of the required records for the records review period, including but not limited to the fuel usage, operating hours, and emissions records for the emergency generators, boilers and diesel fire pump. In addition, facility wide emissions records were not calculated on a rolling twelve (12) month basis. Respondent also did not have copies of the initial notifications for the emergency generators, and the manufacturer’s certification for the 1,644 kW emergency generator during the FFY23 FCE. The Department provided Respondent copies of the initial notifications and the manufacturer’s certification, so no further action by Respondent was required for these specific records. In a FFY23 FCE findings letter dated October 27, 2022, the Department requested that Respondent submit most of the missing records within sixty days. Such records, in the form of spreadsheets, could be generated

from daily logs. The Department also requested sample daily logsheets to start tracking required information for the emergency generators, boilers, and fire pump. No records were submitted by Respondent pursuant to that request.

A Notice of Violation (“NOV”) dated February 27, 2023, was issued to Respondent on March 3, 2023, for the violations identified during the FFY23 FCE. It again included a request that Respondent submit the missing records within thirty days of receipt of the NOV. The Department emailed a sample emissions spreadsheet to Respondent on March 6, 2023, and followed up with a meeting on March 7, 2023. During this meeting, Respondent indicated it would hire a consultant to help it come into compliance with its recordkeeping requirements. Respondent submitted most of the records on March 20, 2023. The Department continues to work with Respondent to resolve deficiencies with the records.

FINDINGS OF FACT

1. Respondent owns and operates a facility located at 1131 N. DuPont Highway in Dover, Delaware, (“facility”) where it conducts horse and auto racing. The facility includes a casino and hotel.
2. Equipment at the facility includes one 10.35 MMBTU/hr boiler fired on natural gas, two 3.0 MMBTU/hr condensing boilers fired on natural gas, one 10,000 gallon fuel oil storage tank, one 2,000 kW emergency generator fired on diesel fuel, one 1,644 kW emergency generator fired on diesel fuel, and one 122 HP fire pump fired on diesel fuel.
3. This equipment has the potential to emit NO_x in quantities that exceed the major source threshold for Kent County, Delaware. Respondent accepted limitations to become a Synthetic Minor source and currently operates under **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 10)(NSPS)**

(GACT)(SM), (“**SM Permit APC-2001/0308-Amendment 10**”) which was issued on February 4, 2022.

4. The Department conducted a FFY23 FCE on October 11, 2022, and requested that records for January 1, 2019, through September 30, 2022 (“records review period”), be made available for review.
5. Respondent’s operations were governed by multiple versions of its SM Permit for the records review period. They were **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 8)(NSPS)(GACT)(SM)**, (“**SM Permit APC-2001/0308-Amendment 8**”) issued December 20, 2018; **Permit: APC-2001/0308-CONSTRUCTION/OPERATION (Amendment 9)(NSPS)(GACT)(SM)**, (“**SM Permit APC-2001/0308-Amendment 9**”) issued December 10, 2019; and **SM Permit APC-2001/0308-Amendment 10**.
6. Many of the records required for the emergency generators, boilers and diesel fire pump for the records review period were not made available during the FFY23 FCE.
7. The Department sent a FFY23 FCE findings letter dated October 27, 2022, and requested Respondent submit the missing records within sixty days. The records were not submitted pursuant to the request.
8. A Notice of Violation dated February 27, 2023, for the violations discovered during the FFY23 FCE, was issued to Respondent on March 3, 2023, and included a repeated request that the missing records be submitted to the Department within thirty days of receipt of the NOV. Most of the records were submitted by March 20, 2023, and the Department continues to work with Respondent to resolve deficiencies with the records.

REGULATORY AND PERMIT PROVISIONS WITH CONCLUSIONS

1. In Section 6.1.1 of 7 DE Admin. Code 1144, it states:

“An owner shall monitor the monthly and yearly amounts of fuel, or fuels, consumed by their generators. Yearly fuel consumption shall be calculated and recorded each calendar month by recording (for each fuel) the current calendar month’s fuel consumption and adding it to those of the previous eleven consecutive months.”

Respondent failed to keep records of fuel usage for the emergency generators for the records review period.

2. In Section 6.1.2 of 7 DE Admin. Code 1144, it states:

“A non-resettable hour metering device shall be used by an owner to continuously monitor the monthly and yearly operating hours for each of their generators. Yearly operating hours shall be calculated and recorded each calendar month by recording the current calendar month’s operating hours and adding them to those of the previous eleven consecutive months.”

Respondent failed to keep records of operating hours for emergency generators for the records review period.

3. In Section 6.1.3 of 7 DE Admin. Code 1144, it states:

“Monthly and yearly operating hours for an emergency generator. Yearly operating hours during which testing or maintenance occurred shall be calculated and recorded each calendar month by recording the current calendar month’s testing or maintenance hours and adding them to those of the previous eleven consecutive months. A brief description of each testing or maintenance performed shall also be recorded.”

Respondent failed to keep records of hours of testing and maintenance for the emergency generators for the records review period.

4. In Section 6.2 of 7 DE Admin. Code 1144, it states:

“The owner shall maintain each record required by 6.1 of this regulation for a minimum of five years after the date the record is made. The owner may retain hard copies (e.g., paper) or electronic copies (e.g., compact discs, computer disk, magnetic tape, etc.) of the records. An owner shall promptly provide the original or a copy of a record or records to the Department upon request.”

The records for the emergency generators required by Section 6.1 of 7 DE Admin. Code 1144, were not available during the FFY23 FCE for the records review period.

5. In Condition 2.2 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“Emission Limitations: Compliance with limitations shall be demonstrated on a rolling twelve (12) month basis.”

Rolling twelve (12) month emissions were not available for the review period.

6. In Condition 2.3 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“Air contaminant emission levels from the facility shall not exceed those specified in 7 DE Admin. Code 1100 and the following:

*NOx emissions shall not exceed 13.49 tons per twelve (12) month rolling period;
SOx emissions shall not exceed 0.31 tons per twelve (12) month rolling period;
CO emissions shall not exceed 8.45 tons per twelve (12) month rolling period;
VOC emissions shall not exceed 0.62 tons per twelve (12) month rolling period;
PM₁₀ emissions shall not exceed 0.78 tons per twelve (12) month rolling period”*

Rolling twelve (12) month emissions records were not available for the records review period, so compliance with these emission limits cannot be determined.

7. In Condition 3.1.3 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“The operating hours of the diesel fire pump shall not exceed thirty (30) hours over any rolling twelve (12) month period.”

The rolling twelve (12) month total operating hours were not available for the fire pump for the records review period.

8. In Conditions 3.2.1 and 3.2.2 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“The total hours of operation for the 2000 kW emergency generator shall not exceed seventy-five (75) hours per rolling twelve (12) month period for operator training, periodic startup testing, maintenance purposes and when power supply is not available due to a power failure.

The total hours of operation for the 1644 kW emergency generator shall not exceed one hundred fifty (150) hours per rolling twelve (12) month period for operator training, periodic startup testing, maintenance purposes and when power supply is not available due to a power failure.”

Rolling twelve (12) month operating hours were not available for either generator for the records review period.

9. In Condition 5.1 of **SM Permit APC-2001/0308-Amendment 8** and **SM Permit APC-2001/0308-Amendment 9**, it states:

“The owner or operator shall maintain all records necessary for determining compliance with this permit in a readily accessible location for five (5) years and shall make these records available to the Department upon written or verbal request.”

and

In Condition 5.1 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“The owner or operator shall maintain the initial notification and manufacturer’s certification required by Conditions 5.8.6 and 5.8.8 in perpetuity. [sic]All other records necessary for determining compliance with this permit in a readily accessible location for five (5) years and shall make these records available to the Department upon written or verbal request.”

During the FFY23 FCE, Respondent did not have the initial notifications for either emergency generator, or the EPA certification for the 1644 kW emergency generator. The Department provided Respondent copies of these documents. Respondent also failed to produce all records the Department requested for the records review period, to determine Respondent’s compliance with its permit.

10. In Condition 5.3 of SM Permit APC-2001/0308-Amendment 8 and SM Permit APC-2001/0308-Amendment 9, and Condition 5.4 of SM Permit APC-2001/0308-Amendment 10, it states:

“The owner or operator shall maintain records of the amount of natural gas combusted for the boilers on a monthly and cumulative rolling twelve (12) month period.”

Respondent did not maintain records of natural gas combusted for the boilers on a monthly and cumulative rolling twelve (12) month period for the records review period.

11. In Condition 5.4 of SM Permit APC-2001/0308-Amendment 8 and SM Permit APC-2001/0308-Amendment 9, and Condition 5.5 of SM Permit APC-2001/0308, it states:

“The owner or operator shall maintain records of hours of operation for the diesel fire pump on a monthly and cumulative rolling twelve (12) month period.”

Records were not available in a monthly and rolling twelve (12) month format for the records review period.

12. In Condition 5.6.3 of SM Permit APC-2001/0308-Amendment 8, SM Permit APC-2001/0308-Amendment 9, and SM Permit APC-2001/0308-Amendment 10, it states:

“The following information shall be recorded, initialed and maintained in a log: The date, time, duration, and reason for each start-up, shutdown, or malfunction of the boilers and diesel fire pump. The log shall include the dates and descriptions of inspections, testing, operator training, and maintenance performed.”

Respondent did not maintain date, time, duration, and reason for each start-up, shutdown or malfunction of the boilers and fire pump for the records review period.

13. In Condition 5.8.1 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: The date, time, duration, and reason for each start-up of the emergency generators. The log shall include the dates and descriptions of inspections, testing, operator training, and maintenance performed.”

Respondent did not record, initial or maintain this information for the emergency generators for the records review period.

14. In Condition 5.8.2 of **SM Permit APC-2001/0308-Amendment 8**, **SM Permit APC-2001/0308-Amendment 9**, and **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: The total fuel usage for each month and the cumulative 12 month rolling period shall be calculated and recorded within 15 days of the end of each calendar month.”

Records were not recorded monthly or in rolling twelve (12) month format for the records review period.

15. In Condition 5.8.3 of **SM Permit APC-2001/0308-Amendment 8** and **SM Permit APC-2001/0308-Amendment 9**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: Hours of operation for each emergency generator on a 12 month rolling basis.”

and

In Condition 5.8.3 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: The total hours of operation for each month and the cumulative 12 month period shall be calculated and recorded within 15 days of the end of each calendar month.”

Records were not recorded monthly or in rolling twelve (12) month format for the records review period.

16. In Condition 5.8.4 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: The total hours during which testing or maintenance occurred shall be calculated for each month and the cumulative 12 month rolling period and recorded within 15 days of the end of each calendar month. A brief description of each testing or maintenance performed shall be included.”

Records were not in monthly or rolling twelve (12) month format and did not include description of use for the records review period.

17. In Condition 5.8.7 of **SM Permit APC-2001/0308-Amendment 8** and **SM Permit APC-2001/0308-Amendment 9**, and Condition 5.8.6 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“The owner or operator shall submit and maintain a record of proper initial notification as required by 7 DE Admin. Code 1144.”

Respondent did not have a copy of the initial notification for either emergency generator at the time of the FFY23 FCE. The Department provided Respondent copies of these documents.

18. In Condition 5.8.9 of **SM Permit APC-2001/0308-Amendment 8** and **SM Permit APC-2001/0308-Amendment 9**, and Condition 5.8.8 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the 1644 kW emergency generator, the owner or operator shall maintain a copy of the emergency generator’s manufacturer’s certification that the engine has been certified to meet the currently applicable US EPA non-road emissions standards (Title 40 CFR Part 89, Section 89.112(a), dated July 1, 2007). If such certification is not available, the owner or operator shall maintain records of any testing conducted pursuant to Condition 4.6.”

Respondent did not have a copy of the manufacturer’s certification for the 1,644 kW emergency generator that the engine meets current US EPA non-road emissions standards. The Department provided Respondent a copy of this certification.

19. In Condition 5.5 of **SM Permit APC-2001/0308-Amendment 8** and **SM Permit APC-2001/0308-Amendment 9**, and Condition 5.10 of **SM Permit APC-2001/0308-Amendment 10**, it states:

“For the emergency generators the following information shall be recorded, initialed and maintained in a log as follows: The rolling twelve (12) month total emissions shall be calculated and recorded each month in a log for each of the following pollutants: NO_x; SO_x; CO; VOC; PM₁₀.”

For the records review period, Respondent did not calculate and record the rolling twelve (12) month emissions each month for the emergency generators for any of these pollutants.

ASSESSMENT OF PENALTY

Pursuant to 7 Del. C. §6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000 for each day of violation detailed in this Order. In assessing the administrative penalty, 7 Del. C. §6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set out below.

Having considered these factors, the Secretary is assessing an administrative penalty of \$9,900.00 for the violations identified in this Assessment and Order.

1. **The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:**

The nature, circumstances, extent, and gravity of the violations are significant.

Respondent failed to maintain a significant amount of records that would determine if the facility was in compliance with its permit, especially with the limitations it took to become a synthetic minor source. The missing records spanned a time period before, during and after the COVID pandemic. While missing records for the time period before the pandemic is not acceptable, some consideration should be given to reductions in staff resulting from the COVID pandemic that could have impacted record requirements during and after the pandemic.

2. **Respondent's Ability to Pay:**

The record contains no information that the Respondent does not have the ability to pay the administrative penalty assessed.

3. **Prior History of Violations:**

Prior to the violations discovered as part of the FFY23 FCE, Respondent had no violations on record with the Division. Due to Respondent's compliance history, no additional penalty for a history of violations was assessed.

4. **Degree of Culpability:**

The degree of culpability is significant as Respondent has a duty to comply with its permit and its records are vital in determining compliance especially with any limits associated with its Synthetic Minor status. However, consideration should be given to any staffing issues resulting from the pandemic. Thus, the Secretary considers the penalty amount assessed appropriate in the view of Respondent's culpability for these violations.

5. Economic Benefit or Savings Resulting from the Violation(s):

Respondent may have economically benefited from not having the staff necessary to meet its requirement to maintain the records required by its permit, especially if staffing levels are the cause of the pre-pandemic missing records. Records were not properly maintained for over three and a half years. An economic benefit from the violation was quantified and a corresponding factor was included in the penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations and calculated so as to deter Respondent and those similarly situated from engaging in future violations.

SECRETARY'S ORDER ASSESSING ADMINISTRATIVE PENALTY

Pursuant to 7 *Del. C.* §6005(b)(3), this is written notice to Respondent that on the basis of its findings, the Department is assessing Respondent an administrative penalty of \$9,900.00 for the violations identified in this Secretary's Order.

Respondent shall submit a check to the payable to the "State of Delaware" in the amount of \$9,900.00 within thirty (30) days of receipt of this Secretary's Order to: Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to 7 *Del. C.* §6008, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within 20 days of the receipt of the Secretary's Order. In the alternative, Respondent may, pursuant to 7 *Del. C.* §6005(b)(3), request a public hearing on the Secretary's Order, within 30 days of receipt of the Order. A public hearing pursuant to 7 *Del. C.* §6005(b)(3) would be conducted pursuant to 7 *Del. C.* §6006, and the Secretary's Order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* §6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Assessment and Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall not be subject to review pursuant to 7 *Del. C.* §6005(b)(3).

To request a public hearing pursuant to 7 *Del. C.* §6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Phone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* §6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Phone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* §6005(b)(1) seeking penalties for past

violations, an action under 7 *Del. C.* §6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* §6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude, any additional enforcement action for these and any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

COST RECOVERY

Pursuant to 7 *Del. C.* §6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* §6005(c)(1)).

Respondent is liable for \$2,901.92 in costs, which costs the Department has incurred to date in abating the violations detailed in this Secretary's Order. The Department has attached to this Secretary's Order a detailed billing of expenses detailing these costs. Respondent shall remit a check payable to the "State of Delaware" in the amount of \$2,901.02 within thirty (30) days of receipt of this Secretary's Order, to: Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901.

In the event that Respondent appeals this Secretary's Order pursuant to *7 Del. C. §6008* or requests a public hearing pursuant to *7 Del. C. §6005(b)(3)*, or in the event Respondent fails to comply with this Secretary's Order, the Department will rescind the detailed billing attached to this Secretary's Order. The Department will issue Respondent a new detailed billing and Cost Recovery Order following exhaustion of Respondent's appeal rights that will include all additional recoverable costs incurred by the Department. Respondent is further advised that Respondent may challenge the Department's final detailed billing in accordance with *7 Del. C. §6005(c)(2)*.

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$9,900.00 and the Department's costs in the amount of \$2,901.92, in the manner described in the attached "Waiver of Statutory Right to a Hearing." By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order and the Department's Cost Recovery.

If you have any questions, please contact, or have your attorney contact, Valerie S. Edge, Deputy Attorney General, at (302) 257-3219.

September 27, 2023

Date



Lisa Borin Ogden, Deputy Secretary
for Shawn M. Garvin, Secretary
Department of Natural Resources
and Environmental Control

cc: Valerie S. Edge, Deputy Attorney General
Angela Marconi, P.E., Director

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WAIVER OF STATUTORY RIGHT TO A HEARING

Bally's Dover Casino Resort hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **Bally's Dover Casino Resort** will pay the administrative penalty in the amount of \$9,900.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901; and

2. **Bally's Dover Casino Resort** will pay the Department's Costs in the amount of \$2,901.92 by sending a check payable to the State of Delaware within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reese, Department of Natural Resources and Environmental Control, Office of the Secretary, 89 Kings Highway, Dover, Delaware 19901; and

3. **Bally's Dover Casino Resort** further agrees to abide by all the terms and conditions of this Assessment and Order.

Bally's Dover Casino Resort

Date: _____

By: _____

Title: _____