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VIA ELECTRONIC CORRESPONDENCE

September 13, 2019

CCN: 62779
File No: 8.DC.20.52

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Tom Mariani
Washington, D.C. 20044-7611
RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
Attn: Brad Ammons
U.S. Environmental Protection Agency, Region 4
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Atlanta, Georgia 30303
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Florida Department of Environmental Protection
Southeast District – West Palm Beach
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
Attn: Compliance/Enforcement Section
Jason.Andreotta@dep.state.fl.us

**RE: Consent Decree (Case: No. 1:12-cv-24400-FAM),
Reference DOJ Case No. 90-5-1-1-4022/1,
Section XI, Paragraph 52 – Potential Force Majeure,
Section XVII, Paragraph 77 – Notices,
Force Majeure Notification for Consent Decree Appendix D-2, Capital Improvement
Projects in Construction due to Hurricane Dorian**

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Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on August 30, 2019, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Potential Force Majeure of CD Capital Improvement Projects (CIPs) in Construction due to Hurricane Dorian.

In accordance with Section XI, Paragraph 52, this update letter shall further describe and explain 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; County's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; a statement as to whether, in the opinion of the County, such event may cause or contribute to an endangerment to public health or the environment, and documentation to support the force majeure claim.

Explanation and description of the reasons for the delay

The County's Water and Sewer Department (WASD) and their contractors have hurricane preparedness guidelines designed to maximize the safety of the public and employees and mitigate potential damages due to hurricanes. On August 29, 2019, WASD issued directive to their contractors to have the construction site secured per their Responsive Hurricane Preparedness Plan by the close of business day on August 30, 2019. The threat of Hurricane Dorian and the associated activities conducted to minimize the potential risk to public safety and of damage to property may have caused some delays impacting CIP projects in construction on the three (3) regional WWTP's, and multiple pump station and force main projects.

Contractors have a right to claim delays in association with a Force Majeure event. The County will evaluate the time-extension submittals from contractors and will provide updates of the schedule impacts on the projects in construction.

Action taken or to be taken to prevent or minimize the delay

The County believes that the implementation of these preparation activities, initiated on August 29th, were appropriate in order to ensure safety and prevent damage to life and property. Direction to return the construction sites to their normal condition and activities was given on Tuesday September 3, 2019. The County will continue to work closely with their contractors to evaluate any claims for damage and/or time impacts.

Anticipated duration of the delay

At this time, the County anticipates that each project in construction may see delays of up to 6 calendar days resulting from the impacts of Hurricane Dorian. Each claim for time will be evaluated for merit on a case by case basis and the County will transmit to EPA and FDEP the duration of any delay upon completion of the time impact analysis.

Schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay

WASD will review each claim on merit and issue time extensions to the contractors. As more information is obtained, the County will update EPA and FDEP.

Cause or contribution to an endangerment to public health, welfare or the environment.

There is no indication that delay caused by the preventative hurricane preparedness activities present an immediate an immediate endangerment to the public health, welfare or the environment.

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 such 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.

Should you have any questions regarding this matter, please call me at (786) 552-8571.

Sincerely,



Lynnette M. Ramirez P.E.

Senior Advisor, Capital Improvement Programs & Regulatory Compliance

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