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**VIA ELECTRONIC CORRESPONDENCE**

May 21, 2020

CCN: 63209  
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](mailto:Tom.Mariani@usdoj.gov)

Chief, Clean Water Enforcement Branch  
Water Protection Division  
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Florida Department of Environmental  
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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](mailto: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 – Delay,  
Section XVII, Paragraph 77 – Notices,  
Failure to Meet Compliance Date and Update on Delay Notification for Consent  
Decree Appendix D-2, Capital Improvement Project 2.19 Co-Gen Improvements**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on January 10, 2020, Miami-Dade County (County) notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Delay of CD Capital Improvement Project (CIP) 2.19 Co-gen Facility located at the Central District Wastewater Treatment Plant (CDWWTP), 3989 Rickenbacker Causeway, Miami, FL 33149. The purpose of this letter is to provide an update on the status of this project to the EPA and FDEP. A delay occurred in the execution

of this project during its final construction phase due to biogas not being available to perform acceptance and performance testing of the newly constructed equipment and systems. This delay impacted the project's CD compliance date of May 21, 2020.

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.

### **Background**

The CD project description for 2.19 is to install two new cogeneration engines, cogeneration building improvements, replacement of biogas pipeline, and installation of a biogas conditioning system. The project is being executed through three separate child projects or subprojects:

- CD 2.19(1): Installation of two new cogeneration engines
- CD 2.19(2)a: Replacement of biogas pipeline and installation of a biogas conditioning system
- CD 2.19(2)b: Cogeneration building improvements

Project CD 2.19(1) was completed on January 27, 2016, Project CD 2.19(2)a is 99% complete and the project that is experiencing a delay. Project CD 2.19(2)b was completed on May 18, 2020.

### **Explanation and description of the reasons for the delay for Project CD 2.19(2)a**

The contractor completed construction on October 4, 2019 for CD 2.19(2)a. The contractor is required to conduct acceptance and performance testing of the newly constructed equipment and systems with biogas. Due to numerous digesters being out of service, primarily due to cover collapse and ongoing rehabilitation, there is insufficient biogas available for the contractor to conduct testing for the project.

The contractor has completed all available work to the extent possible. Therefore, the County issued a contract extension to the contractor and will resume with the remaining testing once the biogas becomes available. In the interim, the contractor will perform weekly maintenance and operation of process systems.

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

The County anticipates that limited biogas will be produced and collected to allow for acceptance and performance testing of CD 2.19(2)a after rehabilitation of CD 2.15(1)

Digesters Plant 2 Cluster 1 is substantially completed, which is now anticipated to be in the Fall of 2021.

**Anticipated duration of the delay**

The County will transmit the duration of the delay, upon completion of the time impact analysis for CD Project 2.19(2)a which is contingent to the completion of CD 2.15(1) Plant 2 Cluster 1 Digesters and CD 2.15(2) Plant 2 Cluster 2 Digesters. The County will closely monitor construction progress and report any further delay to EPA and FDEP when it becomes known to the County and as required by Section XI, Paragraph 52.

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

The County is proactively implementing actions to minimize any further delays and will continue to implement all necessary measures to improve biogas production and to complete CD 2.19(2)a.

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

*YML*  
Provision of a clean biogas fuel source to the generators will help to prevent partial loss of power to the plant and temporary equipment shutdown associated with generator failure or unplanned maintenance, and a loss of heat to the anaerobic digestion process. There is no indication that delays in CD 2.19(2)a, Co-Gen Biogas facilities, present 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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