



miamidade.gov

Water and Sewer
PO Box 330316 • 3071 SW 38 Avenue
Miami, Florida 33233-0316
T 305-665-7471

VIA ELECTRONIC CORRESPONDENCE

June 14, 2021

CCN: 63886
File No: 8.DC.21.52

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
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Ammons.Brad@epa.gov

Rachael Amy Kamons
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Rachael.Kamons@usdoj.gov

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 Delay,
Section XVII, Paragraph 77 – Notices, Failure to Meet Compliance Date and Update
on Delay for Consent Decree Appendix D-2, Capital Improvement Projects 2.1
Electrical Improvements**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on October 13, 2020, Miami-Dade County (County) notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a potential delay of Consent Decree (CD) Capital Improvement Project (CIP) 2.1 Electrical Improvements at Central District Wastewater Treatment Plant (CDWWTP). This project experienced delays during the construction phase of Child Project 2.1(7) - Substations 7A, 8A, 9A, and 10A (Cryogenic No. 3).

This update letter further describes and explains 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; the 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 is the rehabilitation and replacement of electrical controls and wiring as needed. Due to multiple building facilities requiring substation electrical improvements in various locations within the CDWWTP, this CD project was divided into seven (7) child projects:

- 2.1(1) Substations 1 & 2 – Completed on May 5, 2016.
- 2.1(2) Substations 3, 4A, 4B, 5 & 6 – This work is part of Project 2.27(2) Oxygen Production. Compliance Date is February 13, 2022. This is a Design-Build project. Construction continues and is 86% complete.
- 2.1(3) Substations 9 & 10 – This work is part of Project 2.10(1) Plant 2 Return Activated Sludge Pump Station. Compliance Date December 1, 2024. Construction continues and is 89% complete.
- 2.1(4) Substations 11 & 12 – This work is part of Project 2.11 Effluent Pump Station. Compliance Date is June 21, 2021, Potential Delay Notification sent on February 11, 2021. Construction continues and is 99% complete.
- 2.1(5) Substations 15 & 16 – This work is part of Project 2.15(1) Plant 2 Digester Cluster 1. Compliance Date is June 18, 2023. Construction continues and is 99% complete.
- 2.1(6) Substations 17 & 18 – This work is part of Project 2.19(2a) Co-Generation Facility. Construction was completed on October 4, 2019.
- 2.1(7) Substations 7A, 8A, 9A & 10A – Construction continues and is currently 72% complete.

As further explained below in the explanation and description of the reasons for the delay, currently, the longest delay is specific to Child Project 2.1(7). The scope of work for Child Project 2.1(7) includes construction of a new electrical substation building to house Substations 7A, 8A, 9A and 10A which provide power to Oxygen Generation Plant 2 Building. The new building is designed to comply with sea level rise and storm surge design criteria for the CDWWTP. This Child Project supplements the new Vacuum Pressure Swing Adsorption (VPSA) system being built under CD 2.27(2) by providing reliable power to existing Cryogenic Oxygen Plant 3, which is another redundant source of oxygen needed for treatment at the CDWWTP.

Explanation and description of the reasons for the delay

To date, three (3) delays have been encountered during the construction of this Child Project 2.1 (7):

1. On July 2, 2020, the Contractor notified the County of a delay in mobilization of the test pile crew due to a positive COVID-19 case.
 - Anticipated duration of the delay:
A three (3) day time extension was provided to the Contractor due to this delay.
 - Action taken or to be taken to prevent or minimize the delay:
The County has established a COVID-19 protocol for preventative safety measures and continuous to inform contractors on COVID-19 prevention during safety and progress meetings.

- Schedule for implementation of mitigation strategy:
The strategy to mitigate this delay has already been completed.
 - Force majeure rationale:
On March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic. National, state, and local agencies are taking actions to suppress and control the spread of COVID-19. The County is taking preventative measures to contain the spread and the impacts of the virus. The County attributes any delays resulting from impacts of COVID-19 as a force majeure event. The Contractor provided an email notification, with attachments, from the test pile crew notifying of COVID-19 impacts. The COVID-19 pandemic is considered an event arising from causes beyond the control of Miami-Dade.
2. The Contractor encountered an unforeseen field condition that required the relocation of an 8-inch potable water pipeline to avoid a conflict with the new building foundation.
- Anticipated duration of the delay:
The time impact of relocating the underground utility and completing the cast-in-place piles was 15 days.
 - Action taken or to be taken to prevent or minimize the delay:
The County coordinated with the Contractor and the Engineer of Record (EOR) to expedite the relocation of the 8-inch water pipeline. The County requested the Contractor to locate all existing utilities in the work area to detect any potential conflicts.
 - Schedule for implementation of mitigation strategy:
Immediate action was implemented to relocate the 8-inch potable water pipeline. In addition, the County worked with the Contractor in completing parallel activities.
 - Force majeure rationale:
The County does not attribute this delay to a force majeure event.
3. The Contractor encountered an unforeseen field condition that required the design and installation of neutral landing inside the new electrical motor control centers (MCCs) and modifications to existing low voltage switchgears 9A and 10A to meet requirements of the Building Code.
- Anticipated duration of the delay
The additional delay on the installation of the neutral landing is extending the completion of the Consent Decree work by approximately 124 days, which is currently anticipated to be completed on October 30, 2021; however, a Completion Notification Letter will be submitted when Construction Completion is achieved.
 - Action taken or to be taken to prevent or minimize the delay
The County coordinated with the Contractor and the EOR to implement a solution for the installation of the neutral landing. The County is coordinating with the Contractor and the EOR to expedite needed design modifications to minimize additional delays in fabrication and installation of the new electrical equipment. The County continues to closely monitor progress in the construction phase.
 - Schedule for implementation of mitigation strategy
Immediate action was implemented to revise the design and install the neutral landing in the MCC. Installation work is currently ongoing. The County continues to exercise

the best effort to fulfill the obligations to address the effects of the encountered delays in the projects.

- *Force majeure rationale*
The County does not attribute this delay to a force majeure event.

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

Improvements performed under CD CIP 2.1 are needed to prevent failure of electrical controls or wiring which could result in plant shutdowns, wastewater overflows, and effluent violations. There is no indication that delays in electrical improvements of the substations present an immediate endangerment to the public health, welfare, or the environment.

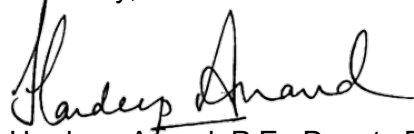
Summary of Project Impacts:

As described herein, there has been three (3) delays on this project that have contributed to the failure to meet the June 14, 2021 Compliance Date for Project 2.1 Electrical Improvements at CDWWTP. The County respectfully requests that the delays listed above totaling approximately 142 days be considered as justifiable, therefore no penalties be assessed. The County believes that due diligence was performed during the design and the conditions which meant the delays under point 2 and 3 above were unforeseen. Additionally, the County took immediate action to mitigate any further delay.

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,



Hardeep Anand, P.E., Deputy Director
Capital Improvement & Regulatory Compliance
Miami-Dade Water and Sewer Department

ec: Anita Patel
Senior Assistant Attorney General, Complex Litigation,
Office of the Attorney General
PL 01 The Capitol
Tallahassee, FL 32399-1050
(850) 414-3694
anita.patel@myfloridalegal.com

Elizabeth Teegen
Senior Assistant Attorney General, Complex Litigation
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
850-414-3699
Elizabeth.Teegen@myfloridalegal.com

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
Lisa.M.Self@dep.state.fl.us
Mike.Bechtold@dep.state.fl.us
Sed.wastewater@dep.state.fl.us
Meghan.Ticknor@dep.state.fl.us

Madame Mayor Daniella Levine-Cava
Miami-Dade County
111 NW First Street 29th Floor
Miami, Florida 33128

Jimmy Morales, Office of the Mayor
Miami-Dade County Chief Operations Officer
111 NW 1st Street 29th Floor
Miami, FL 33128
Jimmy.Morales2@miamidade.gov

Angela Benjamin
Miami-Dade Assistant County Attorney
Miami-Dade County Attorney's Office
111 NW First Street Suite 2810
Miami, Florida 33128

Roy Coley, Director
Miami-Dade Water and Sewer Department
3071 SW 38th Avenue
Miami, Florida 33146

Richard Elliott, P.E., PMP
Environmental Engineer
Water Protection Division
U.S. Environmental Protection Agency - Region 4
61 Forsyth Street. S.W.
Atlanta, GA 30303
Elliott.Richard@epa.gov

Paul Schwartz
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
Schwartz.Paul@epa.gov

William A. Weinischke
Senior Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044
Bill.Weinischke@usdoj.gov