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VIA ELECTRONIC CORRESPONDENCE

January 27, 2022,

CCN: 64201
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
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Region 4
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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 Delay, Section XI, Paragraph 51 – Force
Majeure, Section XVII, Paragraph 77 – Notices,
Force Majeure Delay Notification for Consent Decree Appendix D-2, Capital
Improvement 5.9 New Pump Station No. 0301**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on January 13, 2022, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a Potential Delay of CD Capital Improvement Project (CIP) 5.9 New Pump Station No. 0301 located at 350 Sunny Isles Boulevard, Sunny Isles Beach, Miami-Dade County Florida 33160. This project experienced delays during the construction phase due to COVID-19 pandemic that impacted the Project CD compliance date of January 24, 2022.

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 Consent Decree project description for CD 5.9 was to replace pumping and electrical equipment including the generator. On July 28, 2017, the County submitted to EPA and FDEP a Request for Scope Modification for this project which greatly expanded the original CD project description and consisted of the construction of a new pump station. The scope of work includes furnishing all materials, labor, and equipment necessary for the construction of a new two-story building which will house all new electrical equipment, MCCs, VFDs, power panels, supplementary/ancillary panels, junction boxes, instruments, switches, transmitters, sensing elements, new emergency generator, new odor control system and new wet well with four (4) new submersible pumps (110 HP).

Explanation and description of the reasons for the delay

The delays have been directly attributed to the need to suspend the Demonstration/Acceptance Testing phase of the project due to staff and labor being infected with COVID-19, rendering them unable to report to the jobsite due to CDC quarantine guidelines for Isolation and Quarantine. Details of the delay are outlined below.

- Prior to proceeding with the Final Demonstration/Acceptance Testing of a new pump station, the County was informed that the specialty subcontractor crew, responsible for essential instrumentation & control (I&C) work, was impacted by COVID-19. The COVID-19 positivity rates in Miami-Dade peaked at 35%. As a result, subcontractors were forced to completely shut-down operations, and staff were directed to be isolated or quarantined based on the CDC guidelines and County policies. The Contractor was unable to identify alternative resources or a qualified subcontractor to assist or complete the work. Consequently, the Contractor was forced to suspend the Demonstration/Acceptance Testing which impacted the project schedule.

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

The Acceptance Testing work resumed on January 14, 2022, and the County worked with the Contractor to mitigate the delays and expedite the RER-DERM review and approval of Pump Station Certification Package.

Duration of the delay

On January 25th, 2022, CD 5.9 achieved substantial completion and the duration of the delay is one (1) day.

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 as it creates a labor shortage, affected supply chains, and resulted in interruptions to construction schedules.

This delay is a result of the subcontractor's employees testing positive for COVID-19 or being exposed to others that tested positive during the beginning of January 2022 and suspended activities on the site for 9 days. As a consequence, the County was forced to postpone and reschedule the Final Acceptance Testing which began on January 14, 2022. During this month, Miami-Dade was experiencing a COVID-19 positivity rate of 35%.

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

The County took the following steps to mitigate the delay or the effect of the delay:

1. Continued implementing preventative safety measures to limit the spread and impacts of COVID-19.
2. Resumed construction activities as soon as it was safe to do so
3. Required the Contractor to work extended hours when possible to accelerate the schedule.
4. Monitor the ongoing construction and promptly respond to issues that may arise.
5. Coordinated with County Department to expedite the review of the PS Certification Package.

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

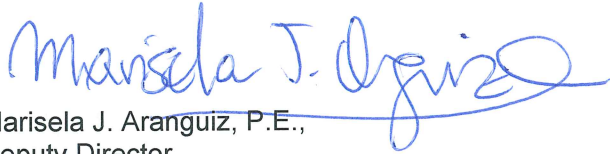
There is no indication that delays to CD 5.9, New Pump Station No. 0301 presented any immediate endangerment to the public health, welfare, or the environment.

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) 552-8894.

Sincerely,



Marisela J. Aranguiz, P.E.,
Deputy Director
Miami-Dade Water and Sewer Department

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