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VIA ELECTRONIC CORRESPONDENCE

May 16, 2017

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File No: 8.DC.52 & 77

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
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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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 – Force Majeure
Section XVII, Paragraph 77 – Notices
Force Majeure Notification Letter for Consent Decree Appendix D-2, Capital Improvement Project 4.08 (1), 54" Force Main Rehabilitation

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), Miami-Dade County (County) notified United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP), via email, on May 3, 2017 of a delay in the Capital Improvement Project (CIP) 4.08 (1), 54" Force Main Rehabilitation which is situated between NW 11th ST & NW 37th AVE to NW 2nd ST & NW 67th AVE. A delay has occurred in the execution of this project when the Contractor encountered an unexpected, catastrophic failure of the newly installed HDPE pipe during a preliminary pressure test of the pipe.

In accordance with Section XI, Paragraph 52, this notification 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, welfare or the environment, and documentation to support the force majeure claim.

Initial schedule challenges

In the course of setting up the process to address all of the Consent Decree projects, the County recognized the need to bring on additional staff to meet the aggressive schedules mandated by the Consent Decree. This was done by contracting with a professional consultant team of experts (led by AECOM) to assist the County in Program Management and oversight of multiple Design Services contracts. The process for hiring Engineering firms in the State of Florida is regulated under Florida Statute 287.055 "The Consultants Competitive Negotiation Act". As detailed in the First Status Report to the Court dated August 29, 2014, there was a lengthy delay in procuring the Program Management and Design Professional Firms. This resulted in a late start in the validation and design of several projects, specifically those with CD compliance dates ending 2016 through 2019, which includes this project. In addition, dates for downstream activities have been affected as is evident in the County's requests for modification of interim milestones. (Five requests submitted to EPA/FDEP in 2016 and three in 2017 to date.) Overlapping/expediting of interim activities planned to complete respective projects in accordance with the final CD milestone date has proven to be a challenge.

Explanation and description of the reasons for the delay

On September 9, 2016, the County notified EPA and FDEP of a force majeure event for this project due to a bid protest resulting in a delay of 30 days. Also, on January 18, 2017, the County sent correspondence regarding a circumstance potentially causing further delay (5 additional days) of CD CIP 4.8 due to a defective valve. On April 14, 2017, a failure to meet the project compliance date was sent to EPA and FDEP. The project was on track to meet the recovery May 14, 2017 completion date which took into account the CD compliance date of April 9, 2017 plus an additional 35 days due to the aforementioned delays. As a consequence of this recent event, however, it is projected that this project will exceed the Contractor revised schedule completion date of May 11, 2017.

CD CIP 4.08 (1) scope of work includes the rehabilitation of an existing 54" PCCP force main by the method of slip lining with 48" HDPE pipe. The HDPE is fused in manageable lengths [typically from 1000LF to 2000LF in length] prior to being pulled into the host pipe, then tested before being connected to the existing PCCP pipe at the designed connection points.

All previously installed pipe, some 10,000LF, had been successfully installed and tested ready for service. However, during the installation of the final section of pipe, when undergoing a pre-pressure test, the pipe failed at approximately 30psi pressure. Note that the rated pressure of this pipe is 120psi with a stated field test pressure of 80psi. The failure mode of the pipe, not at a fused joint but adjacent to a 12"

tapping, caused a total failure of the pipe in a way not normally encountered by the contractor or the material supplier. Presently, this abnormal failure has caused a further delay of the revised schedule due to the aforementioned delay notifications until a complete study into the reasons for the pipe failure.

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

As a result of the failure, the contractor advised WASD and PMCM of the issue and also mobilized, by 7am the next morning, a team from the Engineer, the HDPE pipe fusing subcontractor and the HDPE pipe material supplier. Site visits were carried out to review the issue and a twostep approach was taken to mitigate the impact of any delay. First the Engineer has recommended and approved a repair procedure. The lead time on the components to effect this repair is approximately 12 to 14 days. The contractor has made efforts to expedite the delivery of these parts and the 12 to 14 day lead time is the most efficient time they could receive the parts from the vendor. Secondly, the material vendor has been asked to complete a full study of the failure to determine the root cause to ascertain if this is an inherent material defect.

Anticipated duration of the delay

The delay currently estimated to move the substantial completion date to May 28, 2017, allowing for delivery of the repair components, effecting the repair, installation, testing and final connections and certification. This date is subject to satisfactory completion of all the steps above.

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

WASD has taken or will take the following steps (in sequence) to prevent or mitigate delay or the effect of the delay:

1. Mobilize the vendor and HDPE fusing Subcontractor in a timely manner.
2. Reviewed all options to effect most efficient repair, engaging the PMCM, the Engineer(s), the Contractor and their Subcontractors.
3. Maintain contact with the Contractor to ensure all measures are taken to improve the timeline for repair.
4. Investigate the development of the report into the failure.

Rationale for attributing such delay to a force majeure event

As defined in Section XI, Paragraph 51, "Force Majeure," is defined as any event arising from causes beyond the control of the County. It is out of the County's control to expect a section of pipe, manufactured by others under their own quality control to fail at less 25% of its rated pressure.

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

The rehabilitation of the existing force main is required to prevent failure of the existing pipe. There is no indication that the lack of this work being complete within the delay duration represents any immediate endangerment to the public health, welfare or the environment.

Should you have any questions regarding this matter, please call me at (786) 552-8894.

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.

Sincerely,



Maricela Fuentes, P.E.
Assistant Director, Capital Projects

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