



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

VIA ELECTRONIC CORRESPONDENCE

April 3, 2020

CCN: 63142
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
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 – Force Majeure,
Section XVII, Paragraph 77 – Notices,
Notification of Force Majeure due to Novel Coronavirus Disease (COVID-19) for
Consent Decree Appendix D-2, Capital Improvement Projects**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on March 20, 2020, 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 impacting Consent Decree (CD) Capital Improvement Projects (CIP) due to the Novel Coronavirus Disease (COVID-19) Pandemic and corresponding National, State, and Local Emergencies. Consent Decree projects may experience delays during the design, permitting, procurement and construction phases.

In accordance with Section XI, Paragraph 52, this potential force majeure notification letter shall further describe and explain the reasons for the delays; 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

On March 9, 2020, the Governor of the State of Florida declared a State of Emergency for the State of Florida related to Novel Coronavirus Disease 2019 (COVID-19). On March 11, 2020, the Mayor of Miami-Dade County declared a Local State of Emergency in order to protect the public's health, safety and welfare. On March 13, 2020 the President of the United States (US) issued a proclamation declaring a National Emergency concerning COVID-19 Outbreak finding that the outbreak in the US constitutes a national emergency, beginning March 1, 2020.

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The County has been impacted as a result of the COVID-19 emergency. Urgent measures are being taken to ensure that appropriate resources are allocated to address public health concerns. On March 19, 2020, the County Mayor extended the Local State of Emergency and identified government offices, open construction sites, engineering services as essential services to be maintained during the state of emergency. However, on March 28, 2020, County Emergency Order 14-20 was issued which suspended all laws, statutes, codes and regulations relating to County employees performing building code functions including, but not limited to, the review of plans, issuance of permits, performance of inspections and issuance of certificates of occupancy and completion and temporary certificates of occupancy, and all activities related thereto.

As of the date of this notification, the County has received communications from Contractors, Consultants and Vendors regarding delays and concerns in obtaining permits, supplies, equipment and challenges ensuring adequate staffing.

CD Appendix D Capital Improvement Projects that are in design, permitting, procurement and/or construction phases will be impacted by the ongoing COVID-19 emergency.

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

The County will take the following steps to prevent or mitigate delay or the effect of the delay:

1. The County is facilitating work from home for Central Office support teams utilizing VPN, teleconferencing and other tools to keep the program moving forward.

2. Design Consultant firms continue to work but are performing their duties remotely. Some design firms have notified the County of concerns about potential labor availability if too many of their employees are impacted by the virus.
3. County personnel responsible for administering procurement will continue providing services but prioritize emergencies as necessary.
4. Multiple municipal permitting agencies are assessing their permitting and inspection procedures and implementing improved protocols.
5. Construction sites currently remain open and employees at those sites have received training, materials and equipment to help them continue work in a safe manner.
6. The County shall closely oversee CD Projects' progress and adherence to the respective schedules.
7. The County shall report delays to EPA and FDEP as they arise in accordance with the CD.

Schedule for implementation of any measures to be taken or to minimize the delay

Immediately upon notification of the emergency orders, the County began the progressive implementation of the actions above regarding the facilitation of remote work (where possible), providing materials and training for employees at active work sites so they can continue work as safely as possible, revising processes and procedures regarding permitting, consultant and contractor payments, procurement and other support elements to keep the program moving forward.

The County shall continue to monitor progress of the projects and keep EPA and FDEP informed of any changes that may impact CD milestones.

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.

Anticipated duration of the delay

At this time, the duration of the pandemic and corresponding impacts to the County are uncertain. However, the County will closely monitor the progress of all projects and report any delays to EPA and FDEP upon becoming known to the County in accordance with the CD.

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

There is no indication that potential delays in design, permitting, procurement and/or construction of CD projects present an immediate endangerment to 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

ec: Barbara Jean Throne
Senior Assistant Attorney General, Complex Litigation
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
850-414-3699
Barbara.Throne@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
Megan.Ticknor@FloridaDEP.gov
Sed.wastewater@dep.state.fl.us

Mayor Carlos A. Gimenez
Miami-Dade County
111 NW First Street 29th Floor
Miami, Florida 33128

Kevin T. Lynskey, Director
Miami-Dade Water and Sewer Department
3071 SW 38th Avenue
Miami, Florida 33146

Jack Osterholt, Deputy Mayor/Director
Miami-Dade Regulatory and
Economic Resources
111 NW 1st Street. 29th Floor
Miami, FL 33128
Josterholt@miamidade.gov

Henry N. Gillman
Miami-Dade Assistant County Attorney
Miami-Dade County Attorney's Office
111 NW First Street Suite 2810
Miami, Florida 33128

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. Weinschke
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.Weinschke@usdoj.gov