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VIA ELECTRONIC CORRESPONDENCE

September 10, 2020

CCN: 63370
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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Florida Department of Environmental Protection
Southeast District – West Palm Beach
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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, Potential Delay Notification for Consent Decree Appendix D-2, Capital Improvement Project 2.15(3) Plant 2 Digesters Cluster 3 at CD WWTP

Dear Sir/Madam:

 In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on August 27, 2020, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a potential delay for CD Capital Improvement Project (CIP) 2.15(3) Plant 2 Cluster 3 Digesters located at Central District Wastewater Treatment Plant (CD WWTP) 3989 Rickenbacker Causeway, Miami Florida 33149. Delays have occurred in the construction phase of child projects CD 2.15(1) and CD 2.15 (2) Plant 2 Clusters 1 and 2 Digesters, which is anticipated to delay child project CD 2.15(3) Plant 2 Cluster 3 Digesters. These delays will impact the project's CD compliance date of June 18, 2023.

In accordance with Section XI, Paragraph 52, this update letter shall further describe and explain the reasons for the delay and Force Majeure; 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 anticipated duration 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

Per May 13, 2016 letter, titled "Request for Non-Material Change – CD Project 2.15 – Digesters Plant 2, project description for 2.15 was modified to complete rehabilitation of Clusters 1, 2 and 3 (12 digesters including roofs, concrete structures, recirculation & transfer pumps, mixers & electrical system). As a result, three active child projects are ongoing under CD 2.15: CD 2.15(1) Digesters Plant 2 Cluster 1, CD 2.15(2) Digesters Plant 2 Cluster 2, and CD 2.15(3) Digesters Plant 2 Cluster 3.

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Notice to Proceed (NTP) for CD 2.15(1) was issued on October 31, 2016 with a Substantial Completion date of April 24, 2018 (540 Calendar Days after NTP). The NTP for CD 2.15(2) was issued on July 10, 2018 with a Substantial Completion date of October 3, 2019 (450 Calendar Days after NTP). Both CD 2.15(1) and CD 2.15(2) experienced construction delays requiring time extensions due to unforeseen conditions which were not anticipated by the County. The revised Substantial Completion dates for CD 2.15(1) and CD 2.15(2) are April 19, 2021 and February 20, 2022, respectively.

To ensure adequate digestion treatment at Central District Wastewater Treatment Plant, the County elected to allow for a CD 2.15(3) construction start contingent upon the substantial completion of both CD 2.15(1) and CD 2.15(2). As a result, the construction delay of both projects has pushed out the construction start as well as the anticipated substantial completion of CD 2.15(3).

Explanation and description of the reasons for the delay

On September 3, 2020, the County held a presentation to discuss Central District WWTP projects for EPA and FDEP. The purpose of the presentation was to review operational challenges and review the status of Consent Decree Projects. The County described the current status of CD 2.15(1), and CD 2.15(2) which are 97.5% and 78% complete, respectively, at this time. Some delays were incurred on CD 2.15(1) and CD 2.15(2) due to unforeseen condition such as pipping wall sleeves and floor slab conditions. However, there was a major setback on the project when cracks were discovered on the corbels in 2019 at two locations: Tank 2 in Cluster 1 and Tank 7 in Cluster 2.

CD 2.15(1) Digesters Plant 2 Cluster 1

The Contract documents included structural work to existing Control Building and Digester Cluster 1 Tanks 1, 2 & 4 and the replacement of the three Digester Tank Covers. Structural work includes restoring and repairing concrete; constructing penetrations and modifications for new exhaust/supply fans and piping; furnishing and installing infill; and repairing existing openings and penetrations, concrete equipment pads and supports, finishes and coatings.

In August 2019, as structural stiffening modifications were being completed on the Cluster 1, Digester Tank 2 Cover, it was noticed that a portion of a corbel had cracked. The corbels are structural concrete ledges projecting from the tanks' walls that are used to support the covers. The crack occurred in the outside edge, just beyond the reinforcing steel. The Contractor requested information about how to repair the corbel using the typical concrete beam repair detail. The Engineer of Record (EOR) requested the load of the cover based on the as constructed conditions and asked for updated structural calculations incorporating the structural stiffening modifications. The EOR requested that the updated calculations clearly indicate the maximum design reactions to the corbels, the location and bearing area that the cover was designed to bear on the corbels, and the tolerances that could be maintained.

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Between September 19, 2019 and October 17, 2019, the Contractor and the Cover Manufacturer provided three (3) revisions to the calculations for the covers based on the EOR's comments. Based on the calculations provided by the Contractor and the Cover Manufacturer, the EOR advised the CD PMCM that the digester tanks' corbels required modifications to support the new covers. Also, because the new covers were already installed on Tanks 1, 2 and 4, it required an analysis and evaluation on how to raise/support the new covers while the corbel modifications were completed.

Given the delay in receiving an adequate corbel design from the contractor, at the County's request, the EOR developed a design for the corbel modifications based on the information provided by the Contractor and Cover Manufacturer, which included 33 loading points or locations where the digester cover would be in contact with the concrete corbel. The design was provided to the Contractor and a cost and time proposal was requested on December 20, 2019.

On January 29, 2020, an Alternate Design Proposal was submitted by the Contractor with new calculations that increased the number of support locations for the cover to rest upon from 33 to 55, including radial beams and cover guide rails.

After several revisions and negotiations, the Contractor submitted their final cost proposal on April 11, 2020 which requested \$1,505,843.21 and 831 Calendar Days for the Alternate Design. The Contractor updated the Alternate Design Proposal to include a total of 58 corbel modification

locations: 33 at support locations, 22 at eleven slide rail locations, and 3 at locations with no existing corbel. The Alternate Design Proposal consisted of partially demolishing the corbels; cleaning all exposed concrete surfaces; coating all concrete surfaces with a bonding agent; patching all areas on the concrete surfaces with repair mortar; installing new reinforcing steel at each location where the cover loads are to be supported on the corbel; installing bolts through the corbel and tank wall; and grouting the void between the covers and new corbel.

The County performed their due diligence by reviewing the cost submitted by the Contractor for the Alternate Design Proposal and found it to be fair and reasonable. A change order for \$1,505,843.21 and 831 days was recommended and a notification to proceed with the work was issued to the Contractor on June 24, 2020.

The Substantial Completion Milestone date will be extended from January 9, 2019 to April 19, 2021.

CD 2.15(2) Digesters Plant 2 Cluster 2

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The Contract documents included structural work to the existing Control Building and Plant 2 Digester Cluster 2, Tanks 5 through 8; and the replacement of the four Digester Tank Covers. Structural work includes restoring and repairing concrete; constructing penetrations and modifications for new exhaust/supply fans and piping; furnishing and installing infill; and repairing existing openings and penetrations, concrete equipment pads and supports, finishes and coatings.

Following the observation and inspection of the corbel cracks identified in Cluster 1 Digester Tank 2 and Cluster 2 Digester Tank 7, and in consideration of the analysis that took place regarding the corbels for Cluster 1, the same procedures and exchange of information were followed for CD 2.15(2) Digesters Plant 2 Cluster 2.

After several revisions and negotiations, the Contractor submitted their final cost proposal on April 17, 2020 which requested \$1,725,468.36 and an 871 Calendar Day time extension for the Alternate Design. Like Cluster 1, the Contractor's Alternate Design Proposal included a total of 58 corbel modification locations: 33 at support locations, 22 at eleven slide rail locations, and 3 at locations with no existing corbel. The scope of the Alternate Design Proposal is the same as for Cluster 1.

The County performed their due diligence by reviewing the cost submitted by the Contractor for the Alternate Design Proposal and found it to be fair and reasonable. A change order for \$1,725,468.36 and 871 days was recommended, and a notification to proceed with the work was issued to the Contractor on June 24, 2020.

The Substantial Completion Milestone date will be extended from October 3, 2019 to February 20, 2022.


Corbel modifications are underway in both CD 2.15(1) and CD 2.15(2). Both projects are forecasted to achieve the revised Substantial Completion dates by April 19, 2021 and February 20, 2022, respectively, ahead of the CD Compliance Date of June 18, 2023.

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

Additionally, the County will take the following steps:

1. Closely monitor construction progress of CD 2.15(1) and CD 2.15(2) to ensure projects stay on schedule
2. Immediately remedy construction issues for CD 2.15(1) and CD 2.15(2) as they arise
3. Closely monitor re-permitting, re-bid, and construction phase of CD 2.15(3) to minimize further delay

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 substantially complete CD 2.15(1), CD 2.15(2) and to execute CD 2.15(3) through its pre-construction and construction phases.

1. Substantial Completion for CD 2.15(1) by April 2021
2. Substantial Completion for CD 2.15(2) by February 2022
3. Construction NTP for CD 2.15(3) by February 2022
4. Substantial Completion for CD 2.15(3) by August 2023

Anticipated duration of the delay

The County will provide an update for the anticipated duration of the delay upon completion of Clusters 1 and 2. The County will closely monitor construction progress and report any further delay to EPA and FDEP when it becomes known to the County, as required by Section XI, Paragraph 52.

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

Consent Decree Exhibit D-1 stated that the loss of digestion capacity may result in a decline in biogas/ methane production for power generation and unstabilized sludge requiring landfill disposal. There is no indication that delays in CD 2.15(3) Plant 2 Cluster 3 Digesters, 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,



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