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VIA ELECTRONIC CORRESPONDENCE

December 15, 2017

CCN: 61520  
File No: 8.DC.52 & 77

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
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Washington, D.C. 20044-7611  
RE: DOJ No. 90-5-1-1-4022/1  
[Tom.Mariani@usdoj.gov](mailto:Tom.Mariani@usdoj.gov)

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Attn: Compliance/Enforcement Section  
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**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**  
**Potential Delay Notification Letter for Consent Decree Appendix D-2, Capital Improvement**  
**Projects 2.27 CDWWTP Oxygen Production**

Dear Sir/Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on December 1, 2017, Miami-Dade County (County) electronically notified United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a delay of CD Capital Improvement Project (CIP) 2.27 Central District Wastewater Treatment Plant (CDWWTP) Oxygen Production. As stated in the December 1<sup>st</sup> email, delays have occurred in the execution of this project during its procurement phase. This delay will impact the project CD compliance date of December 30, 2019.

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; 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.

**Explanation and description of the reasons for the delay**

The original scope of this project as described in the CD was to construct a new 80 ton/day oxygen production cryogenic tower and air compressor unit to provide full redundancy as existing three 70 ton/day units were determined to be near the end of their useful life and are prone to failure. Working with the Design Consultant, the County determined a more cost-effective and reliable approach to meeting the oxygen requirements that not only achieves the CD requirements but achieves long-term goals for the County at the CDWWTP. Instead of adding a fourth cryogenic system, the Design Consultant recommended the following:

- (1) A change in oxygen production technology to Vacuum Pressure Swing Adsorption (VPSA). This technology can reliably provide the oxygen requirements for the CDWWTP at a lower capital, operational and maintenance cost. This substitution in technology was documented in a letter submitted to USEPA and FDEP on October 2, 2015 and approved in a letter received from FDEP on February 9, 2016.
- (2) Replace existing 70 ton/day Cryogenic Systems 1 and 2 with two new 90 ton/day VPSA units. During the Design Phase, the Design Consultant evaluated the oxygen requirements for the CDWWTP, investigating not only today's requirements but also future requirements under the Ocean Outfall Legislation (OOL) Program. Based on this investigation, the Design Consultant determined the most cost-effective and reliable approach for the County was to replace Cryogenic Systems 1 and 2, which were installed in 1980 with two new VPSA systems, continue to utilize Cryogenic System 3, which was installed in 1994, and utilize the existing liquid oxygen (LOX) system as a supplemental source of oxygen, if needed, and/or in the case of an emergency.

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Based on this recommendation, the County decided to proceed forward with the design of the two new VPSA systems. Because the design of the facility is governed by the selection of the new VPSA mechanical equipment, the County decided to execute this project as a Design-Build so the designer, working directly for the contractor, could provide a tailored design based on the approved VPSA equipment. This action was viewed as a time-savings measure as compared to executing the project as a conventional Design-Bid-Build. Executing the project as Design-Build provides the County with other advantages including single source accountability, enhanced communications between the contractor and the designer, and faster project execution.

Although Design-Build was an ideal method for executing this project, procurement of a Design-Build contractor by the County is a more intensive and time-consuming process. Unlike conventional Design-Bid-Build, procurement of a Design-Build contractor is a two-step submittal and review process. During

Step 1, the Design-Build Teams submit their qualification packages to the County for review by the County's Design Criteria Professional (DCP) and County's selection committee. The DCP reviews the packages and provides a summary of their results to the selection committee for review and consideration. The selection committee determines which of the teams are qualified to proceed to the next step. During Step 2, the pre-qualified Design-Build Teams prepare their 30% level design bid proposals to the County for review by the DCP and selection committee. The DCP reviews the packages and provides their assessment to the selection committee for review and consideration. The selection committee reviews the packages and ranks the Design-Build contractor based on the selection criteria.

The County is currently in the process of completing Step 1 of the Design-Build procurement process. Two items have delayed this process. Qualification packages, which were initially due September 8, 2017, were extended to September 29, 2017 due to Hurricane Irma. Because only two teams submitted their qualifications, two additional weeks were provided to allow other teams to submit qualifications; no others submitted. The Design-Build qualification packages were provided to the DCP for review on November 27, 2017. The DCP completed their review on November 30, 2017 and provided their assessment to the selection committee during a meeting held on December 1, 2017.

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

The County's procurement team will continue to expedite the Design-Build procurement for this project.

**Anticipated duration of the delay**

The County anticipates a project delay of two hundred ten (210) calendar days for the procurement delays and one hundred eighty-one (180) days for construction float, extending the CD compliance date from December 30, 2019 to January 23, 2021. This additional time would be required for the following: (1) lost time due to Hurricane Irma (7 days), (2) the need to extend the submittal of Qualification Packages due to preparedness and recovery activities by the County (14 days), (3) added time needed to solicit additional qualification packages from other Design-Build Teams (14 days), (4) complete the Design-Build procurement process (175 days), and (5) construction float (180 days).

*Null*

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

The County will attempt to complete the Design-Build Procurement process by December 31, 2018.

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

The replacement of Cryogenic Systems 1 and 2 with new VPSA systems is necessary to ensure continued and uninterrupted biological treatment at the CDWWTP. Because Cryogenic System 3, which is newer, remains in operation and the County can attain liquid oxygen (LOX) from suppliers to supplement requirements. It is the County's opinion that this delay will not present an immediate endangerment to the public health, welfare, or the environment.

Should you have any questions regarding this matter, please call me at (786) 552-8571.

I certify under penalty of law that this document was 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,

*by: Hardeep Anand*

Hardeep Anand, P.E., ENV SP  
Deputy Director, Capital Improvement Programs & Regulatory Compliance

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*WML*

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