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VIA ELECTRONIC CORRESPONDENCE

May 20, 2019

CCN: 62592
File No: 8.DC.20.77

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
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 VI – Specific Capital Improvement Projects, Paragraph 19(i)
Section XVII, Paragraph 77 – Notices
Project Update on Delay and Failure to Meet Compliance Date Notification for
Consent Decree Appendix D-2, Capital Improvement Project 2.22 – Pump Station
No. 2**

Dear Sir/Madam:

Pursuant to Section XI, Paragraph 52 of the above referenced Consent Decree (CD), this correspondence serves as a project status update and notification of the failure to meet the CD compliance date of May 25, 2019 for Capital Improvement Project (CIP) 2.22 – Pump Station No. 2.

The County notified U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (FDEP) on March 6, 2019 of delays that have occurred during the

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execution of CIP 2.22 – Master Pump Station No. 2 located at 1075 Biscayne Boulevard, Miami, FL and operated under the Central District Wastewater Treatment Plant (CD WWTP), 3989 Rickenbacker Causeway, Virginia Key, Florida. This project has experienced delays during the construction phase.

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 or the environment, and documentation to support the force majeure claim.

Background information

CD Project description for Project 2.22 is the rehabilitation of the pump station odor control system, rehabilitation of bar screen mechanisms, and replacement of pump stations flow metering to improve maintenance activities. The rehabilitation of the bar screen mechanisms was completed by WASD, and it is not part of the contractor's scope of work. The scope of work under the current construction contract is the replacement of the existing pump station effluent flowmeter, installation of a new 42-inch isolation valve to allow removal of the flowmeter for maintenance, replacement of the existing odor control system, replacement of the existing odor control system chemical storage and feed systems and replacement of the dry-well ventilation system.

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On June 1, 2017, the County submitted a force majeure notification due to unforeseen groundwater contamination encountered at the project site during initial excavation activities, resulting in a Limited Stop Work Order being issued to the Contractor. Subsequent to EPA and FDEP requesting additional information, the County provided a project status update letter submitted in October 2017 to advise that the Limited Stop Work Order was rescinded on August 11, 2017. Also included in the October 2017 Update Letter was a cautionary disclaimer of ongoing contractor non-performance challenges.

On December 22, 2017, the County requested schedule modifications for several projects, including the one discussed herein. On April 11, 2018, EPA and FDEP approved the requested schedule modifications and modified the Compliance Date for the referenced project to May 25, 2019.

On March 6, 2019, the County submitted a delay notification letter for this Project due the Contractor's lack of performance. The Contractor's inability to maintain the progress required to achieve contract completion nor CD Compliance dates, failing to meet dates shown in their

recovery schedule resulting in the County issuing a Notice of Termination for Default to the Contractor on February 21, 2019.

WASD has been providing updates to FDEP and EPA in the bimonthly conference calls.

The delay reported impacts the Project CD Compliance Date of May 25, 2019.

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

Upon formal termination the County engaged with the Contractor's Surety and requested that the Surety open dialogue to determine the option for the Surety to complete the Project. Of the several options available to the Surety, the Surety determined that the best course of action under the conditions of the Performance Bond was to assign a Surety Project Manager to complete the Project using the Contractor's staff. A formal Memorandum of Understanding (MOU) to this effect was signed by the Surety and the County on April 15th, 2019. The Surety submitted a completion schedule to accompany the MOU. This schedule showed a start date of April 15th, 2019. The Surety and construction crews have mobilized back to the field and work is progressing. The County will continue to monitor closely the Surety's completion schedule.

Anticipated duration of the delay

The County will continue updating the EPA and FDEP on the status of this project as construction advances. Based on the information available at this time, the County estimates that substantial completion will be achieved by April 25, 2020. The County will closely monitor construction progress and report any further delay to EPA when it becomes known to the County and as required by CD Section XI, Paragraph 52.

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

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

1. Monitor closely the Surety's completion schedule.

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

There is no indication that delays in this project 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,



Lynnette M. Ramirez P.E.
Senior Advisor, Capital Improvement Programs & Regulatory Compliance

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