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**VIA ELECTRONIC CORRESPONDENCE**

June 16, 2023

CCN: 64931  
File No: 8.DC.20.52

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Environment and Natural Resources Division  
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RE: DOJ No. 90-5-1-1-4022/1  
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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 – Delay,  
Section XVII, Paragraph 77 – Request for Time Extension and Project Status Update  
for CD Appendix D-2, Capital Improvement Project 2.15 Digesters Plant 2**

Dear Sir/Madam:

In accordance with Section XI, Paragraph 52, of the Consent Decree (CD), the purpose of this letter is to request a time extension and provide a project status update for CD Capital Improvement Project (CIP) 2.15 Digesters Plant 2 at the Central District Wastewater Treatment Plant (CDWWTP). This notification will also describe the reasons for the delay, all actions taken to minimize the delay and to be taken to mitigate additional delays, the anticipated duration of the delay, a schedule of the implementation of all measures taken to minimize the delay, Miami-Dade County's rationale for attributing the delay to a force majeure event, if applicable, a preliminary statement regarding the reason why such event may cause or contribute to an endangerment to public health or the environment, and documentation to support the force majeure claim, if applicable. The June 18, 2023 compliance date for the CD 2.15 Project will not be achieved.



Therefore, the County requests a time extension to June 6, 2028, at which time CD 2.15 is projected to be substantially complete.

### Background

CD 2.15 consists of completely rehabilitating Clusters 1, 2 and 3 at the CDWWTP, including improving 12 digesters (4 digesters per Cluster), roofs, concrete structures, recirculation pumps, transfer pumps, mixers, and electrical systems. This project was split into three child projects summarized in Table I below:

**Table I - CD 215 Child Projects**

| Project No. | Description                 | NTP Date         | Substantial Completion Target Date |
|-------------|-----------------------------|------------------|------------------------------------|
| 2.15 (1)    | Digesters Plant 2 Cluster 1 | October 31, 2016 | 6/30/2023                          |
| 2.15 (2)    | Digesters Plant 2 Cluster 2 | July 10, 2018    | 10/30/2023                         |
| 2.15 (3)    | Digesters Plant 2 Cluster 3 | TBD              | 6/6/2028                           |

On September 3, 2020, the County presented a detailed update to EPA and FDEP on the status of this project and the performance challenges hindering its progression. On September 10, 2020, the County submitted a Potential Delay Notification for the CD 2.15 project (Exhibit A). Both CD 2.15(1) and CD 2.15(2) experienced construction delays requiring time extensions due to unforeseen conditions. The initiation of construction of CD 2.15(3) is contingent upon substantial completion of CD 2.15(1) and CD 2.15(2) to ensure adequate digestion treatment at CDWWTP. Substantial Completion of CD 2.15(1) and CD 2.15(2) are currently pending successful start-up and commissioning. To mitigate additional delays, the County elected to concurrently begin procurement activities for CD 2.15(3). On October 20, 2022, during the bi-monthly EPA and FDEP coordination call, the County presented a project status update on the ongoing commissioning challenges.

### Description of the Delays

The project has experienced several unforeseen and complex delays resulting in the County's request for an extension of the compliance date for CD Project 2.15. The events are summarized as follows:

#### Delay No. 1: Corbel Modifications

On August 5, 2019, cracks in the concrete corbels were observed in both Clusters 1 and 2. It was established that the corbels could not hold the weight of the new covers, and modifications to the design were required prior to continuing cover installation activities. The County expedited the resolution, cost negotiation, and change order associated with the corbel modifications and by Summer of 2020 the activities associated with the cover installation resumed. The corbel change orders resulted in an 871-day extension to the contract duration.

#### Delay No.2: Equipment Failure Prior to Testing

Cluster 1 has been in different stages of startup since 2021. During the startup period at Cluster 1, there were numerous equipment failures due to wear and tear of the moving parts (gearbox; glide rails; disc; shaft) of the Linear Motion Mixers. The Linear Motion Mixers were taken out of service for repair and reconditioning by the manufacturer. Currently, the mixers for CD 2.15(1) are scheduled to be re-installed in mid-June and tested for acceptance by June 30, 2023. The delays associated with the Linear Motion Mixers are concurrent with the extended start up delays. The Linear Motion Mixers at Cluster 2 are not expected to require repairs as they are new. Startup and commissioning of Cluster 2 are scheduled for completion by October 30, 2023.

#### Delay No. 3: Extended Startup and Commissioning Period to Ensure Biological Acclimatization

The initial estimate of the biological startup of 30 days was extended to 95-days. During the initial startup and testing in September 2021, it was observed that the biological conditions of the digesters were unstable. Key parameters such as temperature, densities, and volatile solids reductions deviated beyond the expected thresholds. The County investigated multiple approaches and processes to start-up. Follow-up investigative meetings were held to develop a new approach to ensure stability before ramping up the digestion processes. The new approach required a stepwise increase in feed rate, not to exceed 5,000 gallons/day; continuous monitoring of biological parameters for stabilization; and coordinated discussions regarding the performance of the digesters, and behavior of the gas-covers, before advancing the flow rates. The original schedule for the project allocated 95-days for startup with the startup activity commencing in July 2022. The 95-day startup schedule was delayed by 241-days due to the need to stabilize the digester feed and due to other unplanned events such as: modifications to specific gas handling and sludge conveyance equipment and directives to hold feed rates constant in instances of measured decreases in biological activity until improvements were achieved. CD 2.15 (1) Digester Plant 2 Cluster 1 has been in startup mode since July 2022 and it is anticipated that substantial completion will soon be achieved. Startup activities for CD 2.15 (2) Digester Plant 2 Cluster 2 are scheduled to commence in August 2023.

### **Actions to Prevent or Minimize the Delays**

Throughout construction, the County has remained committed to pursuing solutions and progressing construction. The County continues to work with the contractor, operations and maintenance crews, the manufacturer, and the Engineer of Record to mitigate additional delays by:

1. Prioritizing unexpected equipment repair/replacement,
2. Maintaining all responsible parties on site during active start-up for expeditious decision making,
3. Utilizing internal and external laboratories to ensure operational data is collected and evaluated quickly to aid in making informed decisions, and
4. Working collaboratively with the contractor and manufacturers to accelerate the fabrication, purchase, and/or delivery of parts, equipment, and materials when necessary.

### **Anticipated Duration of the Delays**

The County is currently reviewing the impacts to the overall project schedule as a result of the above outlined delays. The time impact of the delays will extend project completion beyond the current compliance date of June 18, 2023. As previously stated, the County is requesting a time extension for CD 2.15 to June 6, 2028. The extension will allow the County to develop a new approach to digester upgrades for CD 2.15(3) that will integrate lessons learned and incorporates a conservative construction duration.

### **Force Majeure Rationale**

The County has completed 70% of the Specific Capital Improvement Projects required under CD Paragraph 19(i). Currently, 24% of the projects (19 out of 80) are under construction. The County demonstrates its commitment to perform its obligation under the CD. Although the delays associated with this time extension request do not qualify as Force Majeure delays as defined in the CD under Section XI, Paragraph 51, the County appeals to FDEP and EPA's discretion to grant a time extension given the exceptional challenges faced throughout execution of this project. This time extension qualifies as a non-material change as defined in the CD under Section VI, Paragraph 19 (i), "*any modifications agreed upon in writing by the United States, FDEP and Miami-Dade to this list of projects or schedules set forth in Appendix D shall constitute a non-material change to this Consent Decree as set forth in Section XX (Modification)*".

### **Cause or Contribution to an Endangerment to Public Health, Welfare, or the Environment**

The existing digesters in Plant 2 continue to operate while the construction work progresses. Therefore, there is no 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 or need additional information regarding this matter, please call me at (786) 552-8894.

Sincerely,



Marisela J. Aranguiz-Cueto, P.E.  
Deputy Director  
Miami-Dade Water and Sewer Department

Attachment: Exhibit A – Potential Delay Notification for Consent Decree Appendix D-2, Capital Improvement Project 2.15(3) Plant 2 Digesters Cluster 3 at CDWWTP

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