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October 31, 2023

VIA ELECTRONIC CORRESPONDENCE

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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
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RE: DOJ No. 90-5-1-1-4022/1
Tom.Mariani@usdoj.gov

Chief, Clean Water Enforcement Branch
Water Protection Division
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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
Sirena.Davila@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 – Delay,
Section XVII, Paragraph 77– Notices, Force Majeure Notification and Request for Time Extension
for Consent Decree Appendix D-2, Capital Improvement Project 1.7 Digesters and Control
Building at SDWWTP - REVISED**

Dear Sir or Madam:

In accordance with the provisions of Section XI, Paragraph 52 of the above referenced Consent Decree (CD), on October 6, 2023, Miami-Dade County (County) electronically notified the United States Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP) of a delay impacting Appendix D Capital Improvement Projects (CIP) CD 1.7 Digesters and Control Building at the South District Wastewater Treatment Plant (SDWWTP). This project experienced delays during start-up and commissioning of the Digesters and Acid-Phase Reactors. The delays have impacted the Project CD compliance date of November 21, 2023, and as such the County hereby requests a time extension to deliver the project on or before June 6, 2028.

In accordance with Section XI, Paragraph 52, a letter was provided on October 20, 2023 and the County revised the language in the “Cause or contribution to an endangerment to public health, welfare, or the environment” in this letter date October 31, 2023. This letter shall supersede the previous version. This letter shall provide the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay;

COUNTY

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

The Consent Decree project description for CD 1.7 Digesters and Control Building includes the rehabilitation or replacement of digester covers for Clusters No. 1 and No. 2, digester tank cleaning, structural rehabilitation and coating, and sludge mixers improvement. The project included additional process improvements which were completed under CD 1.7, such as a new Acid Phase Building, new gas flares located adjacent to the new Acid Phase Building and the installation of hot oil pumps in the Cogeneration Building. In October 2022, the County presented the challenges experienced for the digester projects at SDWWTP and Central District Wastewater Treatment Plant (CDWWTP) (CD 1.7 and 2.15) to EPA and FDEP.

Explanation and description of the reasons for the delay

CD 1.7 experienced a delay during construction start-up and commissioning of Cluster No. 1. The contractual start-up period for Cluster No. 1 was extended from 21 days to an additional 242 days, for a total of 263 days of start-up. The delays at Cluster No. 1 are primarily due to the inability to achieve a stable, reliable, and sustained operation at the targeted hydraulic retention time (HRT) of 15-days, per the Basis of Design Report dated July 2015 and approved by FDEP August 19, 2016. Meeting the 15-day HRT is pre-requisite to the decommissioning of the existing operational Cluster No. 2 for rehabilitation. It was determined that the operational risks were too great to proceed with the implementation of Cluster No. 2. Thus, Cluster No. 2 construction activities have been halted pending further investigation.

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

The County continues to monitor all work related to the start-up and operation of the Digesters Acid Phase Reactors and remains proactive in taking actions to minimize and mitigate delays through the following:

- Engagement of start-up and commissioning industry experts with broad knowledge in troubleshooting, data collection and interpretation, troubleshooting equipment, and engineering on-site improvements. This remains an active ongoing exercise.
- Coordination of meetings and workshops to review, discuss, and interpret data in real-time and implement immediate actions for the recovery of covers and maintain the feed schedule for the Digesters. This remains an active ongoing exercise.
- Adoption of an aggressive design-build approach in close collaboration with the Contractor to facilitate timely integration of design modifications into constructed products in an effort to realize immediate operational benefits. This remains an active ongoing exercise.
- Fast-tracked the development of a thermophilic pilot plan. The thermophilic pilot is intended to identify whether kinetic (heat) improvements will reduce the propensity for air entrainment in the sludge and support a sustained stable operation at the targeted 15-day HRT.

Anticipated duration of the delay

The start-up and commissioning of Cluster No. 1 delay is expected through late spring of 2024, following the review and interpretation of data generated by the thermophilic pilot test, and a determination on how it supports attainment of the Basis of Design Report criteria, including the 15-day HRT operational goal. The County will report progress by the summer of 2024.

The results of the thermophilic pilot test will provide valuable data relative to potential design or process modifications that can be incorporated into the design/construction of Cluster No. 2. In consideration of the time required to assimilate the results generated from the thermophilic pilot; incorporate design modifications or process adjustments; acquire the permit modifications; and subsequently proceed with the construction work, the County anticipates delivery of a complete and functional Cluster No. 2 on or before June 6, 2028. This schedule is tentative, and the County acknowledges that a definitive plan will be provided by the summer of 2024 with details regarding the execution strategy.

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 to prevent or mitigate further delays and/or the effects of the delays:

1. Continue to work closely with the Contractor during the construction, and start-up and commissioning phases.
2. Accelerate the schedule and, where possible, require the Contractor to work extended hours and adjust work crews to accelerate work.
3. Monitor the ongoing construction and promptly respond to issues that may arise.
4. Continue to keep EPA and FDEP apprised of progress and report any further delays if/when issues arise.

Rational for attributing such delay to a force majeure event

As defined in CD Section XI, Paragraph 51, a force majeure is defined as any event arising from causes beyond the control of Miami-Dade, of any entity controlled by Miami-Dade, or of Miami-Dade's consultants and contractors that delays or prevents the performance of any obligation under this Consent Decree despite Miami-Dade's best efforts to fulfill the obligation. The requirement that Miami-Dade exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible.

The County currently believes that the unforeseen condition, and late-stage challenges to commissioning the Digesters in accordance with the Basis of Design Report's design objectives represent a Force Majeure event. If the undetermined causes for the challenges are identified, the County may revisit this force majeure delay request.

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

The SDWWTP Digesters and Control Buildings and the associated equipment, with the exception of Cluster No. 1 which is still under construction, are processing solids and plant operations can be maintained to meet biosolids permit requirements. The County implemented additional disposal and treatment strategies to ensure biosolids quality. The delays in implementing CD 1.7 are mitigated through on-going service and equipment repair contracts for the existing equipment. There is no indication that the delays to CD 1.7 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) 552-8894.

Sincerely,



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

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