

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



JOHN COOPER
MAYOR

ROBERT E. COOPER, JR.
DIRECTOR OF LAW

DEPARTMENT OF LAW
METROPOLITAN COURTHOUSE, SUITE 108
P O BOX 196300
NASHVILLE, TENNESSEE 37219-6300
(615) 862-6341 • (615) 862-6352 FAX

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Chief, Environmental Enforcement
Section
Environmental and Natural Resources
Division
U.S. Department of Justice
Post Office Box 7611
Washington, D.C. 20044-7611

Director, Enforcement and Compliance
Assurance Division
U.S. Environmental Protection Agency
Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

United States Attorney
Middle District of Tennessee
110 Ninth Avenue, South, Suite A961
Nashville, TN 37203

Wilson Buntin
Assistant Attorney General
Office of the Tennessee Attorney General
Environmental Division
P.O. Box 20207
Nashville, TN 37202

Patrick Parker
Assistant General Counsel
Tennessee Department of Environment
and Conservation
312 Rosa Parks Avenue
Nashville, TN 37243

re: DOJ Case No. 90-5-1-1-09000 (Nashville consent decree)
NOTICE OF FORCE MAJEURE EVENT

Greetings:

As you are aware, on March 13, 2020, President Trump declared a national emergency arising from the COVID-19 epidemic. States of emergency also have been declared for Metropolitan Nashville and Davidson County and the State of Tennessee. Metro is now covered by both local and state executive orders (the "Orders") that call for the closure of non-essential businesses. Although predicting the full effect of the growing number of COVID-19 illnesses and business closures is not possible, it is clear that they will affect Metro's ability to comply with the terms of the referenced consent decree.

Metro's Water and Sewerage Services Department's wastewater treatment plants and collection systems have been and will continue to be kept fully operational. But in keeping with the Orders, most Metro employees, including Department employees not involved in water or sewer system operations, must work from home. This includes the Clean Water Nashville Program office, which oversees Consent Decree compliance. Most of the consulting engineering firms that Metro has engaged for work under the Consent Decree,

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including the program, construction management, and project design firms, have also closed their offices and have employees working from home.

Although the Orders allow construction work to continue, they and the epidemic have disrupted the market for large projects by raising concerns about supply chain issues, equipment deliveries from highly impacted areas, and work force availability. The Orders also appear likely to lead to reductions in workplace efficiency by requiring workers to maintain social distancing. MWS was forced to delay bidding of the Central Headworks project for a minimum of five weeks. The Headworks project is a component of the Central WWTP Upgrade and CSO Reduction Project, the single largest project under the Consent Decree and a key element under the LTCP.

Based on these factors, please accept this as notice of the occurrence of a force majeure event, as defined in section XI of the Consent Decree. Further, because of that force majeure event, the Metropolitan Government requests consideration for potential extensions on compliance deadlines in the Consent Decree. At this point it is difficult to determine where and the extent to which extensions may be necessary, and Metro will provide additional information as it becomes available. Metro also will seek to minimize the impact of COVID-19 on its performance under the Consent Decree and will continue to expedite all associated projects to the extent practical.

Please let us know if you need any further information in support of this request. I would be happy to discuss any questions you may have at your convenience.

Best regards,



Thomas G. Cross
Associate Director

pdf: Bob Cooper
Scott Potter
Cyrus Toosi
Ron Taylor