UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 0 2 2016

CERTIFIED MAIL 7015 1730 0001 8044 3545
RETURN RECEIPT REQUESTED

Ms. Teresa B. Wilson
City Manager, City of Columbia
P.O. Box 147
Columbia, South Carolina 29217

Re: United States et al. v. The City of Columbia Consent Decree
Civil Action No.: 3:13-2429-TLW (D. S.C.)

Dear Ms. Wilson:

The United States Environmental Protection Agency Region 4 has reviewed the City of Columbia's (the City) supplemental report on a force majeure event submitted by a letter dated March 24, 2016, to the EPA, the South Carolina Department of Health and Environmental Control (SCDHEC), and the U.S. Department of Justice. The supplemental report relates to catastrophic flooding that occurred in Columbia, SC beginning on October 4, 2015.

The supplemental report, provided pursuant to Section XI of the above-referenced Consent Decree (CD), was preceded by a force majeure notice submitted by the City on October 6, 2015, and a preliminary force majeure report submitted on October 13, 2015. The force majeure notice, preliminary force majeure report and supplemental force majeure report relate to the unprecedented rainfall and catastrophic flooding that the City experienced in October 2015, and provides detailed information regarding the force majeure event that occurred and its effect on the ability of the City of Columbia to comply with their obligations under the above-referenced Consent Decree. This information was further augmented by an in-person meeting among the EPA, SCDHEC and City representatives in Columbia, South Carolina on April 22, 2016, which included a tour of some flood-affected areas of the City and its sanitary sewer system.

Based on the information provided by the City, the EPA in collaboration with SCDHEC has determined, that the anticipated delays described in your March 24, 2016 letter are attributable to a force majeure event and that the timeframes for the performance of certain obligations under the Consent Decree should be extended. Specifically, pursuant to Section XI, Paragraph 57 of the Consent Decree, decisions on the following extensions requests have been made as set forth below:

1. **Extend by 12 months the deadline for completion of an initial assessment of the major components of the wastewater collection and transmission system (WCTS) pursuant to second to last sentence of Paragraph 14(a) of the Consent Decree (page 52).**

   Change deadline from "no later than 24 months from the date of EPA/DHEC approval of the CSAP" [Continuing Sewer Assessment Program] to "no later than 36 months from the date of the EPA/DHEC approval of the CSAP."

2. **Extend by 12 months the deadline for completion of assessment of the remainder of the WCTS pursuant to last sentence of Paragraph 14(a) of the Consent Decree (page 52).**

   Change deadline from "no later than 60 months from the date of EPA/DHEC approval of the CSAP" [Continuing Sewer Assessment Program]" to "no later than 72 months from the date of the EPA/DHEC approval of the CSAP.

3. **Extend by six months the implementation schedules for six management, operations and maintenance (MOM) programs previously submitted by the City to the EPA for approval pursuant to Paragraph 12 of the Consent Decree, including:**

   a. **WCTS Training Program (CD Paragraph 12(c))**
   b. **Information Management System Program (CD Paragraph 12(d))**
   c. **Sewer Mapping Program (CD Paragraph (12f))**
   d. **Transmission System Operations and Maintenance Program (CD Paragraph 12 (h))**
   e. **Gravity System Operation and Maintenance Program (CD Paragraph 12(i))**
   f. **Financial Analysis Program (CD Paragraph 12(j))**

   Each of the MOM programs above were submitted to the EPA with proposed implementation schedules, as required by the CD, and were approved in writing by a letter from the EPA dated May 23, 2016. The approved implementation schedules for each of the listed MOM Programs are extended by six months pursuant to this force majeure determination.

4. **Extend by six months the completion of Phase 1 of the Supplemental Environmental Project (SEP) in the Gills Creek area (Area 3) pursuant to Section VIII and Revised Appendix I of the Consent Decree.**

   Change deadline for completion of Phase I, as specified on page 5 of Revised Appendix I of the Consent Decree, from "within twenty-four (24) months of the Effective Date of this Consent Decree" to "within thirty (30) months of the Effective Date of this Consent Decree."

5. **Extend by six months the deadline for submitting to the EPA the preliminary reports on the condition of, and the plans for improving, the three defined SEP areas required**

under Section VIII and Revised Appendix I of the Consent Decree for all three areas addressed by the SEP (Gills Creek, Rocky Branch, and Smith Branch).

Change the deadline for submittal of the preliminary reports and plans from "within three (3) years of the Effective Date of this Consent Decree," as specified at pages 2 [Area 1], 4 [Area 2], and 5 [Area 3] of Revised Appendix I of the Consent Decree, to "within three (3) years and six (6) months of the Effective Date of this Consent Decree." Note that the City's March 24, 2016, letter requested extension of the deadline "to complete Phase II for all three areas under the SEP." The City has since clarified that it is seeking a six month extension of the deadline only for submitting the preliminary reports describing the conditions of the SEP areas and the City's plans for improving the SEP areas. The deadline for completion of Phase II of the SEPs is five (5) years from the effective date of the Consent Decree, and that deadline will remain unchanged.

6. **Extend by one year the deadlines after which stipulated penalties may be assessed for unpermitted discharge events pursuant to Paragraph 47(a), of the Consent Decree (page 78), and make corresponding changes to defer by one year the time periods during which particular penalty amounts are assessable pursuant to Paragraph 47(a) (i) and (ii) (page.78).**

Change the deadline for the date after which penalties may be assessed under Paragraph 47(a) so that stipulated penalties are assessable for Unpermitted Discharge Events "occurring on or after three (3) years from the Date of Entry" instead of "occurring on or after two (2) years from the Date of Entry." In addition, change the dates during which particular penalty amounts are assessable by deferring the start and end dates by one year, as follows:

(i) For each Unpermitted Discharge Event of 5,000 gallons or less, a stipulated penalty may be assessed as follows:

-Within three to six years from the Date of Entry, $250. [changed from "Within two to five years"]

-More than six years from the Date of Entry, $1,000. [changed from "More than five years"]

For each Unpermitted Discharge Event of more than 5,000 gallons, a stipulated penalty may be assessed as follows:

(ii) For each Unpermitted Discharge Event of more than 5,000 gallons, a stipulated penalty may be assessed as follows:

-Within three to six years from the Date of Entry, $500 [changed from "Within two to five years"]

-More than six years from the Date of Entry, $2,000 [changed from "More than five years"

With respect to the extension of the dates when stipulated penalties are assessable, the EPA notes that the entered Consent Decree establishes a period of two years following Consent Decree Entry during which there is no provision for stipulated penalties for Unpermitted Discharge Events. The Consent Decree then provides for gradually escalating stipulated penalty amounts as time passes from the date of Entry. The purpose of this structure for stipulated penalty amounts is to allow the City an opportunity to assess and remediate the most significant problems in the WCTS before the City would be subject to stipulated penalties for Unpermitted Discharge Events. The EPA believes that the catastrophic flooding experienced in the City of Columbia has interfered with the City's ability to complete assessment and remediation work that would minimize the occurrence of Unpermitted Discharge Events. Accordingly, an extension of these deadlines and time frames is deemed appropriate under Section XI (Force Majeure), paragraph 57 of the Consent Decree.

The EPA acknowledges the efforts that the City has made to bring its wastewater treatment plant and collection system into compliance with the CWA, as well as the City's efforts to address the many impacts of the October 2015 flooding. Should you have any questions regarding this letter, please contact Mr. Richard Elliott, of my staff, at (404) 562-8691 or via email at elliott.richard@epa.gov.

Sincerely,

Alenda E. Johnson, Acting Chief
Municipal & Industrial Enforcement Section
NPDES Permitting and Enforcement Branch

cc: See Attached Mailing List

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