



PUBLIC WORKS DEPARTMENT

CITY OF PORTSMOUTH

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VIA EMAIL

June 30, 2020

Mark Pollins
Director of Water Enforcement
USEPA
OECA
1200 Pennsylvania Ave NW
MAIL CODE 2246A
Washington, DC 20460

Re: Consent Decree 09-cv-283-PB
Monthly Report on Compliance for May 2020
City of Portsmouth, New Hampshire

Dear Mr. Pollins:

In accordance with Consent Decree 09-cv-283-PB, Section V, item paragraph 20, dated August 12, 2009 and as amended by Consent Decree Modification filed July 2, 2012 and approved by the Court on February 15, 2013 and as amended by Consent Decree Second Modification, Section III, item paragraph 6, filed on April 1, 2016 and approved by the Court on September 28, 2016 the City of Portsmouth is submitting this monthly report on compliance.

The Consent Decree Second Modification requires the filing of monthly reports as follows: Within 30 days after the end of each month, the City shall submit a written report to EPA, the State, and CLF for the preceding month that shall include a description or reporting of the following: i) status of required construction, including major work items completed in the preceding month; ii) projected work items to be undertaken in the next month; iii) project percent complete based on payments to Contractor for work completed; iv) project percent complete based on time elapsed; v) status of all required permit applications; vi) status of Consent Decree milestones including identifying any problems encountered or anticipated, together with the proposed or implemented solutions; and vii) the monthly average discharge concentrations of total nitrogen for the preceding month, as required in Paragraph 8.b.ii of the Second Modification.

The Consent Decree, First Modification, Second Modification and Third Modification along with such Monthly Reports on Compliance shall be posted on the City's internet site, and maintained accessible to the public online until termination of the Consent Decree. In addition to the submission of Reports on Compliance, the Parties will participate in quarterly meetings or conference calls, if scheduled by EPA, to review the City's compliance with the terms of the Consent Decree.

i. Status of required construction including major work items completed in the preceding month

Work completed by the Contractor in the month of **May 2020** is as follows:

- Completed PCB encapsulation in the existing Sludge Processing Building (new Operations/Lab Building) lower level
- Completed construction of ramps and stairs at the Operations/Lab Building
- Completed structural steel baseplate installation on the first floor of the Operations/Lab Building
- Completed placement of concrete topping slab and containment curbs and pads at the Operations/Lab Building

ii. Projected work items to be undertaken in the next month

Ongoing work by the Contractor through the month of **June 2020** includes the following:

- Continue minor electrical, HVAC, and plumbing punch list work at the Headworks Building, Grit Building, Solids Building, and BAF Building
- Continue integration of the BAF control system with the plant's SCADA system
- Continue startup of the BAF and the biomass development phase, and continue to calibrate and tune control loops
- Continue to export excavated materials and demolition materials off-site
- Continue installation of structural steel, roof joists, and metal roof deck at the Operations/Lab Building
- Begin roofing installation at the Operations/Lab Building
- Continue installation of CMU walls at the Operations/Lab Building lower level
- Begin painting of the ceiling and walls in the Operations/Lab Building lower level
- Continue installation of brick masonry façade at the Operations/Lab Building lower level
- Continue installation of metal stud walls at the Operations/Lab Building upper level
- Begin installation of exterior sheathing and damproofing at the Operations/Lab Building upper level
- Begin electrical, mechanical, plumbing and process rough in work at the Operations/Lab Building
- Begin installation of brick masonry façade at the Operations/Lab Building upper level
- Continue outstanding work and startup Gravity Thickener No. 2 mechanism
- Continue final grading, landscaping, and installation of the vegetated maintenance corridor
- Continue replacement of the exterior fencing

Important Note – The above list represents work scheduled for June 2020. Due to the Covid-19 pandemic and the impact of the declaration of states of emergency and issuance of executive orders, both at the state and federal level and guidance issued for social distancing, the work described above has been impacted to greater and lesser degrees depending on the trade involved. The consequences of these changes are still unfolding.

Projected work to be completed by the Contractor in the month of **June 2020** includes the following:

- Complete outstanding work and startup Gravity Thickener No. 2
- Complete installation of CMU walls at the Operations/Lab Building lower level
- Complete painting of ceilings in the Operations/Lab Building lower level
- Complete exterior framing of the Operations/Lab Building upper level
- Complete installation of brick masonry façade at the Operations/Lab Building lower level
- Complete installation of exterior sheathing and damproofing at the Operations/Lab Building upper level

Important Note – The above list represents work scheduled for June 2020. Due to the Covid-19 pandemic and the impact of the declaration of states of emergency and issuance of executive orders, both at the state and federal level and guidance issued for social distancing, the work described above has been impacted to greater and lesser degrees depending on the trade involved. The consequences of these changes are still unfolding.

iii. Project percent complete based on payments to Contractor for work completed

The following table provides a summary of the Contractor’s requests for payment, and the resulting percent complete:

Original Contract Value	72,785,545.00
Change Order 1 – January 2017	367,290.42
Change Order 2 – May 2017	546,722.46
Change Order 3 – August 2017	93,838.31
Change Order 4 – December 2017	162,869.20
Change Order 5 – May 2018	249,828.16
Change Order 6 – December 2018	292,031.11
Change Order 7 – April 2019	169,138.30
Change Order 8 – October 2019	112,659.75
Change Order 9 – May 2020	242,419.68
Contract Value Total	\$75,022,342.39

Payment Application No.	Work Conducted Through	Amount	Payment Application No. (continued)	Work Conducted Through (continued)	Amount	Cumulative Amount	% Complete Based on Contract Value Total
1	09/30/2016	\$1,393,500.00	24	08/31/2018	\$2,351,471.12		
2	10/31/2016	\$2,855,100.00	25	09/30/2018	\$1,402,132.42		
3	11/30/2016	\$1,717,330.09	26	10/31/2018	\$1,382,568.22		
4	12/31/2016	\$1,374,011.19	27	11/30/2018	\$1,655,719.55		
5	01/31/2017	\$1,524,496.35	28	12/31/2018	\$1,409,179.62		
6	02/28/2017	\$1,327,078.04	29	01/31/2019	\$906,134.53		
7	03/31/2017	\$2,767,152.62	30	02/28/2019	\$902,482.79		
8	04/30/2017	\$2,449,209.70	31	03/31/2019	\$1,198,046.56		
9	05/31/2017	\$1,876,920.03	32	04/30/2019	\$1,138,709.83		
10	06/30/2017	\$2,345,659.10	33	05/31/2019	\$990,898.97		
11	07/31/2017	\$2,242,655.50	34	06/30/2019	\$1,112,297.85		
12	08/31/2017	\$4,028,468.63	35	07/31/2019	\$862,001.79		
13	09/30/2017	\$2,757,371.30	36	08/31/2019	\$1,068,359.68		
14	10/31/2017	\$2,306,338.15	37	09/30/2019	\$763,764.66		
15	11/30/2017	\$1,884,478.12	38	10/31/2019	\$1,151,181.27		
16	12/31/2017	\$2,151,295.60	39	11/30/2019	\$1,953,458.46		
17	01/31/2018	\$1,621,113.58	40	12/31/2019	\$1,319,747.16		
18	02/28/2018	\$1,218,795.24	41	01/31/2020	\$260,271.98		
19	03/31/2018	\$1,737,412.52	42	02/29/2020	\$410,670.38		
20	04/30/2018	\$1,546,079.40	43	03/31/2020	\$434,912.44		
21	05/30/2018	\$1,428,583.12	44	04/30/2020	\$727,280.47		
22	06/30/2018	\$2,638,097.36					
23	07/31/2018	\$1,250,957.12	45	05/31/2020	\$471,226.38		
						\$70,314,618.89	93.72%

Project percent complete based on time elapsed

The contract time to the EPA required milestone for the BAF treatment system completion is 1186 calendar days. The total value of the contract (item iii) is based on the City’s contractual milestone for project substantial completion is 1398 calendar days.

The BAF treatment substantial completion was achieved on December 31, 2019. As of May 31, 2020 the project is 95.7% complete based on the project substantial completion date of June 30, 2020. The Contractor’s most recent schedule update showed a project substantial completion date in December 2020. The City is working with the Contractor to review the schedule. Any adjustments to the project substantial completion date will not impact any Consent Decree milestones.

iv. Status of all required permit applications

There are no pending permit applications.

v. **Status of Consent Decree milestones including identifying any problems encountered or anticipated, together with the proposed or implemented solutions**

The construction contract with Methuen Construction Company, Inc. was executed on August 25, 2016. A summary of all milestones required by the Consent Decree Second Modification is provided in the table below.

Milestone	Date	Status
Execute Contract to Construct Upgrades	July 1, 2016 September 1, 2016*	August 25, 2016
Submit Two Additional Milestones for EPA Review and Approval	December 1, 2016	November 29, 2016
Additional Milestone 1: Transfer of the existing SCADA system to the new Headworks Building	November 21, 2017	October 18, 2017
Additional Milestone 2: Startup and testing of the Secondary Influent Pump Station in the new Solids Building	May 9, 2019	May 7, 2019
BAF Substantial Completion	December 1, 2019 December 31, 2019	December 31, 2019**
Achieve Compliance with NPDES Permit Limits	April 1, 2020	April 1, 2020***

* At the request of the City of Portsmouth, all parties agreed that the Contract Execution Date could be revised to September 1, 2016 to allow more time for bidding and to accommodate the Portsmouth City Council’s review of barging alternatives prior to contract execution. The Contractor’s schedule for completion was reduced to accommodate the modified contract execution delay.

** The BAF substantial completion date was extended by approval from the EPA in a letter dated December 9, 2019. Documentation is provided in the December 2019 Monthly Report on Compliance and available online.

*** On May 15, 2020 the City filed its first Discharge Monitoring Report (DMR) for the month of April 2020 with the EPA for the upgraded Peirce Island WWTF establishing compliance with the 2007 NPDES permit limits as required by the Consent Decree. That DMR is attached to April’s monthly construction report to EPA. The City has communicated with EPA regarding the need to reconcile the mass based limits in the 2007 permit with the approved treatment facility design flow. See cover letter to the April 2020 DMR submission for details. The City will continue to report based on the lower limits in the April 10, 2007 NPDES Final Permit as shown in the Discharge Monitoring Report, but reaffirms that reconciliation should be made to correct the discrepancy.

vi. **The monthly average discharge concentrations of total nitrogen for the preceding month, as required in Paragraph 8.b.ii of the Second Modification.**

The average concentration of effluent total nitrogen in the month of May 2020 was 9.5 mg/L TN. The report is attached and was submitted with the City’s Discharge Monitoring Report (DMR) for NPDES Permit NH0100234.

As requested by the EPA, Consent Decree Mitigations, as required in Section IV, Paragraph 8, of the Consent Decree Second Modification, will be outlined in this monthly report.

ATTACHMENT A: A summary of the City's mitigation initiatives is provided detailing the status of each initiative.

ATTACHMENT A1: A summary of the City's commitments to date as required in Paragraph 8.e., Water Quality and Ecosystem Health Project, of the Consent Decree Second Modification.

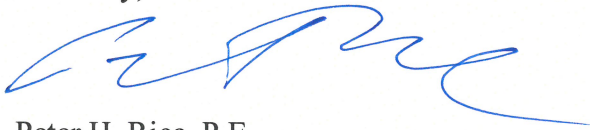
ATTACHMENT A2: Supplemental Compliance Plan Sewer Separation Projects per Consent Decree, Section IV, Paragraph 12.c. On January 24, 2018, EPA, with NHDES concurrence, approved the updated CSO Supplemental Compliance Plan and implementation schedule as contained in the plan.

These monthly construction reports are posted on the City's wastewater website at:
<https://www.cityofportsmouth.com/publicworks/wastewater/resources>

As required by the Consent Decree:

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 the 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. Please contact me at (603) 766-1416 if you have any questions or require additional information.

Sincerely,



Peter H. Rice, P.E.
Director of Public Works

ec: Solanch S. Pastrana-Del Valle, U.S. EPA Region 1
Tracy L. Wood, NHDES Wastewater Engineering Bureau Administrator
Allen Brooks, Esq., Department of Justice, Environmental Protection Bureau Chief
Tonia Bandrowicz, Senior Enforcement Counsel, USEPA Region 1
David Gordon, Esq., U.S. Department of Justice
Tom Irwin, Esq., Conservation Law Foundation
Karen S. Conard, City Manager, City of Portsmouth
Nancy Colbert Puff, Deputy City Manager
Suzanne Woodland, Deputy City Attorney
Brian Goetz, Deputy Director of Public Works
Terry Desmarais, City Engineer

ATTACHMENT A: MITIGATION

This document summarizes the City’s mitigation initiatives as required in Section IV, Paragraph 8, of the Consent Decree Second Modification.

- a) Interim Enhanced Primary Treatment: Perform full scale piloting of alternative coagulant chemicals to see if settling performance can be improved.

<i>Current Status:</i>	<i>Completed:</i>
COMPLETED	JANUARY 9, 2018
<i>Comments:</i>	
EPA issued letter of approval to the City on January 9, 2018. Documents are available on the City’s wastewater and sewer webpage: https://www.cityofportsmouth.com/publicworks/wastewater/resources	

- b) Nitrogen Removal: For a five-year period, commencing June 1, 2020 achieve specific seasonal average total nitrogen effluent concentrations and monthly average total nitrogen effluent concentrations for the Peirce Island WWTF with the upgrade.

<i>Current Status:</i>	<i>Anticipated Completion Date:</i>
TREATMENT FACILITY IN STARTUP	ONGOING
<i>Comments:</i>	
Biological Aerated Filter (BAF) is in operation and growth of microorganisms that remove nitrogen is underway. Nitrification is occurring and denitrification is nearly complete. There were some indications of incomplete denitrification in late May but it is not anticipated to impact compliance for the month of June. Effluent nitrogen was 9.5 mg/L for the month of May 2020.	

- c) Stormwater Project: The City will implement a green infrastructure project(s) using innovative low-impact development approaches to significantly reduce stormwater pollution from one or more existing sites. Cost of project will be \$500,000.

<i>Current Status:</i>	<i>Anticipated Completion Date:</i>
BIDS RECEIVED	DECEMBER 31, 2020
<i>Comments:</i>	
The project was advertised for bid on April 25, 2020 and bids were received May 19, 2020. The contract was awarded to Quirk and a pre-construction meeting will be held in June.	

- d) Sagamore Avenue Sewer Extension Project: Implement a sewer extension project to provide public sewer service to approximately 83 existing parcels adjacent to or near Sagamore Avenue with the intent to improve water quality in Sagamore Creek.

<i>Current Status:</i>	<i>Anticipated Completion Date:</i>
FINAL DESIGN	TO BE DETERMINED
<i>Comments:</i>	
<p>Design engineering is underway. Design progress has been slowed and the City has requested an extension of time from EPA to commence construction. This time is necessary in order to get additional community input on the scope and costs of the project and due to the challenges of holding virtual public meetings during the COVID-19 pandemic.</p> <p>City staff prepared a survey for property owners to determine how many properties would connect to the sewer at the time of construction and to better understand existing conditions. Survey results are being analyzed and a memo is being drafted to present to the City Council. This information will be helpful as the City Council considers project costs and cost apportionment. Staff anticipates holding a work session with the City Council in July or August 2020.</p>	

- e) Water Quality and Ecosystem Health Project:

<i>Current Status:</i>	<i>Anticipated Completion Date:</i>
ONGOING	N/A
<i>Comments:</i>	
<p>The City of Portsmouth has continued to coordinate with members of Great Bay 2020 and CLF regarding funding commitments for 2020. Expenditures and the current list of commitments are documented on Attachment A1.</p> <p>ATTACHMENT A1 details financial commitments.</p>	

ATTACHMENT A1: WATER QUALITY AND ECOSYSTEM HEALTH PROJECTS

This document summarizes payments made for the City's obligations under the Consent Decree Second Modified (No. 09-cv-283-PB), Paragraph 8.e. This item requires a contribution of \$500,000 over a period of five years to support water quality and ecosystem health efforts related to the Great Bay Estuary.

Projects	Vendor/Agent	Status	Payment Date	Payment Total
Great Bay Monitoring Collaborative	UNH	Paid	08/17/2016	5,000.00
Sagamore Creek water quality monitoring project	FB Environmental Assoc.	Executed 08/21/2017	Monthly Invoicing	47,798.00
Sagamore Creek VRAP water quality samples	CLF / VRAP / NH Public Health Labs	Paid	02/13/2018	261.00
Teachers on the Estuary (TOTE)	Great Bay Stewards	Paid	09/15/2017	7,000.00
Public outreach/education work	The Nature Conservancy (TNC)	Paid	09/15/2017	14,000.00
Oyster Shell Recycling	CCA NH	Paid	10/20/2017	4,000.00
Great Bay Estuary Monitoring Support	UNH Sponsored Programs Admin	Paid	09/15/2017	6,000.00
Oyster Larval Study: larval supply natural spat recruitment	UNH	Paid	05/24/2018	8,000.00
2018 Sagamore Creek water quality monitoring sampling (includes laboratory fees)	FB Environmental Assoc.	Executed 06/19/2018	Intermittent Invoicing	64,164.67
Data Sonde purchase for Piscataqua Region Monitoring Collaborative	UNH	Paid	06/27/2018	20,000.00
Teachers on the Estuary (TOTE)	Great Bay Stewards	Paid	07/26/2018	7,500.00
Connect The Coast	The Nature Conservancy (TNC)	Paid	08/23/2018	11,000.00
Great Bay Estuary clean-up events facilitated by Waterkeeper	Great Bay Stewards	Paid	08/30/2018	4,500.00
Soak Up the Rain initiative (DES, Waterkeeper, Great Bay Stewards)	Great Bay Stewards	Paid	08/30/2018	6,000.00
SeagrassNet	UNH PREP (Piscataqua Region Estuaries Partnership)	Paid	01/07/2019	30,000.00
2019 Sagamore Creek water quality monitoring project (includes laboratory fees)	FB Environmental Assoc.	Executed 05/07/2019	Intermittent Invoicing	64,590.00
Teachers on the Estuary (TOTE)	Great Bay Stewards	Paid	04/24/2019	7,500.00
Comprehensive Coastal Conservation Plan	The Nature Conservancy (TNC)	Paid	10/22/2019	10,000.00
Citizen Science Seaweed Monitoring	UNH PREP (Piscataqua Region Estuaries Partnership)	Paid	05/14/2019	7,500.00
Middle/High School Estuary Intensive	Great Bay Stewards	Paid	05/02/2019	4,000.00
Oyster Restoration Program	The Nature Conservancy (TNC)	Paid	04/02/2020	10,000.00
SeagrassNet 2020	UNH PREP (Piscataqua Region Estuaries Partnership)	Paid	04/02/2020	20,000.00
TOTAL				\$ 358,813.67

ATTACHMENT A2: SEWER SEPARATION PROJECTS

This document identifies and summarizes six sewer separation projects and one infiltration and inflow project (Contract #1) approved by the EPA in a letter to the City dated January 24, 2018. EPA, with NHDES concurrence, approved the updated CSO Supplemental Compliance Plan and implementation schedule as contained in the plan. The City shall:

- complete the six sewer separation projects and the Contract No. 1 wastewater collection system rehabilitation projects by no later than October 2023;
- complete the LTCP update by no later than October 2025; and
- provide project status on all seven projects as part of the monthly reports on compliance it will be submitting pursuant to Paragraph 6.a. of the Consent Decree Second Modification.

1. FLEET STREET: COURT ST TO HANOVER ST & PORTIONS OF ADJACENT STREETS

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
FLEET ST	PRELIMINARY DESIGN	TBD
<i>Comments:</i>		
Survey is complete. Preliminary design is underway. Public project kickoff meeting tentatively scheduled for mid-July, 2020. Geotechnical borings have been postponed until the fall due to conflicts with the implementation of COVID-19 related outdoor dining in the downtown. A draft letter to private building owners in the separation area is under review. Various other aspects of public outreach are in development. This includes a project webpage, presentation, press release, contact list, and flyers.		

2. PLEASANT STREET: AT THE INTERSECTION WITH COURT ST

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
PLEASANT ST	COMPLETED	NOVEMBER 2018

3. MCDONOUGH PHASE 3B: MCDONOUGH STREET FROM CORNWALL ST TO BREWSTER ST & LANGDON ST

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
MCDONOUGH PH 3B	COMPLETED	JUNE 2019

4. ISLINGTON STREET PHASE 1: COLUMBIA ST TO ROUTE 1 BYPASS OVERPASS

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
ISLINGTON ST PH 1	CONSTRUCTION	2020
<i>Comments:</i>		
<p>Construction has resumed and is anticipated to be complete by the Fall of 2020. Sewer, water, and drain reconstruction between Aldrich Road and the Route 1 Bypass is underway. Roadway reconstruction is following behind utility construction.</p> <p>Portions of the work originally anticipated to be completed under this contract will be re-bid. The City will reassess completion dates for this work as part of the re-bidding process.</p>		

5. MAPLEWOOD AVENUE: AT FAIRVIEW DR

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
MAPLEWOOD AVE	COMPLETED	MAY 2019

6. UNION STREET: MIDDLE ST TO STATE ST & SECTIONS OF COFFINS COURT & AUSTIN ST

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
UNION ST	ENGINEERING RFP IN DRAFT	TBD
<i>Comments:</i>		
<p>Design Phase Engineering Services RFP is in draft and will be advertised as soon as possible. The project design scope has expanded to include sewer separation in the Willard Avenue area.</p>		

7. SEWER REHABILITATION PROJECT

<i>Project Name:</i>	<i>Current Status: (phase of work)</i>	<i>Anticipated Construction Completion Date:</i>
CONTRACT NO. 1	DESIGN	TBD
<i>Comments:</i>		
<p>The final design plans are being prepared and finalized by the consultant. The bidding of the project is being put on hold due to budget cutbacks related to COVID-19. The work is still programmed to be completed by October 2023.</p>		

**Peirce Island Effluent Nitrogen
May 2020**

Date	Effluent Flow MGD	Effluent Ammonia as N mg/l	Effluent Nitrite/Nitrate- N mg/l	Effluent TKN mg/l	Total Nitrogen mg/l
5/1/2020	7.43				
5/2/2020	6.03				
5/3/2020	5.27				
5/4/2020	5.13				
5/5/2020	4.74				
5/6/2020	4.47	2.50	6.60	3.30	9.90
5/7/2020	4.40	2.20	6.20	3.10	9.30
5/8/2020	4.38				
5/9/2020	4.71				
5/10/2020	3.86				
5/11/2020	4.05				
5/12/2020	3.85				
5/13/2020	3.52	1.30	4.60	2.00	6.60
5/14/2020	3.37	0.70	6.90	1.70	8.60
5/15/2020	3.65				
5/16/2020	3.83				
5/17/2020	3.27				
5/18/2020	3.33				
5/19/2020	3.23				
5/20/2020	3.12	1.40	4.60	2.90	7.50
5/21/2020	3.05	1.10	5.70	2.40	8.10
5/22/2020	3.00				
5/23/2020	3.09				
5/24/2020	2.76				
5/25/2020	2.66				
5/26/2020	3.04				
5/27/2020	2.79	2.00	9.50	3.10	12.60
5/28/2020	2.97	2.50	9.40	3.60	13.00
5/29/2020	2.82				
5/30/2020	2.75				
5/31/2020	2.53				
Minimum	2.53	0.7	4.6	1.7	6.6
Maximum	7.43	2.5	9.5	3.6	13.0
Average	3.78	1.7	6.7	2.8	9.5