



PUBLIC WORKS DEPARTMENT

CITY OF PORTSMOUTH

680 Peverly Hill Road
Portsmouth N.H. 03801
(603) 427-1530 FAX (603) 427-1539

October 28, 2016

Mark Pollins
Director of Water Enforcement
U.S. Environmental Protection Agency
Room # 3142
USEPA Ariel Rios Building (AR)
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20004

Re: Consent Decree 09-cv-283-PB
Monthly Reports on Compliance
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 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, and Second 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 September 2016 is as follows:

- Equipment procurement
- Subcontractor procurement
- Shop drawing submittals and review
- On-site work commenced the first week of October

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

Projected work to be completed by the Contractor in the month of October 2016 includes the following:

- Mobilization of equipment and materials
- Installation of traffic control and signage
- Modification to the Strawberry Banke parking lot for large vehicle exit
- Modifications to the curb radius at the intersection of Mechanic Street and Marcy Street
- Installation of pedestrian safety fencing along Mechanic Street and Peirce Island Road
- Installation of temporary construction fencing, erosion control and other permit related requirements
- Delivery of temporary construction trailers and installation of temporary facilities
- Probing and blasting for rock excavation

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

The contract value for the construction upgrade is \$72,785,545. The following table provides a summary of the contractor's requests for payment and the resulting percent complete:

Payment Application No.	Amount	Cumulative Amount	Percent Complete
1	\$1,393,500.00	1,393,500.00	1.9%

iv. 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 1368 calendar days. The project is 2.5% percent complete based on the BAF treatment system completion as of September 30, 2016 and 2.2% percent complete based on project substantial completion.

v. Status of all required permit applications

The City of Portsmouth and the Contractor submitted Notice of Intents to the Environmental Protection Agency related to the Construction General Permit prior to the commencement of on-site construction work. The City of Portsmouth coordinated with the New Hampshire Department of Historic Preservation and the EPA for a minor modification to the Memorandum of Agreement for mitigation of impact to historic resource for this project. This included an approved change in the protection being provided in the Strawberry Banke parking lot from steel plates to pavement. There are no pending permit applications.

vi. 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 and a Notice to Proceed issued for the Contractor to begin on September 1, 2016. A summary of the milestones required by the Consent Decree Second Modification is provided below.

Milestone	Date	Status
Execute a Contract to Construct Upgrades	July 1, 2016 September 1, 2016*	Complete
Submit Two Additional Milestones for EPA Review and Approval	December 1, 2016	Pending
Additional Milestone 1 to be Determined	To be Determined	Pending
Additional Milestone 1 to be Determined	To be Determined	Pending
BAF Substantial Completion	December 1, 2019	On Schedule
Achieve Compliance with NPDES Permit Limits	April 1, 2020	On Schedule

*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 bargaining alternatives prior to contract execution. The Contractor’s schedule for completion was reduced to accommodate the modified contract execution delay.

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 City of Portsmouth has previously been required to test for influent and effluent nitrogen twice monthly. The average concentration of effluent total nitrogen in the month of September 2016 based on that information (2 samples total) was 39.1 mg/L TN. The

City requested clarification on this item. The City will adjust testing in October and November for this requirement based on EPA's input.

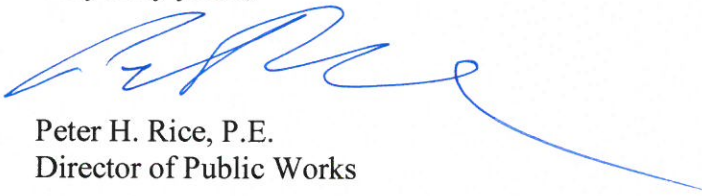
These Construction Monthly Reports are being posted on the City's wastewater web site at <http://www.portsmouthwastewater.com/resources.html>.

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.

Very truly yours,



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

By email except where otherwise noted.

cc: Chief, Environmental Enforcement Section (mail)
Joy Hilton, USEPA Region 1
Tracy L. Wood, P.E., NHDES Wastewater Engineering Bureau
Allen Brooks, Esq., Department of Justice, Chief Environmental Protection Bureau
Tonia Bandrowicz, Senior Enforcement Counsel, U.S. EPA
David Gordon, Esq., U.S. Department of Justice
Tom Irwin, Esq. Conservation Law Foundation
John P. Bohenko, City Manager, City of Portsmouth
Suzanne Woodland, Deputy City Attorney
Nancy Colbert-Puff, Deputy City Manager
Brian Goetz, Deputy Director of Public Works
Terry Desmarais, City Engineer
Donald Song, Wastewater Project Manager