



PUBLIC WORKS DEPARTMENT

CITY OF PORTSMOUTH

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VIA EMAIL

April 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 March 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 **March 2020** is as follows:

- Completed manufacturer's checkout and load testing of hoists in the BAF Building
- Completed selective demolition of structures and repair of deteriorated concrete in the existing Sludge Processing Building
- Completed concrete beam and column repair in the existing Sludge Processing Building (new Operations/Lab Building) lower level
- Completed final cleaning and sandblasting waste removal from Gravity Thickener No. 1 and placed the thickener in service

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

Ongoing work by the Contractor through the month of **April 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 handrail and pipe support installation for Gravity Thickener No. 2
- Continue PCB encapsulation in the existing Sludge Processing Building (new Operations/Lab Building) lower level
- Begin structural steel baseplate installation on the first floor of the Operations/Lab Building
- Continue construction of the brick shelf for the Operations/Lab Building brick façade.
- Continue construction of ramps and stairs at the Operations/Lab Building
- Begin saw cutting/demolition for the installation of the sump at the Mechanical Room in the existing Sludge Processing Building (new Operations/Lab Building) lower level
- Begin installation of waterproofing membrane and rigid insulation on the upper level of the Operations/Lab Building
- Begin final grading, landscaping, and installation of the vegetated maintenance corridor
- Begin replacement of the exterior fencing

Important Note – The above list represents work that was scheduled for April 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 **April 2020** includes the following:

- Complete odor control pipe support installation for Gravity Thickener No. 2
- Complete installation of the sump at the Mechanical Room in the existing Sludge Processing Building (new Operations/Lab Building) lower level
- Complete application of liquid hardener on the floors in the BAF Building
- Complete installation of perimeter handrails on Gravity Thickener No. 2
- Complete installation of the waterproofing membrane and rigid insulation on the upper level of the Operations/Lab Building

Important Note – The above list represents work that was scheduled for April 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
Contract Value Total	\$74,779,922.71

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	23	07/31/2018	\$1,250,957.12		
2	10/31/2016	\$2,855,100.00	24	08/31/2018	\$2,351,471.12		
3	11/30/2016	\$1,717,330.09	25	09/30/2018	\$1,402,132.42		
4	12/31/2016	\$1,374,011.19	26	10/31/2018	\$1,382,568.22		
5	01/31/2017	\$1,524,496.35	27	11/30/2018	\$1,655,719.55		
6	02/28/2017	\$1,327,078.04	28	12/31/2018	\$1,409,179.62		
7	03/31/2017	\$2,767,152.62	29	01/31/2019	\$906,134.53		
8	04/30/2017	\$2,449,209.70	30	02/28/2019	\$902,482.79		
9	05/31/2017	\$1,876,920.03	31	03/31/2019	\$1,198,046.56		
10	06/30/2017	\$2,345,659.10	32	04/30/2019	\$1,138,709.83		
11	07/31/2017	\$2,242,655.50	33	05/31/2019	\$990,898.97		
12	08/31/2017	\$4,028,468.63	34	06/30/2019	\$1,112,297.85		
13	09/30/2017	\$2,757,371.30	35	07/31/2019	\$862,001.79		
14	10/31/2017	\$2,306,338.15	36	08/31/2019	\$1,068,359.68		
15	11/30/2017	\$1,884,478.12	37	09/30/2019	\$763,764.66		
16	12/31/2017	\$2,151,295.60	38	10/31/2019	\$1,151,181.27		
17	01/31/2018	\$1,621,113.58	39	11/30/2019	\$1,953,458.46		
18	02/28/2018	\$1,218,795.24	40	12/31/2019	\$1,319,747.16		
19	03/31/2018	\$1,737,412.52	41	01/31/2020	\$260,271.98		
20	04/30/2018	\$1,546,079.40	42	02/29/2020	\$410,670.38		
21	05/30/2018	\$1,428,583.12					
22	06/30/2018	\$2,638,097.36	43	03/31/2020	\$434,912.44		
						\$69,116,112.04	92.43%

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 March 31, 2020 the project is 91.3% 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	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 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.

Webpage: <https://www.cityofportsmouth.com/publicworks/wastewater/resources>

Report: <http://files.cityofportsmouth.com/files/ww/2019/wwepadec2019rpt.pdf>

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 March 2020 was 16.1 mg/L TN. See attached report on page 13, which 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,

A handwritten signature in dark ink, appearing to read 'Peter H. Rice', with a stylized, flowing script.

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

cc: 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 microorganism that remove nitrogen is underway. Nitrification is occurring and the results will be reported for the month of June 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>
ONGOING	DECEMBER 31, 2020
<i>Comments:</i>	
The project to construct the regional stormwater treatment system, which includes the construction of the Multi-Purpose Athletic Fields, was brought before the City Council on March 3rd for approval to move forward with bidding the project. The design team met with Dr. Thomas Ballesterio to review the final design of the two regional stormwater treatment units and incorporate final details as provided by Dr. Ballesterio. The bulk of the month was spent preparing the final design plans and specification documents in preparation for bid advertisement in April and bid opening in May.	
Department of Public Works Crews also did clearing and tree removal work in the areas of the culvert inlets and outlets in preparation for pre-construction water quality sampling.	

- 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>	
Design engineering is underway. Design progress has been slowed due to need for City Council action which has been delayed. The City has requested an extension of time from EPA to commence construction due to the delay in getting final approval from the City Council on various project elements.	

- e) Water Quality and Ecosystem Health Project:

<i>Current Status:</i>	<i>Anticipated Completion Date:</i>
ONGOING	N/A
<i>Comments:</i>	
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.	
ATTACHMENT A1 details financial commitments.	

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)	Pending		10,000.00
SeagrassNet 2020	UNH PREP (Piscataqua Region Estuaries Partnership)	Pending		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>		
Preliminary design underway. Upcoming tasks include a public project kickoff meeting, survey and geotechnical borings. The City plans to reach out to private building owners to begin coordinating plumbing inspections of buildings with flat roofs in the separation area.		

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>		
Severino Trucking is currently under contract to construct the base bid portion of the project, which extends from the intersection with Route 1 Bypass to the intersection of Bartlett Street. Construction has resumed, and is anticipated to be complete by the Fall of 2020.		
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.		

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>		
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.		

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>		
The 60% preliminary design plans have been reviewed by staff and work is progressing toward putting together the final design plans and bid package. Environmental permitting is underway.		

**Peirce Island Effluent Nitrogen
March 2020**

Date	1003 Inf Flow MGD	99959 Effluent Ammonia as N mg/l	99960 Effluent Nitrite/Nitrate- N mg/l	99961 Effluent TKN mg/l	99962 Total Nitrogen mg/l
3/1/2020	4.72				
3/2/2020	4.50				
3/3/2020	4.31	17.0	1.0	15.0	16.0
3/4/2020	4.25	14.0	1.0	16.0	17.0
3/5/2020	3.94				
3/6/2020	3.97				
3/7/2020	4.11				
3/8/2020	3.86				
3/9/2020	3.87				
3/10/2020	3.91	17.0	1.0	17.0	18.0
3/11/2020	3.78	19.0	1.0	17.0	18.0
3/12/2020	3.68				
3/13/2020	4.48				
3/14/2020	3.74				
3/15/2020	3.52				
3/16/2020	3.44				
3/17/2020	3.41	20.0	1.0	18.0	19.0
3/18/2020	3.23	24.0	1.0	18.0	19.0
3/19/2020	4.10				
3/20/2020	4.08				
3/21/2020	3.69				
3/22/2020	3.52				
3/23/2020	3.87				
3/24/2020	7.11	9.9	1.0	11.0	12.0
3/25/2020	6.30	8.4	1.0	8.5	9.5
3/26/2020	5.78				
3/27/2020	5.20				
3/28/2020	4.67				
3/29/2020	5.33				
3/30/2020	5.78				
3/31/2020	5.38				
Minimum	3.23	8.4	1.0	8.5	9.5
Maximum	7.11	24.0	1.0	18.0	19.0
Average	4.37	16.2	1.0	15.1	16.1