



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 1 2015

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: Public Interest Waiver of American Iron and Steel Requirements to the Butte-Silver Bow County, Montana for Transition Couplings

FROM: Andrew D. Sawyers, Director
Office of Wastewater Management

A handwritten signature in dark ink, appearing to read "A. Sawyers", written over the printed name and title.

The EPA is hereby granting a public interest waiver pursuant to the “American Iron and Steel” requirements of the Clean Water Act Section 608 under the authority of Section 608(c)(1) to Butte-Silver Bow County, Montana for the purchase of non-domestic 30-inch reinforced concrete pipe transition couplings. This waiver permits the use of these transition couplings manufactured outside of the United States in Butte-Silver Bow’s Wastewater Treatment Plant Phase 2 MBR Upgrades project. This is a project specific waiver and only applies to the use of the specified product for the proposed project funded by the Clean Water State Revolving Fund. Any other project funded by either the Clean Water or Drinking Water State Revolving Fund that wishes to use the same product must apply for a separate waiver based on the specific project circumstances.

Rationale: According to Section 608 of the Clean Water Act, CWSRF assistance recipients must use specific domestic iron and steel products that are produced in the United States if the project is funded through the SRFs. EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in Section 608(c)(1) of the Clean Water Act. The provision states that, “[the requirements] shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency...finds that – (1) applying [the requirements] would be inconsistent with the public interest.”

In October 2014, Butte-Silver Bow County installed three non-domestic 30-inch reinforced pipe transition couplings as part of its Wastewater Treatment Plant Phase 2 MBR Upgrades project. These transition couplings were needed to join new PVC pipe to the existing process pipe at the wastewater treatment facility. After commencing construction the contractor unexpectedly discovered three locations where the buried, existing piping was reinforced concrete pipe instead of ductile iron pipe, as was shown on record drawings from design work completed in 1977. This mid-project change in conditions required the contractor to promptly order new transition couplings to join the existing reinforced concrete pipe to the new PVC pipe.

The County had to order the new transition coupling quickly because of a complex and tight construction schedule. The wastewater treatment plant project is sited adjacent to the Montana Pole and Treating Plant NPL Superfund site. Prior to beginning construction, Butte-Silver Bow County reached an agreement with the EPA and the Montana Department of Environmental



Quality to prevent the construction activities from impacting the Superfund site remedy. A critical element of the agreement was the limit on the duration, volume and seasonal timeframe of any dewatering activities associated with construction. The project was limited to no more than six consecutive months of dewatering and no dewatering could occur during the months of May and June. When the contractor discovered the reinforced concrete pipe during an early stage of project construction, the project engineer attempted to find domestic transition couplings. The project engineer learned that the shortest timeframe that a domestic manufacturer could deliver the transition couplings to the project site was five to seven weeks compared to a two week delivery time for non-domestic transition couplings. Since the installation of the couplings was an unexpected, yet early element of the project critical path, and due to the seasonal dewatering restrictions, the County could not accommodate the five to seven week delivery time for the domestic transition couplings without resulting in a significant delay in the project schedule. With permission from MDEQ, the project engineer ordered the non-domestic transition couplings.

The project engineer applied for a public interest waiver from the AIS requirements on behalf of Butte-Silver Bow County for the use of a non-domestic transition couplings, citing public interest concerns as justification for the waiver. The five to seven week delivery time for the domestic couplings would have delayed construction activities and the dewatering work would not have been completed in the six month window. If the subsurface work requiring dewatering was not complete in six months, unfinished work, including the below grade piping and unfinished structural work, would have been inundated once the pumps were turned off, which may have resulted in permanent damage requiring mitigation. In addition, per the agreement with the EPA and MDEQ, no dewatering could take place during the months of May and June. By losing two months of construction activity on the critical path, plus time needed to mitigate flooding damage and subsequent dewatering restrictions, the estimated project completion date would have been delayed a total of six to eight months. This delay could impact water quality by placing effluent quality compliance into jeopardy.

The EPA conducted market research and solicited public comments on the supply and availability of transition couplings. EPA's market research indicated that there may be domestic alternatives that meet the project's specifications, however the research conclusions are based on availability today, rather than in September 2014, when the couplings were needed. EPA finds that the research conducted by the project engineer appears thorough for the timing of the order and schedule. While there may be domestic alternatives that meet the project's specifications, the applicant has provided sufficient evidence that the couplings needed to be ordered quickly due to unforeseen circumstances during project construction, and waiting for delivery of the domestic couplings would have delayed the project significantly and would not be in the public's interest. The EPA is hereby granting a waiver from the AIS requirements to Butte-Silver Bow County. This waiver permits the purchase of the specified non-domestic transition couplings documented in the state of Montana's waiver request submittal on behalf of the applicant dated July 31, 2015.

If you have any questions concerning the contents of this memorandum, please contact Timothy Connor, Chemical Engineer, Municipal Support Division, at connor.timothy@epa.gov or (202) 566-1059.