

May 22, 2017

Mr. Eric Blatt, PE, Director
Facilities Engineering Division
Water Infrastructure Finance Programs
1 National Life Drive, Main 1
Montpelier, Vermont 05620

Re: American Iron & Steel Public Interest Waiver Request, Rock Island WWTF Refurbishment Project

Dear Director Blatt:

The Village of Derby Line Board of Trustees formally requests a Public Interest Waiver from the American Iron and Steel (AIS) requirements on behalf of the Village of Derby Line, Vermont as it relates to Clean Water State Revolving Fund financing for their portion of a refurbishment project located entirely within Canada.

The small, economically disadvantaged community in northern Vermont's Orleans county has pumped their wastewater across the international border to Stanstead/Rock Island, Quebec for treatment in their wastewater treatment facility (WWTF) for over 35 years. There is an existing intermunicipal agreement in place that requires the Village to pay for a share of the first major WWTF upgrade in decades. Due to the construction being located wholly outside of the United States and the serious repercussions of nonparticipation in the agreement to fund a portion of the upgrades, it is this office's assertion that the AIS requirements are impractical and prohibitive.

General Background:

In 1980, the Village entered into an intermunicipal agreement with Stanstead, Quebec in which the Village became equal partners of the Canadian infrastructure including funding approximately half of the wastewater treatment facility (WWTF). This agreement stated that Derby Line would be responsible for a portion of any future maintenance, upgrade, or expansion costs associated with their utilization of the WWTF. In November 2016, Stanstead presented the Village with a copy of their Preliminary Engineering Report (PER) and a request that the Village finance 50% of the upcoming costs.

| Total Project Cost Canadian Dollars | Derby Line Share Canadian Dollars | Derby Line Share American Dollars |
|--|--------------------------------------|--|
| \$3.2MC | \$1.6MC | \$1.2MA (based on 1.37 exchange rate) |

From [PER](#)

The Village is located on the international border with Canada and is contiguous with the Rock Island community in the Town of Stanstead, Quebec, Canada.

In the 1970s the Village needed to address its own wastewater problems. The village performed several feasibility studies. One study involved determining if it was feasible and cost effective to connect to the nearby Newport Wastewater Treatment Facility and another study was conducted regarding the connection to the Rock Island WWTF, in Stanstead, Quebec. At that time, it was determined that the most cost effective option was to connect to and expand the Rock Island WWTF to handle the increased flows. The assistance provided for these studies is shown in the table below. The Derby Line collection system and the Village's proportionate share of the Canadian WWTF upgrades were funded by Vermont grants and EPA in the 1979/1980 timeframe under EPA's Construction Grants Program.

| Assistance Number, Year | Project Name | Amount |
|--------------------------|-------------------------------|--------------|
| EPA-PC-151, 1974 | WWCS & Rock Island Connection | \$45,880.00 |
| EPA-PC-197T, 1978 | WWCS & Newport Connection | \$46,325.01 |
| EPA-RPC-004, 1982 | | \$1,834.00 |
| VT-161, 1981 | WWCS & Rock Island | \$234,299.65 |
| 500134010, 1982 | Derby Line WWTF Final Design | \$63,569 |
| 500134020 | Derby Line WWTF Construction | \$990,842 |

VT CWSRF LGTS

The Rock Island WWTF discharges to the Tomifobia River, which is partially located in Derby Line with the watershed including parts of the Vermont towns of Derby Line, Holland, and Norton. The Tomifobia drains to the North into Lake Massawippi and eventually to the Saint Lawrence Seaway.



Tomifobia River wending back and forth across the border, Apple Maps.

Refurbishment Project Description:

The Rock Island WWTF is a 1.09 MGD activated sludge wastewater treatment plant with aerated digesters. It was last fully upgraded in the 1980s with the original project to connect Derby Line. The facility is now in very poor condition with substantial portions of equipment abandoned in place. Due to problems with the flow metering and reporting, it is not clear if the facility is meeting its discharge limits or not. The Province of Quebec is requiring that the facility refurbishment project be completed by March 2018. Stanstead will not be able to meet that deadline and officials are currently seeking a 1 year extension from their regulators.



Rock Island WWTF, Apple Maps.

Stanstead hired an engineering consultant to do a Preliminary Engineering Report. This report recommends a refurbishment project at the cost of \$3.2Million Canadian (MC). Derby Line's share of that upgrade is \$1.6MC. This work does not include a phosphorus upgrade to the WWTF and in July of 2017 the Province of Quebec has indicated that the total phosphorus limit will be reduced to 0.3 mg/L to help reduce phosphorus going to Lake Massawippi. Based on a DEC report on this issue, we believe that adding phosphorus removal might add \$3Million American (MA) of additional project cost, for a potential total project share cost of \$3.1MA. We are awaiting clarification from Stanstead on this issue.

The refurbishment project is modest in scope, adding only those things that are required for proper operation and maintenance and to meet new discharge requirements.

Proposed Project Schedule:

| Step* | Schedule |
|--|---|
| Step 1 End: Draft PER out for comment | November 2016 |
| Step 2 Start: Design Engineer Selected | May/June 2017 |
| Step 3 Start: Start Construction | Spring 2018 |
| Step 3 End: Completion Date | March 2019, assumes Quebec Government deadline extended on year |

*CWSRF projects in Vermont are done in a three step system: Step 1 is planning and results in a PER, Step 2 is Final Design and results in construction plans and specifications, Step 3 is construction and results in the built project.

Hardships:

Derby Line has many of the hardship criteria that are examined for affordability in the CWSRF program: population loss, joblessness, and low Median Household Income (MHI).

Since the original project was built, the Village has seen an increasing decline in population.

| YEAR | US CENSUS DATA | PERCENT CHANGE |
|------|----------------|----------------|
| 1970 | 834 | -1.8% |
| 1980 | 874 | 4.8% |
| 1990 | 855 | -2.2% |
| 2000 | 776 | -9.2% |
| 2010 | 673 | -13.3% |

Derby Line Village is located in Orleans County, which historically has an unemployment rate that is substantially higher than the state unemployment rate. Derby Line, by the more recent data has a higher unemployment rate than the County.

| YEAR | STATE UNEMPLOYMENT RATE | ORLEANS CO. UNEMPLOYMENT RATE |
|------|-------------------------------|-------------------------------------|
| 1976 | 8.3% | UNAVAILABLE |
| 1980 | 6.2% | UNAVAILABLE |
| 1990 | 5.0% | 7.7% |
| 2000 | 2.8% | 4.4% |
| 2010 | 6.1% | 8.9% |
| 2016 | 3.3% | 5.1% |

<http://www.vtmi.info/detftp.htm>

Orleans County, including Derby Line, often have Median Household Incomes substantially less than the statewide average median household income (SMHI).

| YEAR (SOURCE) | STATEWIDE MHI | LOCAL MHI | PERCENT OF SWMHI |
|-------------------|---------------|-----------|------------------|
| 2010 (ACS) | \$55,307 | \$45,096 | -18% |
| 2013 (ACS) | \$57,519 | \$46,900 | -18% |

American Community Survey

There are 303 residential sewer connections and 128 non-residential connections. The existing user rate is \$368 per household per year. The Median Household Income, according to American Community Survey is \$46,900. Two percent of this MHI is \$938 per year.

The estimated new user rate will be \$481 per household per year, if they proceed with the project at Stanstead under the CWSRF program and it stays on budget and on schedule. By contrast, if they need to seek alternative funding through a competitive lender, the rate would likely be \$600 per year --or more, considering that interest rates are rising. USEPA considers both of these rates to be affordable, based on their affordability definition of 2% of MHI, however, struggling Vermont families would still be hit with a 63% increase in sewer rates and by definition half of all households make less than the MHI. It should also be noted that project costs are based on current currency conversion and can fluctuate by a significant amount based on the strength or weakness of the US dollar. As such, the community expects the needs may be significantly higher and are bonding for a higher amount than the \$1.3MA to account for this unknown variable.

Alternatives:

There are no other options that are cost effective. Derby Line Village is located in the Town of Derby. The Derby Town area that has a sewer collection system is connected to the Newport City WWTF. The Town of Derby is running out of sewer allocation capacity and currently are considering a planning loan from the CWSRF around that issue. It would, therefore, not be possible for additional connections to be added to the Town of Derby wastewater collection system.

As previously stated, the population has decreased significantly over the past decades and does not have the user base to support the construction of their own WWTF. To further complicate this alternative, it would be nearly impossible to get an additional direct discharge permit to the Tomifobia which is so close to the Rock Island waste management zone.

The Quebec government will not utilize AIS requirements as they have their own imperative within Canada to utilize national products to promote employment and manufacturing.

According to a [2015 article](#) in the Daily Commercial News, *"The steel industry in Quebec employs about 17,000 people in more than 1100 companies operating in the Fabrication and Erection industries. This represents 3.8 per cent of the manufacturing sector."*

If the Village is able to secure funding through the Vermont CWSRF through this waiver, they will have access to low administrative rate (2%) and no interest spread out over 20 years. In addition, due to the economic hardship of this project, the Village would likely qualify for up to \$500,000

in principal loan forgiveness. If this waiver is not granted and they are forced to go to traditional financing, the interest rates fluctuate based on market rate but will likely be between 4-5% with no forgiveness.

Two Towns, One Community:

Rock Island and Derby Line are one community sharing many resources. Businesses, homes, and neighborhoods span the border with some neighbors on one side living in Canada and other neighbors in Vermont. They share a Library and performing arts space called the [Haskell Free Library and Opera House](#), which is also located directly on the border.



Derby Line and Stanstead as shown by Google Maps


Summary:

In the 1980s when this project was originally funded by the Construction Grants (CG) program of EPA, there was a “Buy American” provision at the time that required preference of American products, components, and iron & steel on all projects funded by the grants awarded to recipients under the program. The determination was made by EPA staff at that time that there was no legal way to enforce an American requirement on foreign soil, and thus, no legal way to apply the provision to the work performed in Canada. This logic was very practical and prioritized the public health of the community and the environment over legal semantics. We assert that the logic applied by the EPA in 1980 still applies to the current manifestation of AIS.

One of the determining factors to grant a Public Interest Waiver is if application of these requirements would be inconsistent with public interest. From the Village of Derby Line’s perspective, inability to utilize CWSRF funds adds hundreds of thousands in additional interest and lost subsidy, increases rates by more than 50% in an impoverished community with high population decline and comparatively higher unemployment and places in jeopardy their ability to comply with the 1980 agreement to fund their portion of WWTF costs. This agreement has functioned smoothly and enjoyed an effective partnership for over 35 years and has benefited

the American public by this cost effective option. For the reasons stated above, we feel that it is in the public's best interest to grant the waiver for the American Iron and Steel requirement for this project which is to be fully constructed outside of the United States.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'B. Roy', with a long, sweeping horizontal line extending to the right.

Buzzy Roy, Chairperson
Village of Derby Line Board of Trustees

C: Karine Duhamel, Town Manager, Stanstead, Qc
Phillipe Doutil, Mayor, Stansted, Qc
Wayne Elliot, Aldrich & Elliot