



September 17, 2019

Robert Ashton, PE  
Montana DEQ  
Drinking Water SRF Program  
PO Box 200901  
Helena, MT 59620-0901

Re: Waiver for American Iron and Steel

Dear Mr. Ashton:

The Four Mile Drive Water Transmission Main Project (EQ No. 20-1035) has one bid item which has been deemed to not be available this construction season if required to be American Iron and Steel (AIS) compliant as stipulated in the project documents. The items is identified below:

No.	Description	Unit	Quantity	Price	Total
28	18" Butterfly Valve	EA	33		

**Time and Availability:**

Availability for the AIS compliant butterfly valves on the project is 18 weeks following approved submittals, rather than 4 weeks for non-domestic valves.

**Project Location:**

The project is located in the northwestern portions of Kalispell, Montana. The full project is a little less than 3 miles in length and follows portions of Three Mile Drive, Farm to Market Road, Four Mile Drive, and Stillwater Road.

**Local Supplier:**

Core and Main  
1093 Rose Crossing  
Kalispell, MT 59901

**Manufacturer:**

Mueller  
201 E Franklin Drive  
Nine Mile Falls, WA 99026

**Justification:**

The project specifications require Substantial Completion within 120 days following the date set on the Notice to Proceed (commencement no later than September 23, 2019). For a start date of September 23, 2019, Substantial Completion would be required by January 21, 2020. If AIS compliant valves cannot be supplied for 18-weeks following submittal approval, the butterfly valves will not be available until January 27, 2020, which will postpone the start of construction. Rather than the project being completed early 2020, the project could not even be started until early 2020.

If approved, the waiver will allow the contractor to commence construction this year, rather than forcing the construction to begin next construction season, a time of year which will have a greater impact on local traffic, tourist traffic, local farming operations, other City projects, and other projects already scheduled by the Contractor. For these reasons, a delay of the project would be inconsistent with the public interest.

**Relevant Excerpts from the Project Specifications:**

Section 02660 (Water Distribution) 2.8.B (Butterfly Valves)

- 1 Furnish Class 150, rubber seated, butterfly valves for water distribution systems meeting AWWA C504 requirements. Valves to be equipped with mechanical joint ends and lubricated screw type operators designed for underground service.
- 2 Rubber valve seats to be replaceable without disassembling the valve and not interrupted by the shafting. Rubber seats may be retained on the disc edge by stainless steel clamping instead of bonding to the valve body. Assure shaft packing is the self-adjusting, permanent type.
- 3 Assure underground service operators are permanently lubricated, screw type, totally enclosed and watertight constructed. Assure overload protection is incorporated in the operator allowing 450 foot-pounds (610 j) input torque at full-open and full-closed positions without damaging the operator or valve. Valves to open counter clockwise. Furnish performance certification, leakage and hydrostatic tests as specified in AWWA C504. Assure valve manufacturer has at least five years experience manufacturing waterworks and distribution valves.
- 4 Furnish a Mueller Lineseal Butterfly Valve, or approved equal for all valves 14-inches and larger.

*Table 1 - Excerpt from Base Bid Schedule*

<b>Item</b>	<b>Item Description</b>	<b>Unit</b>	<b>Quantity</b>
28	18" Butterfly Valve	EA	33

**AMERICAN IRON AND STEEL (AIS) REQUIREMENTS**

BIDDER’S attention is directed to ARTICLE 1.5.10 [American Iron and Steel Requirements] of Section 00900. All of the iron and steel products used in the project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, rebar, and construction materials. The iron and steel products permanently incorporated in the project must comply with the American Iron and Steel requirements of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76) and as further interpreted by applicable EPA guidance (see [http://water.epa.gov/grants\\_funding/aisrequirement.cfm](http://water.epa.gov/grants_funding/aisrequirement.cfm)).

**AIS CERTIFICATION FORMS** - The General Contractor shall provide, to the Owner, the Manufacturer/Supplier Certification forms (from Exhibit E of Section 00900) either prior to product purchase or when the products are delivered. The General Contractor(s) shall also provide the Owner with the General Contractor Certification form(s) (from Exhibit E of Section 00900) upon project completion. General Contractor(s) shall ensure that all subcontractors and manufacturers/suppliers on the project have met the AIS requirements.

**AIS WAIVERS** - A waiver from the American Iron and Steel requirements may be issued by the Administrator of the Environmental Protection Agency if it is found that: 1) applying the American Iron and Steel provisions would be inconsistent with the public interest; 2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or 3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. Waiver requests must be submitted to the state for review and submittal to the EPA.

The EPA has issued the following national waivers; 1) De Minimis (April 15, 2014), 2) Product Waiver for Pig Iron and Direct Reduced Iron (February 18, 2015) and 3) Minor Components in Iron and Steel Products (October 27, 2015).

### **1.5.10 American Iron and Steel (AIS) Requirements**

On January 17, 2014, H.R. 3547, “Consolidated Appropriations Act, 2014,” (Public Law 113-76, Section 436) was enacted. This law provides appropriations for both the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund for federal fiscal year 2014, while adding an American iron and steel requirement to these already existing programs.

The Act includes a provision for "Use of American Iron and Steel," in Section 436(a)(1). None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products permanently incorporated in the project are produced in the United States.

The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, rebar, and construction materials. The iron and steel products used in the project must comply with the American Iron and Steel requirements of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76) and as further interpreted by applicable EPA guidance (see [http://water.epa.gov/grants\\_funding/aisrequirement.cfm](http://water.epa.gov/grants_funding/aisrequirement.cfm)). AIS CERTIFICATION FORMS – The Contractor must ensure that all qualifying iron and steel components used in the project have met the AIS requirements. To verify AIS compliance, the Contractor must obtain a “Manufacturer Certification” form (or equivalent statement) from the product manufacturer. Upon completion of the project, the Contractor shall provide the Owner with the “Contractor Certification” form and copies of all “Manufacturer Certification” forms and/or statements. The referenced certification forms are located in Exhibit E of Section 00900.

**AIS WAIVERS** - A waiver from the American Iron and Steel requirements may be issued by the Administrator of the Environmental Protection Agency if it is found that: 1) applying the American Iron and Steel provisions would be inconsistent with the public interest; 2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or 3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent. Waiver requests must be submitted to the state for review and submittal to the EPA.

All bidders and suppliers were aware of the AIS requirements on this project prior to the bid opening and used AIS compliant materials in the preparation of their bids. The day of the bid opening, bidders and local suppliers indicated they had been in contact with the valve manufacturers and there would likely be a longer than expected turn-around time for the 18" butterfly valves because they are not in stock and would have to go through production. A waiver on this single item would allow the project to move forward at anticipated.

I appreciate your consideration of this waiver in accordance with the AIS waiver process as established by the EPA.

Sincerely,



Keith Haskins, PE  
City Engineer



*Keith Haskins*  
9.17.19

Enclosure(s):

1. Letter from Material Supplier (Core and Main) dated 9-17-19
2. Contractor Certification – Consolidated Appropriations Act

This waiver request was submitted to the EPA by the state of Montana. All supporting correspondence and/or documentation from contractors, suppliers or manufacturers included as a part of this waiver request was done so by the recipient to provide an appropriate level of detail and context for the submission. There may be documents with project diagrams, schedules, and supplier correspondence in formats that do not meet the Federal accessibility requirements for publication on the Agency's website. Hence, these exhibits have been omitted from this waiver publication. They are available upon request by emailing [DWSRFWaiver@epa.gov](mailto:DWSRFWaiver@epa.gov).

Measurement: Measurement shall be by the number of each 8" MJ Plug installed and accepted, complete in place.

Payment: Payment shall be at the contract unit price bid each.

28. **18" Butterfly Valve:** This bid item shall include the installation of an 18" Class 250B MJ x MJ Mueller Lineseal Butterfly Valve conforming to AWWA C-504. This item also includes: mechanical joint restraints, bolts, thrust block, poly-wrap, tape, toner wire, valve box, valve box concrete collar, tools, labor, equipment and all other work and materials necessary or incidental for completion of this item.

Measurement: Measurement shall be by the number of each 18" Butterfly Valve installed and accepted, complete in place.

Payment: Payment shall be at the contract unit price bid each.

29. **14" Butterfly Valve:** This bid item shall include the installation of an 14" Class 250B MJ x MJ Mueller Lineseal Butterfly Valve conforming to AWWA C-504. This item also includes: mechanical joint restraints, bolts, thrust block, poly-wrap, tape, toner wire, valve box, valve box concrete collar, tools, labor, equipment and all other work and materials necessary or incidental for completion of this item.

Measurement: Measurement shall be by the number of each 14" Butterfly Valve installed and accepted, complete in place.

Payment: Payment shall be at the contract unit price bid each.

30. **12" Gate Valve:** This bid item shall include the installation of a 12" Mueller 2360 Resilient Wedge Gate Valve conforming to AWWA C-509. This item also includes: mechanical joint restraints, bolts, thrust block, poly-wrap, tape, toner wire, valve box, valve box concrete collar, tools, labor, equipment and all other work and materials necessary or incidental for completion of this item.

Measurement: Measurement shall be by the number of each 12" Gate Valve installed and accepted, complete in place.

Payment: Payment shall be at the contract unit price bid each.

31. **8" Gate Valve:** This bid item shall include the installation of a 8" Mueller 2360 Resilient Wedge Gate Valve conforming to AWWA C-509. This item also includes: mechanical joint restraints, bolts, thrust block, poly-wrap, tape, toner wire, valve box, valve box concrete collar, tools, labor, equipment and all other work and materials necessary or incidental for completion of this item.

Measurement: Measurement shall be by the number of each 8" Gate Valve installed and accepted, complete in place.

Payment: Payment shall be at the contract unit price bid each.

32. **6" Gate Valve:** This bid item shall include the installation of a 6" Mueller 2360 Resilient Wedge Gate Valve conforming to AWWA C-509. This item also includes: mechanical joint restraints, bolts, thrust block, poly-wrap, tape, toner wire, valve box, valve box concrete collar, tools, labor, equipment and all other work and materials necessary or incidental for completion of this item.