



# Environmental Facilities Corporation

ANDREW M. CUOMO  
Governor

**BY E-MAIL & REGULAR MAIL**

October 16, 2019

Mr. Andrew Sawyers  
Director  
Office of Wastewater Management  
USEPA, Office of Water  
1300 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: CWSRF Project No. C8-6449-05-00  
American Iron & Steel Public Interest Waiver Request  
Lakeville Wastewater Treatment Plant Upgrade Project  
Livingston County Water and Sewer Authority

Dear Director Sawyers:

The New York State Environmental Facilities Corporation (EFC) formally requests a Public Interest Waiver of the American Iron and Steel (AIS) requirements (Section 608(2)(b)(1) of the Clean Water Act) on behalf of the Livingston County Water and Sewer Authority (LCWSA) for a precast concrete structure at the Lakeville Wastewater Treatment Plant Upgrade Project.

EFC has determined that the LCWSA attempted to implement the AIS requirements to the best of its ability. However, due to an unintended misinterpretation of the AIS requirements, the precast concrete structure will not comply with AIS requirements despite all of the steel within the structure having been produced (melted) in the United States. EFC requests that the United States Environmental Protection Agency (USEPA) take into consideration the following: (1) all of the iron and steel in the product was produced in the United States; (2) no domestic iron and steel supplies will be adversely affected by granting a Public Interest waiver in this unique case; (3) granting this waiver would not set a likely repeatable precedent; (4) the LCWSA put forth significant effort to comply with the AIS requirements; and (5) while every letter of AIS implementation was not met for this product, the LCWSA's intent was to fully comply with the law.

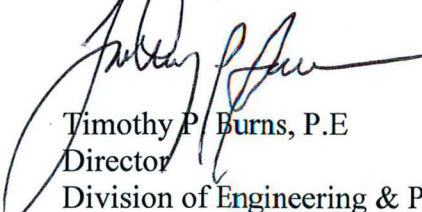
After a value engineering review, the LCWSA executed (and EFC approved) a change order affecting the size and structure of the bio-tower pump station. As such, the design for the bio-tower pump station changed from the original pour-in-place design to a precast concrete structure. The LCWSA undertook efforts to locate and use domestically produced steel for a new structure design while meeting the expedited schedule of the project. After locating a domestic steel source, the LCWSA identified a location to cast the unique, large structure in nearby Ontario, Canada. Consequently, the LCWSA arranged for domestic steel reinforcement to be supplied for the specialty concrete casting in Canada.

Despite their best efforts to adhere to the AIS requirements, the LCWSA was unaware that the casting of concrete had to take place in the United States in order for precast structures to comply with AIS. The LCWSA was under the mistaken impression that the critical and only evaluation for AIS compliant precast concrete products was the origin of the steel used in the structure. During routine EFC project due diligence document collection review, EFC identified that the structure would not fully comply with the AIS requirements, despite confirming that the steel certification documentation showed domestic production (melting).

EFC believes that the USEPA has the authority and discretion to provide a Public Interest waiver for this case and that granting of the waiver is warranted. Since the LCWSA attempted to comply with the AIS requirements by using US produced (melted) steel, the USEPA can determine that other producers of domestic steel will not be adversely affected by granting this waiver. The LCWSA did not substantially benefit by the casting having taken place in Canada. In fact, the procedure taken on by the LCWSA to locate a Canadian precast company, to utilize domestic steel in a unique precast structure, and then to bring the large structure back into the US took considerable effort and expense. Furthermore, the LCWSA expresses regret at the inadvertent error made in its best efforts to comply with the AIS requirements while attempting to also maintain an expedited schedule in order to comply with new permit requirements for the reduction of ammonia-nitrogen in the Genesee River Drainage Basin that drains to Lake Ontario.

If you should have any questions, please call me at 518-402-7396.

Sincerely,



Timothy P. Burns, P.E.  
Director  
Division of Engineering & Program Management

cc: S. Vida, USEPA – Region 2