



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

DEC 21 2015

OFFICE OF
WATER

DECISION MEMORANDUM

SUBJECT: Project Waiver of American Iron and Steel Requirements for Butterfly Valves in the Dakota Dunes Community Improvement District Clear Well Expansion and High Service Pump Addition Project
Waiver Number 08-DW-0002

FROM: Peter Grevatt, Director
Office of Ground Water and Drinking Water

A handwritten signature in black ink, appearing to read "P. Grevatt", written over the "FROM:" line.

The U.S. Environmental Protection Agency is hereby granting a project-specific waiver pursuant to the American Iron and Steel requirements to the Dakota Dunes Community Improvement District for the purchase of non-domestic butterfly valves. This waiver permits the use of butterfly valves manufactured outside of the United States to be used in the Dakota Dunes CID Clear Well Expansion and High Service Pump Addition Project in Dakota Dunes, South Dakota, because no known domestic manufacturers produce an alternative that meets the project's technical specification and can be delivered on time to avoid delays in the project schedule. This is a project-specific waiver and only applies to the use of the specified product for the referenced project funded by the Drinking Water State Revolving Fund. Any other project funded by either the Drinking Water or Clean Water State Revolving Fund that wishes to use the same product must request a separate waiver based on the specific project circumstances.

Rationale: The AIS provisions require DWSRF assistance recipients to use specific domestic iron and steel products that are produced in the United States if the project is funded through an SRF assistance agreement unless the Agency determines that it is necessary to waive this requirement. The EPA has the authority to issue waivers in accordance with Section 424(b)(2) of Public Law 113-235, the "Consolidated and Further Continuing Appropriations Act, 2015", extended by subsequent continuing resolutions. The provision states in part: "[the requirements] shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency...finds that...iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality."

The butterfly valves will be buried and tied directly into Dakota Dunes CID's existing clear well. Installation of the butterfly valves will take the existing clear well out of service and therefore will limit the amount of water available for use during this time period. This can be

accomplished during the winter months when water can be supplied by Sioux City through an interconnection. Once the irrigation season starts in the spring, the capacity of the Sioux City interconnection is insufficient to meet demands. Additionally, it is necessary for this project to be online before the peak water usage season since it has been difficult for Dakota Dunes CID to meet peak water demands in recent years, even with the Sioux City interconnection operating at full capacity. The applicant applied for a waiver shortly after receiving notification from suppliers that there were no AIS compliant butterfly valves that met the project's technical specifications and could be delivered on time to meet the project schedule.

The Dakota Dunes CID attempted to find a domestic manufacturer of 18-inch and 30-inch mechanical joint butterfly valves and 30-inch flanged butterfly valves and provided information to the EPA demonstrating that there are no butterfly valves in these sizes manufactured in the United States in sufficient and reasonably available quantities and of satisfactory quality to meet the project schedule deadlines and the required technical specifications. The shortest lead time for AIS compliant butterfly valves that the applicant was able to find was 14-36 weeks (depending on the size). But given the short timeframe of the project, even an 8-10 week delay would extend the project schedule beyond the completion date of April 1, 2016, leaving the Dakota Dunes CID unable to meet peak demands this summer.

The EPA conducted market research on the supply and availability of 18-inch and 30-inch mechanical joint butterfly valves and 30-inch flanged butterfly valves and concluded that there are no domestic manufacturers of these products that meet the project's technical specifications and could be delivered to meet the project schedule, supporting Dakota Dunes CID's claim. Two manufacturers were identified that are capable of meeting the project schedule, but could not provide a product that meets the project's technical specifications.

Having established both a proper basis to specify the particular product required for this project and that this product was not available from a manufacturer in the United States without significant delays in the project schedule, Dakota Dunes CID is hereby granted a waiver from the AIS requirements for the Clear Well Expansion and High Service Pump Addition Project. This waiver permits the purchase of non-domestic butterfly valves using DWSRF funds as documented in the State of South Dakota's waiver request submittal on behalf of the assistance recipient, dated November 20, 2015.

Legal Authority: Legal authority for the AIS requirements for DWSRF projects is included under P.L. 113-235, the "Consolidated and Further Continuing Appropriations Act, 2015," under the authority of Section 424(b)(2), extended by subsequent continuing resolutions and also previously under P.L. 113-76.

If you have questions concerning the contents of this memorandum, please contact Kiri Anderer, Environmental Engineer, Drinking Water Protection Division, at anderer.kirsten@epa.gov or (202) 564-3134.