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

AUG 18 2014

OFFICE OF WATER

DECISION MEMORANDUM

SUBJECT: California American Iron and Steel Waiver Request – Modified Approval
Waiver Number 09-DW-0001

FROM: Michael H. Shapiro
Deputy Assistant Administrator

TO: Lance Reese
Chief, Loan and Grant Administration Section
Division of Financial Assistance
California State Water Resource Control Board

The Environmental Protection Agency is hereby granting a public interest waiver of the American Iron and Steel requirement, pursuant to Section 436(b)(1) of the Consolidated Appropriations Act of 2014, for specific types of drought-related projects, as defined below, that are funded in whole or in part by the California Drinking Water State Revolving Fund. This action permits the use of non-domestic iron and steel products in such projects funded by the CA DWSRF that would otherwise be prohibited under CAA section 436 absent this waiver.

Rationale: A loss of water supply or the imminent significant reduction in water availability is an immediate and critical public health threat that must be addressed as quickly as possible. Therefore, EPA is waiving the AIS requirements for Fiscal Year 2014 for specific types of drought-related projects funded through the DWSRF in CA. This waiver applies only to small community water systems and public water systems serving schools recorded on the California Drought Funding Commitment and Request List compiled under authority of the California Drought State of Emergency Proclamation (January 17, 2014). These projects must be one of the following types of projects that have a short construction timeframe: deepening an existing well, drilling a replacement well, rehabilitating a well, extending or relocating an intake line into a surface water source, constructing a short interconnection to another water system, providing booster pumping if needed for the operation of the aforementioned projects, constructing storage facilities, replacing failing equipment, or treating an alternative source.

Background: On April 25, 2014, California submitted a public interest waiver request that would allow it to use non-domestic iron or steel for short-term emergency projects that are necessary to

address or prevent drinking water outages caused by drought or, alternatively, to restore water services where natural disasters have occurred for projects receiving financial assistance through the DWSRF. The waiver request was for nationwide coverage. Since the severity of drought conditions may vary from state to state and by region of the country, EPA determined that the waiver should only apply to California. The waiver request also asked that small public water systems be addressed; therefore, the waiver will only apply to small community water systems serving 10,000 or fewer persons and public water systems at schools.

The State provided a list of actual example projects that this waiver request could address, including but not limited to: deepening an existing well, drilling a replacement well and constructing an interconnection to another water system. As described by CA, these projects ranged in cost from $8,000 to $500,000. CA did not request the waiver to apply to projects of a long-term nature that might require significant design, engineering and environmental studies before they are constructed. EPA has determined that these projects are not eligible under this waiver.

Additional Information: EPA is approving a waiver for DWSRF-assisted drought-related projects at small community water systems serving 10,000 or fewer persons and public water systems serving schools recorded on the California Drought Funding Commitment and Request List to be exempt from the American Iron and Steel requirements for FY 2014. In addition to the communities and schools being listed on the CA Drought Funding Commitment and Request List, the particular projects must also meet the specifications described below. Where U.S.-made iron and steel products are readily available and easily accessible, every effort should be made to use the U.S. products first.

Types of Projects Eligible for This Waiver:

For projects to be eligible to be exempt from AIS requirements under this waiver, the following criteria must be met:

(1) The community must be on the California Drought Funding Commitment and Request List and must have been identified as having the following conditions affecting its water supply:
    a. The safety of persons in the community is imperiled from the existing or imminent loss or reduced availability of its water supply; and one or both of the following contributing factors:
        i. Significantly reduced surface water flow to its water supply intake(s); and/or
        ii. Ground water levels dropped significantly in its well(s); and
    b. Threats to the public from reduction or change of water supply are beyond the control of the existing local water utility or service, personnel, equipment and facilities; and

(2) The proposed projects are one or a combination of the following types that have a short construction duration (i.e., weeks or months, not years):

- Deepening an existing well;
- Drilling a replacement well;
- Rehabilitating a well;
- Extending or relocating an intake line into a surface water source;
- Constructing a short interconnection to another water system;
- Providing booster pumping;
- Constructing storage facilities;
- Replacing failing equipment; and/or
- Treating an alternative source.

These projects are for communities in imminent danger of having no drinking water, an immediate public health threat. If the short-duration emergency projects are affected by the timely availability of American iron and steel products, then non-domestic iron and steel products could be used to keep these projects on schedule. Because of the immediate public health threat, these projects should not be delayed due to product availability. For example, if U.S.-made steel pipe is not readily available for an emergency connection to another system, but the community has an available stockpile of non-domestic steel pipe, or can readily order and receive such pipe, then the non-domestic pipe could be used.

The State must report the public water system name and identification number and the type of project from (2) above to the EPA Office of Ground Water and Drinking Water at DWSRFwaiver@epa.gov for each project covered by this waiver within ten business days of assistance agreement award and must continue to report quarterly on the project to the DWSRF Project and Benefits Reporting System, including in the project description the project type and that it is covered by this waiver.

The types of projects not covered in this waiver include: providing trucked-in water supplies, large storage projects, creating new surface water sources and constructing complex treatment plants. The larger projects in the request typically require significant planning, design and environmental studies prior to construction that would allow time to seek U.S.-made products.

It is anticipated that these projects will typically be low in cost and, therefore, will not be a large percentage of California's DWSRF funds for FY 2014.

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