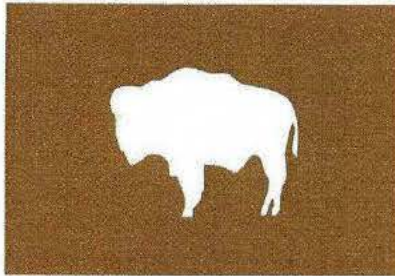


WYOMING OFFICE OF STATE LANDS AND INVESTMENTS

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MARK GORDON
Governor

JENIFER E. SCOGGIN
Director

June 18, 2024

J. Leslie Corcelli
U. S. Environmental Protection Agency
1201 Constitution Ave, NW
William Jefferson Clinton Bldg: [REDACTED]
Washington, DC 20004

Via Email to:

J. Leslie Corcelli (corcelli.leslie@epa.gov)
Daniel LaBella (LaBella.Daniel@epa.gov)
DWSRFWaiver@epa.gov

The purpose of this letter is to request a Public Interest waiver of the Environmental Protection Agency ("EPA") American Iron and Steel ("AIS") requirements for a specific product for the referenced Drinking Water State Revolving Fund ("DWSRF") project. The product involved is a manually operated rollup door produced by [REDACTED]. It is the belief of the Wyoming DWSRF program, the DWSRF loan recipient, the loan recipient's engineering consultant, and the construction General Contractor that it will not be possible to obtain adequate documentation certifying this product's compliance with AIS requirements. We believe this obstacle is not due to any fault of the loan recipient nor the General Contractor. We believe that the loan recipient and General Contractor performed good faith efforts to obtain the required documentation. Additionally, multiple documents from [REDACTED] Corporate Counsel have asserted that the door meets AIS requirements. These documents, however, lack the elements EPA requires for AIS documentation.

In July of 2021, the Town of Thayne, Wyoming ("Town"), entered into a loan agreement with the State of Wyoming Office of State Lands and Investments ("OSLI"). The agreement provides funding for the Town's East Booster Pump Improvements project ("Project"). As shown in the attachment, the loan agreement specifies that "that no funds from this Loan may be used for this project unless all of the iron and steel used in the project are produced in the United States, unless a waiver is provided to the recipient by the EPA. The Borrower shall comply with all regulations and guidance issued by EPA, WWDO, and DEQ regarding this requirement." By signing the loan agreement and initialing a "checklist" attached to the loan agreement, the Town acknowledged and accepted this requirement.

[REDACTED] provided engineering design and consulting services, including the production of two documents: one file containing the Bidding Documents, Contract Documents, Standard Specifications, and Special Provisions ("Project Manual"); and one file containing the Construction Drawings ("Plans"). The Project Manual included, among other items, reference to the AIS requirements. In late

September, 2022, the Wyoming DWSRF staff approved the documents and concurred with advertising and bidding the project.

A pre-bid conference was held to discuss the project. Among the topics for this meeting was the need to meet AIS requirements. The project was initially bid on November 1, 2022. No bids were received during this first round of bidding. The bid was advertised again with a bid date of January 31, 2023. Two bids were received, with [REDACTED]), being the Successful Bidder. Wyoming DWSRF concurred with awarding the project to [REDACTED] as recommended by [REDACTED]. [REDACTED] was awarded the project on March 1, 2023, and began physical construction activities when the local weather permitted such.

[REDACTED] utilized [REDACTED] as a supplier for the rollup door. As shown in the attached email communication, prior to bidding the project [REDACTED] provided [REDACTED] with the Project Manual and Plans, which, as previously stated, include the requirement to meet AIS. [REDACTED] reiterated the AIS requirements to [REDACTED] in June of 2023. [REDACTED] replied with a "Certificate of Compliance" (included with emails) from [REDACTED]. Reasonably believing that the door would meet AIS requirements, [REDACTED] installed the door in the project during the week of August 21, 2023.

On September 27, 2023, Wyoming DWSRF staff visited the project and did an official inspection of the documentation provided to show compliance with AIS requirements. Wyoming DWSRF staff informed the Town and [REDACTED] that the [REDACTED] documentation was deficient. The following day, Wyoming DWSRF staff reiterated the deficiencies in an email to the Town and [REDACTED]. Wyoming DWSRF staff also provided a guidance document that could be used in helping to guide anyone needing more information on what would be needed in the compliance documentation. Due to file size, this document is not attached to this current letter but is available upon request; it was pieced together from a few different EPA webinar slide sets from the EPA website.

On October 19, 2023, Wyoming DWSRF staff received a revised compliance letter for the rollup door. The date on this letter is 10/06/2023 and is attached. This letter was signed by [REDACTED] Corporate Counsel. Among the statements presented in the letter are:

- The assertion that the door may not need to meet AIS because it is a mechanical device
- The door might be less than 50% iron or steel and, therefore, exempt from AIS

Wyoming DWSRF staff provided comments stating that the door would need to meet AIS requirements and indicating that [REDACTED] would need to provide documentation if the door were less than 50% iron or steel. [REDACTED] passed along these comments in an email dated November 7, 2023 (attached).

On November 16, 2023, Wyoming DWSRF staff received a slightly revised letter for the door. The date on this letter was also 10/06/2023 and was signed by [REDACTED] Corporate Counsel. This letter reiterated the statement that "The American Iron and Steel Act ("AIS") requirements may not apply to [REDACTED] door systems or may be subject to exemptions. If the doors systems are subject to AIS, non-exempt subcomponents comprise domestic steel." Submission of this letter was accompanied by an email (attached) with [REDACTED] responses to Wyoming DWSRF staff comments. [REDACTED] responded with an email dated December 7, 2023, that addressed the deficiencies of the [REDACTED] letter. This email is included in the email thread dated December 19, 2023, in which [REDACTED] responds to the comments. Multiple example compliance letters (both "stand-alone" and "step" certifications) were provided as guidance to [REDACTED] for what would be needed in a certification letter from [REDACTED].

On December 19, 2023, Wyoming DWSRF staff, [REDACTED], and [REDACTED] (among others) were sent an email from [REDACTED] refuting the most substantive comments made regarding documentation provided by [REDACTED].

[REDACTED]. This email is from the same individual that signed the previous letters and is included in the attached email thread from Wyoming DWSRF staff to [REDACTED] dated that same day. On January 11, 2024, Wyoming DWSRF staff sent an email (attached) to [REDACTED] simply asking if the previous email had been received. To date, no response to this email has been received. Additionally, communications from [REDACTED] to [REDACTED] have not received any response.

In late February, it was decided by the Town, [REDACTED], Wyoming DWSRF staff, and the Contractor to pursue a waiver for this product. In mid-March, we began communications with EPA regarding this possibility. During a meeting on April 11, 2024, between multiple EPA staff members, Wyoming DWSRF staff, [REDACTED], [REDACTED], and the Town, EPA recommended requesting a Public Interest waiver for this product. This letter is to serve as this request.

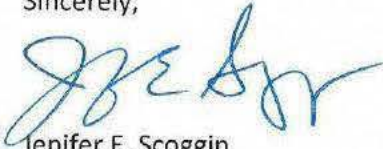
It is quite possible that the rollup door in question meets AIS requirements; we simply have been unable to obtain a proper certification documenting this. EPA noted that the Agency would continue to communicate with [REDACTED] in an attempt to get proper documentation. It is our hope that those communications are fruitful.

If you have any questions, comments, or concerns, please reach out to any of the parties involved. Contact information for the various parties is:

- Wyoming DWSRF Staff: Beth Blackwell, Office of State Lands and Investments, 307-777-6373, elizabeth.blackwell@wyo.gov; Jennifer Russell, Wyoming Water Development Office, 307-777-7626, jennifer.russell@wyo.gov.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Thank you for your time and assistance with this matter.

Sincerely,



Jenifer E. Scoggin
Director
Wyoming Office of State Lands and Investments

Attachments

- Loan Agreement between State of Wyoming and Town of Thayne (Relevant Portions)
- Selections from Project Manual
- Contractor's AIS Communications
- Compliance Documents from [REDACTED] and DWSRF/Others Comments on Documents

cc (via email):

[REDACTED]

This waiver request was submitted to the EPA by the state of Wyoming and applies only to the project in the subject line. 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.