



## OFFICE OF WASTEWATER MANAGEMENT

WASHINGTON, D.C. 20460

### **DECISION MEMORANDUM**

**SUBJECT:** Project-Specific Availability Waiver of American Iron and Steel Requirements to the City of Palo Alto, California for 6-Inch to 20-Inch Knife Gate Valves

**FROM:** Andrew Sawyers, Director

Decision: The U.S. Environmental Protection Agency is hereby granting a project-specific waiver pursuant to the “American Iron and Steel” (AIS) requirements of the Clean Water Act Section 608 under the authority of Section 608(c)(2) to the City of Palo Alto, California (Applicant) for 6-inch to 20-inch knife gate valves. This waiver permits the use of these valves, manufactured outside of the United States, in the City of Palo Alto Regional Quality Control Plant Secondary Treatment Upgrades project, because no domestic manufacturers produce alternatives that meet the technical specifications and schedule of the project.

This waiver applies only to the proposed project funded by the Clean Water State Revolving Fund (CWSRF). Any other jurisdiction with projects funded by either the CWSRF, the Drinking Water State Revolving Fund, or the Water Infrastructure Finance and Innovation Act that wishes to use the same products must apply for a separate waiver.

Rationale: Section 608 of the Clean Water Act requires CWSRF assistance recipients for treatment works projects to use specific iron and steel products that are produced in the United States. The EPA has the authority to determine whether it is necessary to waive this requirement based on certain circumstances set forth in Section 608(c) of the Clean Water Act. The provision states that, “[the requirements] shall not apply in any case or category of cases in which the Administrator [of the EPA] finds that – . . . (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.”

Background of Waiver Request: The Applicant provided information to the EPA asserting that there are no domestic manufacturers producing knife gate valves in sufficient and reasonably available quantities and of a satisfactory quality. The purpose of the project is to rehabilitate aging infrastructure, reduce nutrient discharge into the San Francisco Bay, accommodate population growth, and achieve regulatory compliance. In recent years, San Francisco Bay has struggled with harmful algal blooms resulting in aquatic mortalities. One of the main purposes of this project is to reduce nutrient discharge to San Francisco Bay, which will improve water

quality and help prevent future algal blooms. The current wastewater system will be upgraded to a three-step feed activated sludge configuration. Knife gate valves of varying sizes will be used in the treatment system along waste activated sludge and return activated sludge lines. The knife gate valves should be manufactured with corrosion resistant type 316 stainless steel.

Assessment of Waiver Request: The EPA conducted market research and a public comment period on the supply and availability of these knife gate valves. The basis of evaluation included thorough review of the waiver request submission, examination of domestic manufacturer catalogs or other technical data and marketing materials, personal communication with domestic manufacturers, inquiries of state staff, and outreach to contractors and engineers with expertise and familiarity with the project. During market research, the EPA contacted eleven (11) manufacturers and suppliers of these knife gate valves. Four (4) of the manufacturers initially stated they could make the AIS-compliant knife gate valves, within 18-70 weeks. This included the manufacturer who had originally been selected by the Applicant to provide knife gate valves for the project. This manufacturer anticipated delivery of AIS-compliant knife gate valves by March 2024. The delivery was delayed until May 2024 and then to 2025, which would not meet the project timeline. The project timeline indicates that some knife gate valves should have been installed by the end of May 2024. Additional knife gate valves need to be installed by the end of August 2024. The other three manufacturers that stated they could provide AIS-compliant products had long lead times (18-70 weeks) which would not meet the project timeline and would cause additional undue delays to the project.

The EPA received two (2) public comments to the waiver request. The comments were from manufacturers who stated that if the Applicant had selected their AIS-compliant knife gate valves at bidding, the valves would have already been delivered. The EPA reached out to the Applicant to better understand its product selection. The Applicant selected a different manufacturer at the time of bidding because they seemed better able to meet the project timeline. Since bidding, however, that manufacturer has experienced delays and can no longer meet project timelines. These manufacturers were included in the EPA's market research, and none of these manufacturers can supply knife gate valves to meet the current project schedule. The lead times are all greater than 20 weeks, which will cause undue delays to the project.

Finding: Since the Applicant established a reasonable basis to specify the products required for this project, and because the EPA substantiated the Applicant's claim through market research that these products are not available from a manufacturer in the United States, the City of Palo Alto, California is hereby granted a waiver from the AIS requirements. This waiver permits the use of 6-inch to 20-inch knife gate valves, as documented in the State of California's waiver request submittal on behalf of the Applicant dated May 23, 2024.

If you have any questions concerning the contents of this memorandum, please contact Timothy Connor, Chemical Engineer, Water Infrastructure Division, at [connor.timothy@epa.gov](mailto:connor.timothy@epa.gov) or (202) 566-1059.