

State Elected Officials

Mary Margaret Whipple, State Senator, Commonwealth of Virginia.

Chris Ross, State Representative 158th District, Harrisburg, Pennsylvania.

County Judge

Edward M. Emmett, Harris County Judge, Houston, Texas.

Appointed Officials

Dr. Hector Gonzalez, Director, Laredo, Texas Health Dept.

Susan Hann, Deputy City Manager, Palm Bay, Florida

(*Formerly served one term on LGAC).

If you desire further information go to: at <http://www.epa.gov/ocir/scas> or contact the Designated Federal Officer (DFO), Eargle.Frances@epa.gov.

Dated: October 29, 2010.

Frances Eargle,

Designated Federal Officer, Local Government Advisory Committee.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-9220-4]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Town of Taos, NM

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator of EPA Region 6 is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Town of Taos ("Taos") for the purchase of 40 lb/yd American Society of Civil Engineers (ASCE) crane railing, which is part of the overhead bridge crane, proposed for the expansion of its existing Wastewater Treatment Plant (WWTP). The 40 lb/yd ASCE crane railing is manufactured by companies located in foreign countries and no United States manufacturer produces an alternative that meets Taos' technical specifications. This is a project specific waiver and only applies to the use of the specified product for the ARRA funded project being proposed. Any other ARRA project that may wish to use the

same product must apply for a separate waiver based on the specific project circumstances. The Regional Administrator is making this determination based on the review and recommendations of the EPA Region 6, Water Quality Protection Division. Taos has provided sufficient documentation to support its request.

The Assistant Administrator of the EPA's Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of 40 lb/yd ASCE crane railing not manufactured in America, for the proposed project being implemented by Taos.

DATES: *Effective Date:* October 18, 2010.

FOR FURTHER INFORMATION CONTACT:

Nasim Jahan, Buy American Coordinator, (214) 665-7522, SRF & Projects Section, Water Quality Protection Division, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c), EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111-5, Buy American requirements, to Taos for the acquisition of 40 lb/yd ASCE crane railing that will be part of the overhead bridge crane for the WWTP.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

Taos' waiver request is to allow the purchase of a 40lb/yd ASCE crane railing that will be part of the overhead bridge crane for the WWTP in Taos, New Mexico. Taos has provided information to the EPA demonstrating that there is no 40 lb/yd ASCE crane railing manufactured in the United States in sufficient and reasonable quantity and of a satisfactory quality to

meet the required technical specification. The United States stopped producing 40lb/yd rail at the turn of 20th Century due to increases in weight demand on railroads. The ASCE designed a load limit for railroad tracks that severely limited the quantity of rail less than 80 lb/yd being produced. Taos has also indicated that Steel of West Virginia is a steel mill that produces rails for the mining industry and this manufacturer's product does not meet ASCE standards and therefore cannot be used in this project.

Based on additional research conducted by EPA Region 6, there does not appear to be any domestic crane rail manufacturer that would meet Taos' technical specifications. EPA's national contractor prepared a technical assessment report based on the waiver request submittal. The report confirmed the waiver applicant's claim that there is no American-made 40 lb/yd crane railing available for the overhead bridge crane for use in the proposed WWTP.

EPA has determined that the City's waiver request may be treated as timely even though the request was made after the construction contract was signed. Consistent with the direction of the OMB Guidance at 2 CFR 176.120, EPA has evaluated the City's request to determine if the request constitutes a late request. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, in this case EPA has determined that the City's request, though made after the contract date, may be treated as timely. This request is submitted after the contract date because the crane rail, according to the project specifications, must be designed by a qualified supplier. The supplier provided this information through contractor submittals. The need for a waiver was not determined until after the supplier of the overhead bridge crane confirmed that there was no domestically made 40 lb/yd crane railing available to meet the project specifications. Accordingly, EPA will evaluate the request as a timely request.

The April 28, 2009 EPA HQ Memorandum, Implementation of Buy American provisions of Public Law 111-5, the "American Recovery and Reinvestment Act of 2009", defines reasonably available quantity as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design." Taos has

incorporated specific technical design requirements for installation of crane rail at its WWTP. Therefore, it meets the requirements of the “satisfactory quality” criterion for requesting a waiver from the Buy American provisions of Public Law 111–5.

The purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are “shovel ready” by requiring utilities, such as Taos, to revise their standards and specifications, institute a new bidding process, and potentially choose a more costly, less efficient project. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the “shovel ready” status for this project. To further delay construction is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Region 6 Water Quality Protection Division has reviewed this waiver request, and has determined that the supporting documentation provided by Taos is sufficient to meet the criteria listed under ARRA, Section 1605(b), Office of Management and Budget (OMB) regulations at 2 CFR 176.60–176.170, and in the April 28, 2009 memorandum, “Implementation of Buy American provisions of Public Law 111–5, the American Recovery and Reinvestment Act of 2009. The basis for this project waiver is the authorization provided in ARRA, Section 1605(b) (2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet Taos’ technical specifications, a waiver from the Buy American requirement is justified.

EPA headquarters’ March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, Taos is hereby granted a waiver from the Buy American requirements of ARRA, Section 1605(a) of Public Law 111–5 for the purchase of “40 lb/yd crane railing” using ARRA funds, as specified in Taos’ request. This supplementary information constitutes the detailed written justification required by ARRA,

Section 1605(c), for waivers “based on a finding under subsection (b).”

Authority: Pub. L. 111–5, section 1605.

Dated: October 18, 2010.

Al Armendariz,

Regional Administrator, U.S. Environmental Protection Agency, Region 6.

[FR Doc. 2010–27879 Filed 11–3–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–9221–3]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by WildEarth Guardians in the United States District Court for the District of Colorado: *WildEarth Guardians v. Jackson*, No. 10–cv–01218–REB–BNB (D. CO.). On May 26, 2010, Plaintiff filed a complaint alleging that EPA failed to perform a mandatory duty under section 110(k)(2) of the CAA, 42 U.S.C. 7410(k)(2) to take action on two State Implementation Plan (“SIP”) submissions from the State of Utah with the time frame required. The proposed consent decree establishes deadlines for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by December 6, 2010.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2010–0901, online at <http://www.regulations.gov> (EPA’s preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Sara Laumann, Air and Radiation Law Office

(2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (303) 312–6443; fax number (202) 564–5603; e-mail address: laumann.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit seeking to compel action by the Administrator to take final action under section 110(k) of the CAA on the Utah SIP submissions. The proposed consent decree requires EPA to sign for publication in the **Federal Register** no later than December 1, 2011, a final action in which it either approves in whole, approves in part and disapproves in part, or disapproves in whole, the State of Utah’s request to re-designate Salt Lake and Utah Counties and Ogden City to attainment for the National Ambient Air Quality Standard (“NAAQS”) for particulate matter having an aerodynamic diameter of a nominal 10 micrometers (“PM–10”), along with Utah’s maintenance plan for Salt Lake and Utah Counties and Ogden City for the PM–10 NAAQS, that Utah submitted to EPA on September 2, 2005, and which EPA previously proposed to disapprove in whole on December 1, 2009.

The proposed consent decree also requires EPA to sign for publication in the **Federal Register** no later than April 30, 2012, a notice of proposed action in which it proposes either to approve in whole, approve in part and disapprove in part, or disapprove in whole, the State of Utah’s Regional Haze SIP submission that Utah submitted to EPA on September 9, 2008. In addition, the proposed consent decree requires EPA to sign for publication in the **Federal Register** no later than October 31, 2012, a final action in which it either approves in whole, approves in part and disapproves in part, or disapproves in whole, the State of Utah’s Regional Haze SIP submission that Utah submitted to EPA on September 9, 2008.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice