The total estimated cost of the ELIPS project is $33,000,000, of which $21,400,000 is the Federal cost-share of the ARRA funded grant. The ductile iron flanges are not available in the United States and are necessary for the construction of the ELIPS project. The SDBOC engineers conducted market research for the domestic ductile iron flange production industry and determined there is currently no domestic availability for ductile iron flanges for use with HDPE and PVC pipe.

Congress has enacted a Buy American provision which requires manufactured goods permanently incorporated into a project funded with ARRA funds to be produced in the United States. The application of Buy American is triggered by the obligation of Federal ARRA funds to a project. Once ARRA funds are obligated to a project, then all iron, steel, and manufactured goods incorporated into the project must be produced in the United States. The specific statutory requirement reads as follows:

Section 1605 of the Recovery Act prohibits the use of recovery funds for a project for the construction, alteration, maintenance, or public work unless all of the iron, steel, and manufactured goods are produced in the United States.

2 CFR 176.80(a). The SDBOC submitted a Buy American waiver request based on the waiver provision under 2 CFR 176.80(a)(1)—Nonavailability. The project requirements specified the use of ductile iron flanges that were determined through industry research conducted by SDBOC to not be domestically available. Based on the confirmation that these ductile iron flanges used with HDPE pipe are not currently available, Reclamation approved the Buy American waiver request.

Reclamation’s publication of its Buy American decision is required pursuant to the Buy American Act, 2 CFR 176.80(b)(2). The specific statutory requirement reads as follows:

The head of the Federal department or agency shall publish a notice in the Federal Register within two weeks after the determination is made, unless the item has been already determined to be domestically non-available. A list of items that are not domestically available is at 48 CFR 25.104(a). The Federal Register notice or information from the notice may be posted by OMB to Recovery.gov. The notice shall include—(i) The title “Buy American Exception under the American Recovery and Reinvestment Act of 2009”; (ii) The dollar value and brief description of the project; and (iii) A detailed written justification as to why the restriction is being waived.

Upon publication of this Federal Register notice, Reclamation is notifying the public of the decision to approve the Buy American waiver requested by the SDBOC to purchase foreign ductile iron flanges as part of the ARRA grant for the SDBOC ELIPS project located in Sunnyside, Washington.

Dated: August 26, 2011.

Karl E. Wirkus,
Pacific Northwest Regional Director, Bureau of Reclamation.

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