

**DEPARTMENT OF INTERIOR**  
**U.S. Bureau of Reclamation**  
**Buy America Nonavailability Project Level Waiver**  
**Recovery Implementation Program for Endangered Fish Species in the Upper**  
**Colorado River Basin: Bituminous Geomembrane**

**1. Summary**

Agency: Department of the Interior, Bureau of Reclamation (USBR)

Proposed Waiver: The Department of the Interior (DOI or the Department) Bureau of Reclamation (Reclamation) is proposing a project-specific nonavailability waiver of the requirements of section 70914 of the Build America, Buy America Act (BABA) included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for Bituminous Geomembranes used in the infrastructure project funded through award R23AP00183 titled Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin. This waiver is in effect from the effective date of this waiver until the end of the project, estimated 09/30/2028.

Waiver type: Nonavailability of a domestic product.

Waiver level: Project level waiver.

Is it a general applicability waiver?: No

Waiver justification summary: This waiver request is based on the non-availability of a "bitumen Teranap type" pond liner that definitively meets all BABA requirements for federally funded infrastructure projects, specifically for the intended pond lining application.

Length of the waiver: Effective date of this waiver until the end of the project, estimated 09/30/2028.

Summary of items covered in the waiver: Bituminous Geomembrane Liner.

Summary of project: This project involves the comprehensive rehabilitation of the Wahweap State Fish Hatchery. Key activities include upgrading pond drainage systems and installing a high-voltage electrical system to support advanced aeration. The installation of a specialized Bituminous Geomembrane liner is critical to prevent water seepage and soil contamination. These improvements will reduce physiological stress on endangered fish species by maintaining stable water chemistry and temperatures, thereby increasing post-stocking survival rates in the Upper Colorado River Basin.

**2. Background**

The Buy America Preference set forth in section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58), requires all

iron, steel, manufactured products, and construction materials used for infrastructure projects under Federal financial assistance awards be produced in the United States.

Under section 70914(b), the Department of the Interior may waive the application of the Buy America Preference, in any case in which it finds that: applying the domestic content procurement preference would be inconsistent with the public interest; types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. All waivers must have a written explanation for the proposed determination; provide a period of not less than 15 calendar days for public comment on the proposed waiver; and submit the proposed waiver to the Office of Management and Budget Made in America Office for review to determine if the waiver is consistent with policy.

For more information on the Build America, Buy America Preference, please reference [www.doi.gov/grants/buyamerica](http://www.doi.gov/grants/buyamerica) or [MadeinAmerica.gov](http://MadeinAmerica.gov).

### **3. Description of Award**

Title of project: Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin

Description of Project: Upgrading pond drainage systems, installation of a high voltage electrical system for pond operations, acquisition of a fish harvesting crane and other improvements. This will reduce stress on fish, improve fish pre-stock health and increase stocking success.

Recipient name and Unique Entity Identifier (UEI): JMWKB3G2F7S2

Federal Award Identification Number (FAIN): R23AP00183

Federal Financial Assistance Listing: 15.529 - Upper Colorado and San Juan River Basins Endangered Fish Recovery

Federal financial assistance funding amount (if applicable): \$3,075,458.00

Total cost of infrastructure expenditures, including all Federal and non-Federal funds (to the extent known): \$5,000,000.00

Infrastructure project description and location (to the extent known): Comprehensive rehabilitation and modernization of the Wahweap lower Ponds infrastructure at Wahweap State Fish Hatchery, Big Water, UT. The primary objective is to enhance the long-term integrity, efficiency, and environmental performance of the ponds through the replacement of critical components and the installation of advanced lining systems. The project is funded through the Bureau of Reclamation's Water and Related Resources budget.

#### 4. Description of Covered Items

Manufactured products: This waiver seeks an exemption from Buy America requirements for the following items.

- **Bituminous Geomembrane**

NAICS: 326113 – Unlaminated Plastics Film and Sheet Manufacturing

PSC: 5650 – Roofing and Siding

#### 5. Waiver Justification

Anticipated impact if no waiver is issued:

If this waiver is not issued, the project cannot meet the strict environmental and biological requirements for endangered species recovery. Domestic alternatives, such as standard High Density Polyethylene or Liner Low Density Polyethylene liners, lack the puncture resistance and low thermal expansion coefficients required for the specific subgrade conditions at Wahweap. Failure to secure a Bituminous Geomembrane liner will result in a technical impasse where the infrastructure cannot be certified for "potable-grade" fish rearing, leading to the indefinite postponement of hatchery modernization and a failure to meet federal stocking mandates for endangered species.

Assessment of Cost Advantage of a Foreign-Sourced Product:

Cost advantage of foreign-sourced products was not considered as this is a product non-availability waiver.

Description of efforts made to identify domestic products:

The Recipient is requesting this waiver on the basis that a “bitumen Teranap-type” pond liner meeting all Build America, Buy America Act requirements is not available domestically for the intended application. To verify this, the Recipient conducted extensive market research between January and March 2026 that included outreach to five leading U.S.-based geomembrane manufacturers and three specialized distributors. The technical specifications for the project require a bituminous geomembrane that is certified to National Sanitation Foundation (NSF), American National Standards Institute (ANSI) NSF/ANSI 61, ensuring suitability for potable water and aquaculture use.

Comprehensive market research conducted through the National Institute of Standards and Technology’s Manufacturing Extension Partnership, along with the Recipient’s own analysis, found that although domestic manufacturers produce a range of elastomeric and plastic liners such as HDPE, PVC, and EPDM, none manufacture an asphalt-based bituminous geomembrane with the necessary reinforcement and NSF/ANSI certification. While one domestic manufacturer produces a bituminous product for roofing and industrial containment

applications, that product is not certified for potable water or fish culture use and does not meet the required mechanical performance standards, including tensile strength and elongation, necessary for the Wahweap pond subgrade conditions. Further outreach confirmed that the only manufacturers capable of producing a bituminous geomembrane that meets both the high-performance aquaculture requirements and NSF/ANSI 61 certification is not BABA compliant.

As part of its good faith effort to comply with BABA requirements, the Recipient issued a Request for Information (RFI) between January and March 2026 specifically seeking domestically produced, compliant materials. All respondents indicated that the specialized bituminous geomembrane required for this project is not manufactured in the United States and is only available from European sources.

## **6. Solicitation of Public Comments**

Proposed Waiver: This notice will be posted for comments for fifteen (15) days, which satisfies the requirement to publish any proposed Buy America waiver and provide the public with a reasonable period of time for notice and comment. The Department of the Interior seeks public and industry comments from all interested parties. Relevant information and comments will help to understand completely the facts surrounding the waiver requests and the agency's proposal.

Comments can be sent to [DOI\\_Grants\\_BuyAmerica\\_Waiver@ios.doi.gov](mailto:DOI_Grants_BuyAmerica_Waiver@ios.doi.gov). Please reference the associated project title in the subject line of the email. Comments received prior to the public comment closing date will be reviewed and considered by DOI.