DEPARTMENT OF THE INTERIOR
U.S. Bureau of Reclamation
Non-Availability Project-Level Waiver for Automated Flume Gates for Upper Colorado and San Juan River Basins Endangered Fish Recovery

1. Summary

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

Proposed Waiver: The Department of the Interior (DOI) Bureau of Reclamation (BOR) is proposing a project-level, product nonavailability waiver of the requirements of section 70914 of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (Pub. L. No. 117-58) for automated flume gates used in infrastructure projects funded through award R26AC00081 for the Upper Colorado and San Juan River Basins Endangered Fish Recovery. This waiver is in effect from the effective date of this waiver until the end of the project, estimated May 31, 2028.

This waiver action permits the use of non-domestic automated flume gates in through R26AC00081 titled San Juan Water and Soil Conservation District (SJSWCD).

Waiver type: Nonavailability of a domestic product

Waiver level: Project Level waiver

Is it a general applicability waiver? No

Waiver justification summary: Flume gates that meet the required specification design regarding safe fish passage are not produced in the US with sufficient design requirements.

Length of the waiver: Effective date of this waiver until the end of the project, estimated May 31, 2028.

Summary of items covered in the waiver: Automated Irrigation System Flume Gates

Summary of project: The purpose of this project is to rehabilitate aging irrigation infrastructure of two ditches that play an important role in the San Juan River Basin Recovery Implementation Program (Recovery Program), by replacing the existing outdated flume gates at the Farmer's Mutual and the Halford Independent Ditches to ensure adequate passage of endangered species.

The San Juan River Basin Recovery Implementation Program is a collaborative effort designed to help recover two endangered fish species native to the Upper Colorado and San Juan River Basins: Colorado pikeminnow and Razorback sucker. These fish are protected under the Endangered Species Act, and their recovery is essential for maintaining a healthy river ecosystem. This program ensures projects move forward while still complying with federal and state laws, while also meeting federal trust responsibilities.

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 or MadeinAmerica.gov.

3. Description of Award

Title of project: Farmer's Mutual & Halford-Independent Irrigation Ditch Rehabilitation with Automated Flume Gates

Description of Project: Rehabilitate aging irrigation infrastructure of two ditches that play an important role in the Recovery Program. The existing gates at the Farmer's Mutual and the Halford Independent Ditches have outdated designs that increase the likelihood of fish entrainment. Because endangered fish species tend to occupy habitats near the riverbed, traditional gate structures pose a higher risk.

Recipient name: San Juan Soil and Water Conservation District (SJSWCD)

Unique Entity Identifier (UEI): DFSCLA3FZZP7

Federal Award Identification Number (FAIN): R26AC00081

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

Federal financial assistance funding amount (if applicable): $1,188,999.98

Total cost of infrastructure expenditures, including all Federal and non-Federal funds (to the extent known): $286,863.00

Infrastructure project description and location (to the extent known): This project will replace the existing gates at Farmer's Mutual Ditch on the San Juan River (just downstream of its

confluence with the Animas River; 36.726811, -108.229958) and Halford-Independent Ditch (on the Animas River at river mile 15.3; 36.816185, -108.025747) with automated flume gates. The Farmer's Mutual ditch currently comprised of 3 sliding gates will be replaced with a double automated flume gate structure which requires the existing structure to be completely rebuilt. The Halford ditch flows directly into the Halford-Independent Ditch. The head works structure is located at the start of the diversion point and is a shared diversion for both the Halford and Independent ditches. The automated flume gate at Halford-Independent will be retrofitted into the existing structure. Funding for this project comes from the Upper Colorado and San Juan River Basins Endangered Fish Recovery program.

4. Description of Covered Items

Product: Other Metal Valve and Pipe Fitting Manufacturing
Country of origin: Australia
PSC code: Y1NE
NAICS code: 332919

5. Waiver Justification

Anticipated impact if no waiver is issued: The rehabilitation of headgates for these two ditches will not occur without this award and requested product waiver. Endangered fish have a high likelihood of fish entrainment without this rehabilitation.

Assessment of Cost Advantage of a Foreign-Sourced Product: Cost advantage of foreign-sourced products was not considered as this is a product nonavailability waiver.

Description of efforts made to identify domestic products.

The Recipient conducted good-faith market research into U.S.-manufactured irrigation diversion, ditch headgate, and canal-control technologies between November 2025 – February 2026. The project requires a gate system capable of: (1) functioning as an overflow/overshot canal-control gate; (2) continuously and automatically adjusting gate position to maintain specified flow or water-level set points; (3) providing integrated upstream and downstream water-level measurement and real-time flow calculation; (4) operating remotely via telemetry/Supervisory Control and Data Acquisition (SCADA) or equivalent communications; and (5) supporting efficient irrigation delivery while reducing endangered fish entrainment.

Five separate U.S. manufacturers and suppliers were reviewed, and each was evaluated against the project's functional requirements:

- Available slide gates control flow by sliding a flat plate across a flow opening. They do not function as overflow/overshot gates, do not provide integrated flow measurement, and do not include precision automated positioning or telemetry as a unified system.
- Radial/Tainter gates researched use a curved face rotating around a fixed pivot and are typically used for large flood-control or reservoir releases. They are not designed

for continuous precision flow regulation in irrigation canals and do not include integrated measurement or SCADA control as a single packaged system.

- Flap gates researched are passive, one-way flow-control devices that open and close based on differential water pressure. They have no automated positioning capability, no flow measurement, and no telemetry.
- The weir/overshot gates available allow water to flow over a crest. Domestic weir gate products are conventional, manually or electrically operated structures without integrated ultrasonic level sensing, real-time flow calculation from gate position and water level, precision motor-driven automated positioning, or coordinated canal-network control.
- Stop logs are manually placed barrier boards used for temporary flow control. They have no automation, no measurement capability, and no remote operation.
- By contrast, the automated flume gate is a single integrated unit that combines an overshot/overflow gate structure, precision motor-driven gate positioning, integrated ultrasonic upstream and downstream level sensors, real-time on-board flow calculation, solar power, data-radio telemetry, SCADA connectivity, and software-coordinated canal-network control. No domestic manufacturer was identified that produces a comparable single integrated product.

6. Summary of Comments

Proposed Waiver: This notice will be posted for public comments for fifteen (15) days, which satisfies the requirement to publish any proposed Buy America waiver and provide the public with a reasonable period 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. 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.