



COACHELLA VALLEY WATER DISTRICT

Established in 1918 as a public agency

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June 8, 2023

VIA EMAIL AT DOI_Grants_BuyAmerica_Waiver@ios.doi.gov

Commissioner Camille Touton
Bureau of Reclamation
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Commissioner Touton:

Re: The Department of the Interior, Bureau of Reclamation's proposed waiver concerning the application of Build America, Buy America Act (BABAA) to Programs Impacted by Drought

This letter is submitted on behalf of Coachella Valley Water District ("CVWD") in support of and with a request regarding the Department of the Interior, Bureau of Reclamation's proposed waiver concerning the application of Build America, Buy America Act ("BABAA") for Programs Impacted by Drought, including the WaterSmart Program. **CVWD is respectfully requesting the waiver be expanded to address the longevity of project planning and development.** The intention of the proposed waiver is to ensure projects do not face delay and drought can be appropriately mitigated. **To address the Department of Interior-Bureau of Reclamation's intentions the waiver should be expanded to waive the requirements for projects whose feasibility studies were approved by the Bureau of Reclamation before May 14, 2022.**

Projects such as CVWD's Water Reclamation Plan #10 ("WRP-10") expansion require extensive pre-planning before the project can proceed to construction. To be eligible for Title XVI construction funds, the project must have a Bureau of Reclamation pre-approved feasibility study. CVWD's WRP-10 feasibility study was approved by the Bureau of Reclamation in April 2019 and transmitted to Congress in September 2019. By the point in which the feasibility study was transmitted to Congress significant planning, permitting, and environmental documentation was underway. Since approval of the feasibility study, WRP-10 has been awarded over \$12 million under the WaterSmart Title XVI program.

Currently, the Department of the Interior's Bureau of Reclamation public interest general applicability waiver is proposed for iron, steel, any manufactured products, and construction materials contracts that were entered into before January 13, 2023. U.S. Dept. of the Interior, General Applicability Public Interest Waiver for Programs Impacted by Drought, pg. 1 (2023) ("Proposed Waiver"). The waiver further proposes waiving the Buy America requirements for iron, steel, any manufactured products, and construction materials contracts that were entered into prior to May 14, 2023, that resulted from solicitations published before May 14, 2022. Proposed Waiver, pg. 1. In proposing the waiver, the Department of the Interior – Bureau of Reclamation acknowledges the significant time already committed by applicants on the planning and design of projects and should the waiver not be approved, the projects would face substantial delays as projects are redesigned, reassessed, and reproached. Proposed Waiver, pg. 3.

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The waiver as proposed, will not fully address the concerns the Department of Interior-Bureau of Reclamation seeks to address. As noted in the proposed waiver, significant time already committed by applicants on the planning and design of projects and without a waiver the projects would face substantial delays as projects are redesigned, reassessed, and reproached. Proposed Waiver, pg. 3. **CVWD urges the Department of Interior-Bureau of Reclamation to extend the waiver to include those projects whose feasibility studies were approved prior to May 14, 2022.**

Last summer California experienced an extreme summer drought. Diana Leonard, *California braces for extreme summer drought after dismal wet season*, Wash. Post. (May 11, 2022). The problem is exacerbated when higher temperatures contribute to (1) higher evaporation which means less water is likely to make it to water storage and (2) higher water usage by farms and cities. *Id.* While California experienced historic snowfall and rains, the drought is not over. Lauren Sommer, *3 reasons why California's drought isn't really over, despite all the rain*, NPR (March 23, 2023). Infrastructure must continue to be built to ensure that California can address the long-term drought conditions and risks.

The proposed waiver, and requested expansion, will not significantly detract from BABAA's intent to "Build America and Buy America" because the proposed waiver will have less of an effect over time as water infrastructure projects in beginning, planning stages will be subject to its requirements. This transitional waiver only allows for projects that have already passed through several administrative, regulatory, and planning hurdles to not have to go back and redesign or secure additional funding for the projects. It would also allow for current procurement efforts to continue without affecting outstanding plans for significant projects and ongoing procurement efforts. This is especially important as construction efforts are already impacted by delays and shortages in the supply chain.

In conclusion, CVWD supports the Department of the Interior, Bureau of Reclamation's proposed waiver and *respectfully requests the waiver be expanded to address the longevity of project planning and development*. The intention of the proposed waiver is to ensure projects do not face delay and drought can be appropriately mitigated. **To address the Department of Interior-Bureau of Reclamation's intentions the waiver should be expanded to waive the requirements for projects whose feasibility studies were approved by the Bureau of Reclamation before May 14, 2022.** Without the amended waiver, CVWD and its customers will likely face drastic cost increases, delays, and compliance risks. The waiver would will allow CVWD to continue pursuing critical infrastructure in the areas it serves without undue delay.

If you have any questions or would like any additional information on CVWD and/or the WRP-10 project please contact Victoria Llort, CVWD Government and Regional Affairs at vllort@cvwd.org.

Sincerely,



J. M. Barrett
General Manager