



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Michelle Garrison, Senior Water Resource Specialist
Interstate, Federal and Water Information Section

DATE: Sep. 18, 2024

SUBJECT: Agenda Item 10: Upper Colorado and San Juan River Recovery Programs

This is an informational item with no board action requested.

Background:

The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Recovery Implementation Program (Recovery Programs) are partnerships that were established in 1988 and 1992, respectively. The cooperative agreement for the Upper Colorado River Endangered Fish Recovery Program was signed by the governors of Colorado, Wyoming, Utah, the Secretary of the Interior and Western Area Power Administration. The cooperative agreement for the San Juan River Recovery Implementation Program was signed by the governors of Colorado, New Mexico, the Secretary of the Interior and the tribal governors of the Navajo Nation, Jicarilla Apache Nation, Southern Ute Indian Tribe, and the Ute Mountain Ute Indian Tribe. Other program participants include local water users and environmental organizations. The Recovery Programs' cooperative agreements have been extended several times, with the last extensions ending on December 31, 2024.

Public Law (P.L.) [106-392](#), signed into law on October 30, 2000, first authorized funding for the Recovery Programs. They have been congressionally reauthorized several times (as amended by P.L. 107-375, P.L. 109-183, P.L. 111-11, P.L. 112-270, P.L. 116-9, P.L. 117-328) with the latest authorization ending on September 30, 2024.

Value to the State of Colorado

For the past 30 years, the Recovery Programs has been a successful example of state, Tribal, local, and Federal partners working collaboratively to recover the threatened humpback chub, and the endangered razorback sucker, Colorado pikeminnow, and bonytail while allowing continued water use and development pursuant to state, federal, and Tribal law. The Recovery Programs provide Endangered Species Act compliance for agricultural, industrial and municipal water use in the Colorado and San Juan River basins and its tributaries in Colorado, Wyoming, Utah, and New Mexico.



The Recovery Programs use science-based, cooperative actions to assist in endangered fish recovery, including habitat maintenance and streamflow augmentation, operating fish hatcheries and stocking, constructing fish passages and fish screens, and removal of invasive predatory fish. When the Recovery Programs were initiated, the four fish species were at risk of becoming extinct. Recovery Program actions have not only prevented extinction, but substantially moved the needle on the recovery of these rare species. Due to the success of the Recovery Programs, the U.S. Fish and Wildlife Service reclassified the humpback chub from endangered to threatened in 2021 and has also recommended downlisting for the razorback sucker (currently under review).

Funding Proposal

The recovery programs were historically largely funded by Colorado River Storage Project hydropower revenues. However, as aridification, declining reservoir storage, and federal project repayment obligations impact the reliability of future hydropower revenue, funding proposals for the Recovery Programs need to increase Federal appropriations and state contributions.

The Federal and non-Federal Recovery Program partners (“partners”) have recommended a new funding structure that would adequately cover the funding needs of the Recovery Programs for both annual (base) funding and capital funding. The partners recommended funding the Upper Colorado Program at \$9.7 million (M) and the San Juan Program at \$4.21M in FY2024 (for a total of \$13.9M), with annual increases based on inflation. Annual funding would be a cost-share between Federal and non-Federal parties. Partners recommended that the portion of the annual funding that would be covered by Reclamation in FY2024 would be \$11.85M, with the state’s contribution increasing and Reclamation’s contribution decreasing starting in FY2029 (adjusted for inflation annually). Staff requested funding for this additional expense to be included in the 2023 CWCBC Projects Bill. The Board approved this request (at the November 2022 meeting) and after review from the Legislature, the 2023 Projects Bill (SB23-177) was signed into law in June 2023.

Partners also recommended that Reclamation appropriate additional funding to increase capital project expenditure.

Congressional Reauthorization

Current program authorization expires on September 30, 2024. Senator Hickenlooper (CO) and Senator Romney (UT) introduced the Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act (S. 2247) that would authorize the Secretary of Interior to provide the funding necessary to implement the Recovery Programs on July 11, 2023. Staff worked with Senator Hickenlooper’s office on language that was included in the introduced bill. The bill was heard by the Energy and Natural Resources Subcommittee on Water and Power on July 19, 2023. Key components of this legislation include:



- Authorization of the programs through FY2031
- Increasing the BOR annual funding authorization level to match the amount recommended by the partners, \$11.85M in FY2024 and a total ceiling of \$92 million through FY2031.
- Authorization of \$50M for capital funding

House Representative Boebert (CO) also introduced a bill into the House, H.R.4596, on July 13, 2023. This bill was heard by the House Natural Resources Subcommittee on Water, Wildlife, and Fisheries on July 27, 2023. The primary difference between the two bills is that H.R. 4596 authorizes a total annual funding ceiling of \$80 million through FY2031, as opposed to S. 2247 which authorizes \$92M for the same period. The authorization amount in the House bill was based on presently authorized funding as required by current House rules.

Both bills have bi-partisan support and minimal to no opposition. Staff's understanding is that there may be some negotiations by the staff of the House and the Senate committees to reconcile the differences in the authorized funding amounts between the two bills before the bills are sent to the Senate and the House for passage. Annual funding may be authorized at \$80M, \$92M, or somewhere in between.

Congressional staff have indicated current options for reauthorization of the programs includes another 1-year extension through FY2025 or a temporary reauthorization as part of a continuing resolution followed by inclusion of the reauthorization in an omnibus bill at the end of this legislative session.

Staff and Recovery Program partners want to emphasize the importance of increased annual funding for the programs. Authorized annual funding for the programs has been almost flat since 2019, despite a 19% increase in inflations since that time. Without an increase to annual funding, the Programs may face difficult cuts to program activities that currently provide ESA compliance for federal, non-federal, and tribal water projects across the states.

