



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Kara Scheel, Endangered Species Recovery Program Manager
Interstate, Federal, and Water Information Section

DATE: November 15-16, 2023

AGENDA ITEM: 12, Upper Colorado and San Juan Recovery Program Update

Staff Recommendation:

This is an informational item only. No Board action is 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, and 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 and 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. These parties are also joined by the support and participation of 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 have 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 more than 2,500 water projects in the Colorado and San Juan River basins and their tributaries in Colorado, Wyoming, Utah, and



New Mexico. Over 1,250 of those projects are located in Colorado alone and provide critical water supplies for municipal, agricultural, industrial, and recreational users.

The Recovery Programs use science-based, cooperative actions to assist in endangered fish recovery. These include: habitat maintenance and streamflow augmentation, operating fish hatcheries and stocking, constructing fish passages and fish screens, and removing invasive predatory fish. When the Recovery Programs were initiated, the four fish species were at risk of becoming extinct. The work that the Recovery Program is doing not only has 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, the Recovery Programs will likely require increased 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 Reclamation cover \$11.85M in FY2024, 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 CWCB 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 of 2023.

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

Congressional Reauthorization

Current Recovery 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 for 7 years (through FY2031)
- Increases the annual funding authorization level to match the amount recommended by the partners, with BOR authorizing \$11.85M in FY2024 and a total ceiling of \$92 million through FY2031.
- Authorizes \$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 for FY2024 - FY2031, as opposed to S. 2247 which authorizes \$92M for the same time 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 House and the Senate committees' staff 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 believes there is a high probability that Recovery Program authorization will be included in an omnibus bill that will not be passed until late 2023.

Staff and Recovery Program partners want to emphasize the importance of increased annual funding for the programs. Authorized annual funding for the Programs has not been adjusted since 2019, despite a 19% increase in inflation since that time. Without an increase to annual funding, the Programs will face difficult cuts to Program activities that currently provide ESA compliance for federal, non-federal, and Tribal water projects across the States.

