

PUBLIC LAW 106-392

[Public Law 106-392, Enacted October 30, 2000]

[As Amended Through P.L. 118-159, Enacted December 23, 2024]

【Currency: This publication is a compilation of the text of Public Law 106-392. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize the Bureau of Reclamation to provide cost sharing for the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to authorize and provide funding for the Bureau of Reclamation to continue the implementation of the endangered and threatened fish recovery implementation programs for the Upper Colorado and San Juan River Basins in order to accomplish the objectives of these programs within a currently established time schedule.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term “Recovery Implementation Programs” means the intergovernmental programs established pursuant to the 1988 Cooperative Agreement for the Recovery Implementation Program for Endangered Species in the Upper Colorado River Basin dated September 29, 1987, and the 1992 Cooperative Agreement for the San Juan River Basin Recovery Implementation Program dated October 21, 1992, as the agreements may be amended and extended by the parties thereto.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Upper Division States” means the States of Colorado, New Mexico, Utah, and Wyoming.

(4) The term “Colorado River Storage Project” or “storage project” means those dams, reservoirs, power plants, and other appurtenant project facilities and features authorized by and constructed in accordance with the Colorado River Storage Project Act (43 U.S.C. 620 et seq.).

(5) The term “capital projects” means planning, design, permitting or other compliance, pre-construction activities, construction, construction management, and replacement, rehabilitation, and repair of facilities, and the acquisition of interests in land or water, as necessary to carry out the Recovery Implementation Programs.

(6) The term “facilities” includes facilities for the genetic conservation or propagation of the endangered or threatened fishes, those for the restoration of floodplain habitat or fish passage, those for control or supply of instream flows, those for protection of critical habitat, those for preventing entrainment of fish in water diversions, and those for the control of non-native fishes.

(7) The term “interests in land and water” includes, but is not limited to, leases and easements, and enforcement, or other agreements protecting instream flows.

(8) The term “base funding” means funding for operation and maintenance of capital projects, implementation of recovery actions other than capital projects, monitoring and research to evaluate the need for or effectiveness of any recovery action, and program management, as necessary to carry out the Recovery Implementation Programs. Base funding also includes annual funding provided under the terms of the Recovery Implementation Programs.

(9) The term “recovery actions other than capital projects” includes short-term acquisitions for interests in land, water, and facilities; the reintroduction or augmentation of endangered or threatened fish stocks; and the removal, translocation, or other control of nonnative fishes, as approved under the Recovery Implementation Programs.

(10) The term “depletion charge” means a one-time contribution in dollars per acre-foot to be paid to the United States Fish and Wildlife Service pursuant to the Recovery Implementation Program for Endangered Species in the Upper Colorado River Basin based on the average annual new depletion by each project.

SEC. 3. AUTHORIZATION TO FUND RECOVERY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL PARTICIPATION IN CAPITAL PROJECTS.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—Subject to subparagraph (B), there is authorized to be appropriated to the Secretary for use by the Bureau of Reclamation to undertake capital projects to carry out the purposes of this Act \$50,000,000 for the period of fiscal years 2024 through 2031.

(B) ANNUAL ADJUSTMENT.—For each of fiscal years 2025 through 2031, the amount authorized to be appropriated under subparagraph (A) shall be annually adjusted to reflect widely available engineering cost indices applicable to relevant construction activities.

(C) NONREIMBURSABLE FUNDS.—Amounts made available pursuant to subparagraph (A) shall be considered a nonreimbursable Federal expenditure.

(2) The authority of the Secretary, acting through the Bureau of Reclamation, under this or any other provision of law to implement capital projects for the Recovery Implementation Programs shall expire in fiscal year 2031 unless reauthorized by an Act of Congress.

(b) NON-FEDERAL CONTRIBUTIONS TO CAPITAL PROJECTS.—The Secretary, acting through the Bureau of Reclamation, may accept contributed funds, interests in land and water, or other contributions from the Upper Division States, political subdivisions of the Upper Division States, or individuals, entities, or organizations within the Upper Division States, pursuant to agreements that provide for the contributions to be used for capital projects costs.

(c) BASE FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary to be used by the Bureau of Reclamation to make the annual base funding contributions to the Recovery Implementation Programs \$92,040,000 for the period of fiscal years 2024 through 2031.

(B) NONREIMBURSABLE FUNDS.—The funds contributed to the Recovery Implementation Programs under subparagraph (A) shall be considered a nonreimbursable Federal expenditure.

(2) For the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River Basin, the contributions to base funding referred to in paragraph (1) shall not exceed \$61,100,000 for the period of fiscal years 2024 through 2031. For the San Juan River Basin Recovery Implementation Program, such contributions shall not exceed \$30,940,000 for the period of fiscal years 2024 through 2031. The Secretary shall adjust such amounts for inflation for fiscal year 2024 and each fiscal year thereafter. Nothing in this Act shall otherwise modify or amend existing agreements among participants regarding base funding and depletion charges for the Recovery Implementation Programs.

(3) FEDERAL CONTRIBUTIONS TO ANNUAL BASE FUNDING.—

(A) IN GENERAL.—For each of fiscal years 2024 through 2031, the Secretary, acting through the Bureau of Reclamation, may accept funds from other Federal agencies, including power revenues collected pursuant to the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) (43 U.S.C. 620 et seq.).

(B) AVAILABILITY OF FUNDS.—Funds made available under subparagraph (A) shall be available for expenditure by the Secretary, as determined by the contributing agency in consultation with the Secretary.

(C) TREATMENT OF FUNDS.—Funds made available under subparagraph (A) shall be treated as nonreimbursable Federal expenditures.

(D) TREATMENT OF POWER REVENUES.—Not more than \$499,000 in power revenues over the period of fiscal years 2024 through 2031 shall be accepted under subparagraph (A) and treated as having been repaid and returned to the general fund of the Treasury.

(4) NON-FEDERAL CONTRIBUTIONS TO ANNUAL BASE FUNDING.—The Secretary, acting through the Bureau of Reclamation, may accept contributed funds from the Upper Division States, political subdivisions of the Upper Division States, or individuals, entities, or organizations within the Upper Division States, pursuant to agreements that provide for the contributions to be used for annual base funding.

(5) REPLACEMENT POWER.—Contributions of funds made pursuant to this subsection shall not include the cost of replacement power purchased to offset modifications to the operation of the Colorado River Storage Project to benefit threatened or endangered fish species under the Recovery Implementation Programs.

(d) AUTHORITY TO RETAIN APPROPRIATED FUNDS.—At the end of each fiscal year any unexpended appropriated funds for capital projects under this Act shall be retained for use in future fiscal years. Unexpended funds under this Act that are carried over shall continue to be used to implement the capital projects needed for the Recovery Implementation Programs.

(e) ADDITIONAL AUTHORITY.—The Secretary may enter into agreements and contracts with Federal and non-Federal entities, acquire and transfer interests in land, water, and facilities, and accept or give grants in order to carry out the purposes of this Act.

(f) INDIAN TRUST ASSETS.—The Congress finds that much of the potential water development in the San Juan River Basin and in the Duchesne River Basin (a subbasin of the Green River in the Upper Colorado River Basin) is for the benefit of Indian tribes and most of the federally designated critical habitat for the endangered or threatened fish species in the San Juan River Basin is on Indian trust lands, and 2½ miles of critical habitat on the Duchesne River is on Indian Trust Land. Nothing in this Act shall be construed to restrict the Secretary, acting through the Bureau of Reclamation and the Bureau of Indian Affairs, from funding activities or capital projects in accordance with the Federal Government's Indian trust responsibility.

(g) TERMINATION OF AUTHORITY.—All authorities provided by this section for the respective Recovery Implementation Program shall terminate upon expiration of the current time period for the respective Cooperative Agreement referenced in section 2(1), as amended or extended.

(h) LIMITATION ON INDIRECT COST RECOVERY RATE.—The indirect cost recovery rate for any transfer of funds to the U.S. Fish and Wildlife Service from another Federal agency for the purpose of funding any activity associated with the Recovery Implementation Programs shall not exceed three percent of the funds transferred. In the case of a transfer of funds for the purpose of funding activities under both programs, the limitation shall be applied to the funding amount for each program and may not be allocated unequally to either program, even if the average aggregate indirect cost recovery rate would not exceed three percent.

(i) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2030, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes the accomplishments of the Recovery Implementation Programs;

(B) identifies—

(i) as of the date of the report, the listing status under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) of the Colorado pikeminnow, humpback chub, razorback sucker, and bonytail; and

(ii) as of September 30, 2031, the projected listing status under that Act of each of the species referred to in clause (i);

(C)(i) identifies—

(I) the total expenditures and the expenditures by categories of activities by the Recovery Implementation Programs during the period beginning on the date on which the applicable Recovery Implementation Program was established and ending on September 30, 2030; and

(II) projected expenditures by the Recovery Implementation Programs during the period beginning on October 1, 2030, and ending on September 30, 2031; and

(ii) for purposes of the expenditures identified under clause (i), includes a description of—

(I) any expenditures of appropriated funds;

(II) any power revenues;

(III) any non-Federal contributions; and

(IV) any other sources of funds for the Recovery Implementation Programs; and

(D) describes—

(i) any activities to be carried out under the Recovery Implementation Program after September 30, 2031; and

(ii) the projected cost of the activities described under clause (i).

(2) **CONSULTATION REQUIRED.**—The Secretary shall consult with the participants in the Recovery Implementation Programs in preparing the report under paragraph (1).

SEC. 4. EFFECT ON RECLAMATION LAW.

Specifically with regard to the acreage limitation provisions of Federal reclamation law, any action taken pursuant to or in furtherance of this title will not—

(1) be considered in determining whether a district as defined in section 202(2) of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) has discharged its obligation to repay the construction cost of project facilities used to make irrigation water available for delivery to land in the district;

(2) serve as the basis for reinstating acreage limitation provisions in a district that has completed payment of its construction obligations; or

(3) serve as the basis for increasing the construction repayment obligation of the district and thereby extending the period during which the acreage limitation provisions will apply.

SEC. 5. LIMITATION ON TRAVEL FOR ADVOCACY PURPOSES.

No Federal funds may be used to cover any expenses incurred by an employee or detailee of the Department of the Interior to travel to any location (other than the field office to which that individual is otherwise assigned) to advocate, lobby, or attend meetings that advocate or lobby for the Recovery Implementation Programs.