

ENDANGERED FISH RECOVERY PROJECTS FOR UPPER
COLORADO AND SAN JUAN RIVER BASINS

SEPTEMBER 24, 2002.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 5099]

The Committee on Resources, to whom was referred the bill (H.R. 5099) to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 5099 is to extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

BACKGROUND AND NEED FOR LEGISLATION

The Recovery Implementation Program on the Upper Colorado River began with the cooperative agreement signed in 1988 by the governors of Colorado, Wyoming and Utah, and the Bureau of Reclamation, U.S. Fish and Wildlife Service and the Western Area Power Administration (WAPA). The San Juan Recovery Implementation Program, initiated in 1991, is a similar effort involving Colorado, New Mexico, the Bureau of Indian Affairs, the U.S. Fish and Wildlife Service, Reclamation and WAPA. The goals of these two programs are to balance the recovery of four species of endangered fish (Colorado pikeminnow, humpback chub, razor-

back sucker and the bonytailed chub) with the need to meet the other demands for water in the region.

Public Law 106–392 provided specific authority for Reclamation to implement and construct capital improvement projects necessary to carry out the objectives of the Programs. This authority expires in fiscal year 2005 for the Upper Colorado Recovery Implementation Program and fiscal year 2007 for the San Juan Recovery Implementation Program. Under these Programs, Reclamation has constructed fish passageways, fish screens, fish propagation facilities, and acquired and restored habitat to support recovery of the listed species. As a result of these efforts, measurable progress has been made toward down-listing and de-listing of the protected species in accordance with approved recovery goals. Where appropriate, responsibility for operating and maintaining these facilities is being transferred to local entities with funding provided by Reclamation.

Problems have been encountered that are affecting Reclamation's ability to construct all needed facilities within the currently authorized time frames. This includes facilities at the Price-Stubb and Tusher Wash Diversion Dams. The Price-Stubb Diversion Dam fish passage facility has been delayed by a Federal Energy Regulatory Commission licensing process. The Tusher Wash Diversion Dam fish screen has been delayed due to ongoing litigation between the owners of the canal system and the hydropower facility served by the canal system. This litigation has been appealed to the Utah Supreme Court.

To resolve these issues, construction authority provided by Public Law 106–392 needs to be extended through fiscal year 2008. Reclamation is authorized to enter into contracts, grants, and cooperative agreements for the purpose of constructing, transferring ownership, and assigning responsibility for operation and maintenance to private companies and local, state and federal entities, with funding provided by Reclamation. No additional funds are provided by H.R. 5099 because the existing funding authorization is adequate to complete construction.

COMMITTEE ACTION

H.R. 5099 was introduced on July 11, 2002, by Congressman James V. Hansen (R-UT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On September 12, 2002, the Full Resources Committee met to mark up the bill. By unanimous consent, the Subcommittee on Water and Power was discharged from further consideration of H.R. 5099. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. The Committee believes that enactment of this bill will have little impact on the federal budget.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 30, 2000

(Public Law 106-392)

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.

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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 to implement the Recovery Implementation Program for the Endangered Fish Species in the Upper Colorado River dated September 29, 1987, *and extended by the Extension of the Cooperative Agreement dated December*

6, 2001, and the 1992 Cooperative Agreement to implement the San Juan River Recovery Implementation Program dated October 21, 1992, and as they may be amended by the parties thereto.

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SEC. 3. AUTHORIZATION TO FUND RECOVERY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL PARTICIPATION IN CAPITAL PROJECTS.—(1) * * *

(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 Program for Endangered Fish Species in the Upper Colorado River Basin shall expire in fiscal year **[2005] 2008** unless reauthorized by an Act of Congress.

(3) The authority of the Secretary to implement the capital projects for the San Juan River Basin Recovery Implementation Program shall expire in fiscal year **[2007] 2008** unless reauthorized by an Act of Congress.

(b) COST OF CAPITAL PROJECTS.—The total costs of the capital projects undertaken for the Recovery Implementation Programs receiving assistance under this Act shall not exceed \$100,000,000 of which—

(1) costs shall not exceed \$82,000,000 for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin through fiscal year **[2005] 2008**; and

(2) costs shall not exceed \$18,000,000 for the San Juan River Recovery Implementation Program through fiscal year **[2007] 2008**.

The amounts set forth in this subsection shall be adjusted by the Secretary for inflation in each fiscal year beginning after the enactment of this Act.

(c) NON-FEDERAL CONTRIBUTIONS TO CAPITAL PROJECTS.—(1) The Secretary, acting through the Bureau of Reclamation, may accept contributed funds from the Upper Division States, or political subdivisions or organizations **[with] within** the Upper Division States, pursuant to agreements that provide for the contributions to be used for capital projects costs. Such non-Federal contributions shall not exceed \$17,000,000.

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