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SENATE

{ REPORT
111-142

BUREAU OF RECLAMATION FISH RECOVERY PROGRAMS REAUTHORIZATION ACT

MARCH 2, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1453]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1453) to amend Public Law 106–392 to maintain annual base funding for the Bureau of Reclamation for the Upper Colorado River and San Juan fish recovery programs through fiscal year 2023, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1453 is to amend Public Law 106–392 to maintain annual base funding for the Bureau of Reclamation for the Upper Colorado River and San Juan River endangered fish recovery programs through fiscal year 2023.

BACKGROUND AND NEED

Public Law 106–392 authorizes the Bureau of Reclamation to provide cost sharing for base funding for operation of capital projects and annual operations for the endangered fish recovery programs in the Upper Colorado River and San Juan River basins. Section 9107 of Public Law 111–11 extended the Bureau of Reclamation’s authorization to provide funding for capital projects for the recovery programs through 2023 and the amendments proposed by S. 1453 would ensure that the Bureau of Reclamation’s authorization for base funding coincides with the previously enacted extensions. The amendment to Public Law 106–392 proposed by S. 1453 will ensure the availability of base funding to support the pro-

grams' ongoing efforts to recover federally listed endangered fish species while allowing water development and management activities to proceed in the Upper Colorado River Basin States. Base funding is used for program management, scientific research, fish population monitoring, fish stocking, control of non-native fish, and operation and maintenance of capital projects. If not extended, annual base funding for the programs will not be available after 2011. The absence of base funding means that recovery of the species in question will likely be delayed. S. 1453 maintains the existing federal funding caps for base funding of \$4 million per year for the Upper Colorado River Basin Program and \$2 million per year for the San Juan River Recovery Implementation Program that were established in Public Law 106–392.

The Upper Colorado River Basin and San Juan River recovery programs have substantial support from the Upper Basin states of New Mexico, Colorado, Wyoming, Utah, the Navajo Nation, the Jicarilla Apache Nation, the Southern Ute Tribe, and the Ute Mountain Tribe. Other water users, power customers, and environmental organizations are also active participants in the programs. The Fish and Wildlife Service, the Bureau of Reclamation, the National Park Service and Western Area Power Administration also participate in the programs and support the extension of base funding. All of the partners contribute significantly to the success of the programs. The programs have received national recognition for their progress toward recovery of native fish species while enabling federal and non-federal water uses to continue.

LEGISLATIVE HISTORY

On July 14, 2009, Senator Bingaman, for himself and Senators Bennet, Bennett, Hatch, Udall of Colorado, and Udall of New Mexico introduced S. 1453. The Subcommittee on Water and Power held a hearing on S. 1453 on July 23, 2009. (S. Hrg. 111–91.) At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered S. 1453 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by voice vote of a quorum present, recommends that the Senate pass S. 1453.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title for the bill, the “Bureau of Reclamation Fish Recovery Programs Reauthorization Act of 2009”.

Section 2 amends Section 3(d)(2) of Public Law 106–392 by extending the authorization to provide base funding for the recovery programs from 2011 through 2023.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1453—Bureau of Reclamation Fish Recovery Programs Reauthorization Act of 2009

Summary: S. 1453 would extend the authority of the Secretary of the Interior to spend, without further appropriation, certain proceeds collected by the Western Area Power Administration (WAPA) for fish recovery programs in the Upper Colorado and San Juan River Basins. The bill would authorize the expenditure of about \$3 million a year (plus an additional amount to account for inflation) for research, removal of nonnative fish, and program management. The Secretary's existing authority to spend certain receipts collected by WAPA for those activities expires at the end of fiscal year 2011. S. 1453 would extend that authority through 2023.

CBO estimates that enacting S. 1453 would increase direct spending by \$12 million over the 2011–2015 period and \$30 million over the 2011–2020 period.¹ Enacting the legislation would not affect revenues.

S. 1453 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1453 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011– 2015	2011– 2020
CHANGES IN DIRECT SPENDING													
Estimated Budget													
Authority	0	0	3	3	3	3	3	3	4	4	4	12	30
Estimated Outlays	0	0	3	3	3	3	3	3	4	4	4	12	30

Basis of estimate: For this estimate, CBO assumes that this legislation will be enacted in 2010. Under current law, the Secretary of the Interior is authorized to spend proceeds from WAPA receipts without further appropriation to fund certain fish recovery programs through 2011. Those costs are nonreimbursable by WAPA's electricity customers and thus are not factored into the cost recovery rates it charges for electricity sales.

S. 1453 would extend that authority over the 2012–2023 period. Based on information from the Bureau of Reclamation and WAPA, CBO estimates that enacting the legislation would increase direct spending by \$12 million over the 2011–2015 period, \$30 million over the 2011–2020 period, and by another \$12 million through 2023.

Intergovernmental and private-sector mandates: S. 1453 contains no intergovernmental or private-sector mandates as defined in the UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Aurora Swanson; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

¹ Different time periods apply to enforcement of pay-as-you-go rules. CBO estimates that enacting S. 1453 would increase direct spending by \$9 million over the 2010–2014 period, and by \$26 million over the 2010–2019 period.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1453.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1453, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1453, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

STATEMENT OF MICHAEL L. CONNOR, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairwoman and Members of the Subcommittee, I am Mike Connor, Commissioner of the Bureau of Reclamation (Reclamation). I am pleased to be here today to provide the views of the Department of the Interior (Department) on S. 1453, the "Bureau of Reclamation Fish Recovery Programs Reauthorization Act." The Department supports S. 1453.

The Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program (Programs) share the dual goals of recovering populations of endangered fish while water development continues to meet current and future human needs. Program actions provide Endangered Species Act compliance for more than 1,600 federal, tribal, and non-federal water projects depleting more than 3 million acre-feet of water per year in the Colorado and San Juan rivers and their tributaries. The Programs, authorized by Public Law 106392, as amended, were established under cooperative agreements in 1988 (Upper Colorado) and 1992 (San Juan). Program partners include the states of Colorado, New Mexico, Utah, and Wyoming; the Bureau of Reclamation, Western Area Power Administration, U.S. Fish and Wildlife Service, Bureau of Land Management, National Park Service, and Bureau of Indian Affairs; Native American tribes; environmental organizations; water users; and power customers.

Public Law 106-392 authorized the use of \$6 million per year (indexed for inflation) of Colorado River Storage

Project (CRSP) hydropower revenues from Glen Canyon Dam and other CRSP facilities to support the base funding needs of the Programs through 2011. Base funding is used for program management, scientific research, fish population monitoring, fish stocking, control of non-native fish, and operation and maintenance of capital projects. The bill, as introduced, would simply extend the authorization to utilize CRSP hydropower revenues at the current level (up to \$6 million per year adjusted for inflation, or approximately \$7 million in 2009 dollars) through 2023 to support the base funding needs of both Programs.

These Programs have been nationally recognized for their cooperative approach to recovering aquatic native fish species, avoiding litigation, and providing Endangered Species Act compliance to federal and non-federal water users. Reauthorization for the continued use of CRSP hydropower revenues is critical to the ability of these Programs to realize their goals. There appears to be strong support for this legislation from the Program's non-federal stakeholders.

That concludes my prepared remarks. I would be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that S. 1453 amends Public Law 106–392.

UPPER COLORADO AND SAN JUAN RIVER BASINS ENDANGERED FISH RECOVERY PROGRAMS

(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.

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

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SEC. 3. AUTHORIZATION TO FUND RECOVERY PROGRAMS

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(d) BASE FUNDING.—

(1) Beginning in the first fiscal year commencing after the date of the enactment of this Act, the Secretary may utilize power revenues collected pursuant to the Colorado River Storage Project Act for the annual base funding contributions to the Recovery Implementation Programs by the Bureau of Reclamation. Such funding shall be treated as nonreimbursable and as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Colorado River Storage Project Act.

(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 \$4,000,000 per year. For the San Juan River Recovery Implementation Program, such contributions shall not exceed \$2,000,000 per year. The Secretary shall adjust such amounts for inflation in fiscal years commencing after the enactment of this Act. The utilization of power revenues for annual base funding shall cease after the fiscal year ~~2011~~ 2023, unless reauthorized by Congress; except that power revenues may continue to be utilized to fund the operation and maintenance of capital projects and monitoring. No later than the end of fiscal year 2008, the Secretary shall submit a report on the utilization of power revenues for base funding to the appropriate Committees of the United States Senate and the House of Representatives. The Secretary shall also make a recommendation in such report regarding the need for continued base funding after fiscal year 2011 that may be required to fulfill the goals of the Recovery Implementation Programs. Nothing in this Act shall otherwise modify or amend existing agreements among participants regarding base funding and depletion charges for the Recovery Implementation Programs.

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