

ENDANGERED FISH RECOVERY PROGRAMS EXTENSION  
ACT OF 2012

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SEPTEMBER 14, 2012.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Natural  
Resources, submitted the following

R E P O R T

[To accompany H.R. 6060]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6060) to amend Public Law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2019, 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. 6060 is to amend Public Law 106-392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2019.

BACKGROUND AND NEED FOR LEGISLATION

The Upper Colorado and San Juan River basins, located in Wyoming, Utah, Colorado, Arizona and New Mexico, are key sources of water and hydropower generation in the western United States. The basins are also home to four species of fish—the Colorado pikeminnow, the razorback sucker, the humpback chub and the bonytail—that are listed under the Endangered Species Act (ESA). The Upper Colorado and San Juan River Recovery Implementation Programs, as authorized by Public Law 106-392, are two cooperative programs that help provide ESA compliance for more than 2,000 federal, tribal, and non-federal water and power projects while working to recover the four fish species. Participants include

federal agencies, states, tribes, water and power customers and environmental organizations.

H.R. 6060 reauthorizes one portion of P.L. 106–392 through Fiscal Year 2019, specifically the use of counting debt repayments from Colorado River Storage Project hydropower users to support funding for fish monitoring, research and program management. The bill also makes reforms that will reduce overhead and increase transparency. For example, it limits overhead to three percent and prohibits federal employees from traveling from outside their duty stations for the purpose of advocating or lobbying for the programs. These overhead reducing provisions will dedicate more funding to on-the-ground efforts aimed at recovering and delisting the fish. H.R. 6060 also strengthens reporting requirements by stipulating that the appropriate federal agencies report to Congress on the status of the ESA-listed fish, projected dates for downlisting and delisting, and how power revenues are being utilized for base funding. These reforms will improve operations and continue to help provide ESA compliance for thousands of water and power projects.

#### COMMITTEE ACTION

H.R. 6060 was introduced on June 29, 2012, by Congressman Rob Bishop (R-UT). The bill was referred to the House Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On July 10, 2012, the Subcommittee on Water and Power held a hearing on the bill. On August 1, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section provides that the bill may be cited as the “Endangered Fish Recovery Programs Extension Act of 2012.”

##### *Section 2. Extensions of authority under Public Law 106–392; report*

This section amends Public Law 106–392 to allow for the continued use of hydropower revenues through Fiscal Year 2019 to fund the programs. Section 2 also requires a report to Congress on the programs by Fiscal Year 2018. This section also stipulates that the report specifically describe the programs actions, the status of the endangered species of fish, projected dates for downlisting and delisting, and how power revenues have been used towards meeting fish recovery goals.

##### *Section 3. Indirect cost recovery rate for recovery programs*

This section limits the overhead that can be charged on funding transfers to three percent (compared to one current rate of 22 percent).

*Section 4. Limitation on travel for advocacy purposes*

This section prevents federal employees from traveling away from their duty stations for the purposes of advocating or lobbying for the programs.

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 Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. 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 received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 6060—Endangered Fish Recovery Programs Extension Act of 2012*

H.R. 6060 would extend the authority of the Secretary of the Interior to spend, without further appropriation, certain proceeds collected from the sale of hydroelectric power by the Western Area Power Administration (WAPA) for fish recovery programs in the Upper Colorado and San Juan River Basins. CBO estimates that enacting H.R. 6060 would not affect the federal budget. Because the bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply to the bill.

The explicit authority to spend WAPA proceeds from hydroelectricity sales for certain fish recovery programs expired at the end of fiscal year 2011. Since 2011, the bureau has continued to fund those programs at a cost of about \$3 million annually using its general authority to spend proceeds from WAPA's electricity sales. Those fish recovery activities include research, removal of nonnative fish, and program-management activities.

H.R. 6060 contains no intergovernmental or private-sector mandates as defined in Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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. CBO estimates that enacting H.R. 6060 would not affect the federal budget. Because the bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply to the bill.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend Public Law 106–392 to maintain annual base funding for the Upper Colorado and San Juan fish recovery programs through fiscal year 2019.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### 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):

#### PUBLIC LAW 106–392

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#### SEC. 3. AUTHORIZATION TO FUND RECOVERY PROGRAMS.

(a) \* \* \*

\* \* \* \* \*

(d) BASE FUNDING.—(1) \* \* \*

(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~~ 2019, 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~~ 2018, 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~~ 2019 that may be required to ful-

fill the goals of the Recovery Implementation Programs. *Such report shall also describe the Recovery Implementation Programs actions and accomplishments to date, the status of the endangered species of fish and projected dates for downlisting and delisting under the Endangered Species Act of 1973, and the utilization of power revenues for annual base funding.* 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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(i) *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 Upper Colorado River Endangered Fish Recovery Program or the San Juan River Basin Recovery Implementation Program 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.*

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**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.*