

# Trip Report

## 2011 Washington, D. C. Briefing Meetings

### March 16 through March 22, 2011

Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program  
*Prepared by John Shields, Chairman, Management Committee, Upper Colorado River Endangered Fish Recovery Program*



**Upper Colorado River  
Endangered Fish  
Recovery Program**

**Disclaimer:** Opinions expressed are those of the author, are based on his notes and recollections, and shall not be construed or interpreted otherwise.



### SUMMARY AND PURPOSE

The annual Upper Colorado Endangered Fish Recovery Program's and the San Juan River Basin Recovery Implementation Program's Washington DC briefing trip was conducted from March 16<sup>th</sup> through March 22<sup>nd</sup>. Representatives of the non-federal participants and the two Directors of the Upper Colorado and San Juan recovery programs<sup>1</sup> met with staff of the Congressional delegations for the States of Colorado, New Mexico, Utah and Wyoming, Congressional authorizing and appropriations committee staff (for the committees having jurisdiction over the Bureau of Reclamation [Reclamation] and Fish and Wildlife Service [Service]), Department of Interior, National Park Service, Reclamation and Service officials, and Office of Management and Budget (OMB) budget examiner staff members. An itinerary showing whom our group met with during each meeting is attached (Attachment 1).

During each meeting our group provided a status report on the two endangered fish recovery programs and requested each Congressional office communicate their support for fiscal year 2012 Program funding within the President's budget for Reclamation and the Service to the appropriations subcommittees<sup>2</sup>. In addition, we reported on the need to introduce and enact legislation to amend P.L. 106-392 to extend authority to use Colorado River Storage Project (CRSP) power revenues for annual base funding purposes. P.L. 106-392 reduces annual base funds from power revenues after Fiscal Year 2011 to only those necessary for operation, maintenance and monitoring; resulting in a 40% reduction in annual base funding to the two programs. This provision in P.L. 106-392 was intended to provide a review of the use of annual base funding by the programs, not to reduce full funding. The reduction in annual funding places ESA compliance for some 2,100 water projects at risk. We advised each Congressional office that we will be seeking their assistance and co-sponsorship of legislation extending the annual base funding authorization.

### DISCUSSION

**Briefing Materials:** Copies (both electronic and printed) of the briefing booklet and its enclosures were widely distributed to those with whom we met – electronically in advance of the meetings and printed copies were handed out during each of the meetings. Our briefing booklet, *2010-2011 Program Highlights* can be downloaded at the UCREFRP's webpage at <http://coloradoriverrecovery.org/general-information/general-publications/briefingbook/2010-2011Highlights72.pdf>.

<sup>1</sup> Fish and Wildlife Service employees (e.g., the Program Directors,) participated in most of the briefings for the sole purpose of answering technical questions concerning the fishes' life history, habitat needs, the species' recovery goals, Program accomplishments and anticipated activities. Their participation is recognized as being vital to answering key questions, assuring a sound biological capability for explanations and answers and thus adding credibility to our briefings.

<sup>2</sup> We asked each staff member to request that his or her boss affirm their support by signing onto joint-delegation fiscal year 2011 funding support letters addressed to the House and Senate Appropriations Subcommittee on Energy and Water Development and the Subcommittee on Interior and Related Agencies expressing support and urging the appropriation of specific Bureau of Reclamation and USFWS funding amounts for these two recovery programs.

As in past years, a paper copy of the updated twenty page Program Highlights briefing booklet was provided to meeting participants. The content has evolved over the years to address specific questions raised by Congressional delegation and committee staff and Administration officials. It is the author's opinion that the programs' participants and staff produced our "best yet" edition of the "Program Highlights" briefing booklet. It was very useful in addressing questions and concerns raised during the visits this year.

Inserted into the front pocket of the briefing booklet cover were letters supporting Program-related funding for the Service and USBR included in the President's recommended FY2012 budget signed by Governors Hickenlooper, Herbert and Mead, and letters signed by New Mexico State Engineer John D'Antonio.

Also inserted into the front pocket of each copy of the *Program Highlights* briefing booklet was our "Fiscal Year 2012 Non-Federal Participants' Funding Requests" brochure (*See Attachment 2*). This year's two-page edition of the brochure described the funding included in the President's fiscal year 2012 budget for the two programs and the projects and activities for which that funding will be used, an Upper Colorado River Basin location map, and a list of the programs' participants and constituents who have submitted funding support letters in the past. This separate document is identified as and contains the "Non-Federal Participants' Funding Requests" so as to avoid any implications associated with the Hatch Act. As in past years, this funding brochure was developed by and paid for by the Upper Basin and San Juan water users.

**Support for Fiscal Year 2012 Appropriations:** The Congressional staff with whom we met clearly understand the benefits and importance of the two recovery programs, regardless of party, including new members. Many of the new members are also concerned about the deficit and will not sign letters requesting appropriations. We are not circulating joint delegation funding support letters this year. What this also means is that we will not have joint Delegation funding support letters that we can include in the briefing booklet cover pocket when we conduct next year's briefing trip. It is not practical to circulate them on the House side on account of all of the concerns regarding the deficit and the appearance of requesting an earmark, even though the request would be for supporting funds included in the President's budget. On the Senate side, we have considered the upsides and downsides and believe, at least with regard to 2012 appropriations, that we will seek several individual funding support letters from certain Senators willing to submit such letters.

We requested all members to convey their support for the programs to the House and Senate appropriations subcommittees in some form, including personal contacts with members of the subcommittees. House members were requested to convey support for the programs to Rep. Cynthia Lummis (R-WY), the only member from the four Upper Basin states on the House Appropriations Committee.

Tom Pitts committed to provide to the staff members for Representative DeGette, Representative Perlmutter and Senators Mark Udall and Mike Bennet draft funding support letters addressed to the appropriations subcommittees; based on those staff members having indicated their desire to submit individual letters to the Appropriations Subcommittees supporting FY 2012 funding for the two recovery programs.

**Annual Base Funding Authorizing Legislation:** Tom Pitts, with input from others, had prepared a one-page front-and-back summary (Attachment 3) describing the need for legislation extending our current authorization to use Upper Colorado River Basin Fund hydropower revenues for annual base

funding.<sup>3</sup> This handout was distributed and discussed at each meeting and provided the basis for requesting members for assistance with co-sponsorship of legislation that will be introduced in late May or June . We reviewed our extensive, but unsuccessful efforts during the 111<sup>th</sup> Congress to extend annual funding from power revenues through 2023. We advised our delegations that this is an urgent, high priority need for both recovery programs. It is critically important to allow the two programs to continue to provide Endangered Species Act compliance for more than 2,100 federal, tribal and non-federal water projects, as well as future projects. Many of the Congressional offices wanted to know what we had learned/heard when we met with the Natural Resources Committee – and we indicated that we would follow-up with the delegation staff with whom we met to provide that information.

At the current time, however, we are unable to draft a bill and get it introduced and seek original sponsors and co-sponsorship. The hold-up is that the House Resources Committee is continuing to figure out how the provisions of the cut-as-you-go (“cut-go”) as contained in H. Res. 5, Adopting Rules for the 112th Congress, will be implemented. Finding an offset for the annual base funding expenditures in the future will require identifying a reduction in spending equal to the amount of spending authorization created by the amendments to continue annual base funding at current levels, which is viewed as an increase of \$3 million per year. That spending reduction will have to be something currently being funded within the jurisdiction of the House Natural Resources Committee.

In addition, the House of Representatives leadership is considering limiting authorization periods for all bills to a maximum of 7 years. The program’s participants want the authorization to extend to 2023 to match the ending dates of the Cooperative Agreements for the two recovery programs and match up with the anticipated delisting date for the four endangered fish specified in the current Recovery Goals as published by the Service.

There are other things that are still being worked out, and it is clear there will not be opportunities to have this legislation heard by the Water and Power Subcommittee until late May or early June. A separate summary of the Friday, March 18th meeting with staff of the Water and Power Subcommittee of the House Natural Resources Committee was prepared based on notes taken during our discussions with them (Attachment 4). Overall, we received good indications of support for co-sponsorship of our legislation, but everyone agreed that finding an offset is going to be difficult.

The Senate has not adopted the “cut-go” rule; however, during our meeting with the Senate Energy and Natural Resources Committee, we were presented with a copy of a March 2, 2011 “Dear Colleague” letter (Attachment 5) signed by eight United States Senators (Coburn, McCain, DeMint, Paul, Ayotte, Ensign, Lee and Johnson) which sets forth that “... the House of Representatives has enacted a number of requirements to ensure any bill considered by the chamber does not grow the size or cost of the government or increase our national debt. We believe the Senate should apply these and other commonsense practices to restore fiscal responsibility and increase accountability and transparency to the legislative process ...” This letter goes on to state that “... we are notifying you of our intention to

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3 Specifically, Section 3(d)(2) of P.L. 106-392 requires Congressional reauthorization to continue full annual base funding from hydropower revenues beyond FY 2011. Otherwise, annual base funding from power revenues thereafter can only be used for monitoring and operation/maintenance of capital projects. As documented in the Secretary of the Interior’s April 23, 2010 Report to Congress entitled *Utilization of Power Revenues for Annual Base Funding of the Upper Colorado River and San Juan River Basin Recovery Implementation Programs*, annual base funding will decrease by 39% after fiscal year 2011 unless legislative extension of the authorization to use power revenues for all annual base funding purposes occurs. Critical activities would be eliminated from both recovery programs (non-native fish management, research, program management, and public involvement) and would thus delay or prevent attainment of recovery goals and set back the recovery programs’ restoring of populations of the endangered fishes – and thus affect the programs’ ability to provide ESA compliance.

object to the consideration of any legislation that fails to meet any of the following standards ...” and lists the following as being those points:

- All new spending must be offset with cuts to lower priority spending.
- Government programs must be periodically reviewed and renewed.
- The cost and text of bills must be available prior to passage.
- Duplicative government programs must be consolidated or eliminated.
- Congress must not infringe upon the Constitutional rights of the people.

Due to the fact that some of these senators (Lee and Paul) are on the Energy and Natural Resources Committee, we were informed that they will expect any authorizing legislation to meet these “standards.” No details as to how these standards might be implemented are available.

**Congressional Staff Appreciation Luncheon:** The Non-Federal Participants’ eighth annual Congressional Staff Appreciation Luncheon was held in the “Congressional Meeting Room South” of the underground Capitol Visitors Center (CVC), located immediately east of the United States Capitol. We sincerely appreciate the generous financial contribution of our luncheon sponsors, the Upper Basin and San Juan water users, who underwrote the entire cost of the event. A total of twenty-seven people participated in the luncheon; 14 were Congressional staffers (*see* Attachment 5). This event gives us the opportunity to establish a greater rapport with those with whom we meet and of whom we request support and assistance with the joint funding support letters, provides goodwill benefits and facilitates the development of ongoing personal relationships. As in the past, we used the luncheon to inform congressional staff of some aspects of the programs in more detail, but with brevity in mind.

Southern Ute Indian Tribe representative Cathy Condon presented an informative 15-minute briefing during the Luncheon that described the benefits of the San Juan River Basin Recovery Implementation Program to the Southern Ute Tribe and summarized how the Ute Mountain Ute Indian Tribe, Navajo Nation and the Jicarilla Apache Nation also benefit from the existence of, and their participation in, the San Juan River Basin Recovery Implementation Program. In addition to allowing for the development of the Animas-La Plata Water Project, the San Juan Program provides umbrella of protection for other Southern Ute Tribal water rights; fits with the Tribe’s longstanding policy of conservation and sustainability with respect to water, wildlife and habitat within the Reservation; and the Program’s protection of endangered fish also benefits other native fish.

Tom Pitts made a presentation during the luncheon following Cathy Condon’s. Pitts explained how Section 7 consultation under the Endangered Species Act is accomplished within the two recovery programs and noted that the programs have simplified and streamlined ESA compliance for tribes, water users, USFWS, and federal agencies; avoided costly litigation; and operated in accordance with state water and wildlife law. He described the political and strong grassroots support for the programs among the participating Indian tribes, environmental organizations, power customers, water users, and the States of Colorado, New Mexico, Wyoming, and Utah. Further, the programs are supported by Congress because of the strong grassroots support and their long-term record of performing on their objectives and avoiding litigation. He concluded by noting that through these two endangered fish recovery programs, potential adversaries have become allies and partners. Both of the two presentations were well presented and received.

**Congressional Staff Conference Call:** We held a Congressional staff teleconference call on February 24th for purposes of providing a brief update and to advise of the progress that we are making on the Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program, to advise that we would be seeking appointments with the Congressional staff members in mid-March during our annual briefing trip to address several topics,

including seeking support for Fiscal Year 2012 funding included in the President's recommended budget and seeking assistance with enactment with a bill to extend the authorization to use Upper Colorado River Basin Fund power revenues for annual base funding purposes. We had 8 staffers participate on the conference call and had heard from 5 other staff members who advised of conflicts prior to the call. This call was the first teleconference with the four States and authorizing Committee Congressional staff that we have held. I believe that we will be holding additional conference calls in the future.

**MEETINGS WITH ADMINISTRATION OFFICIALS:** Our briefing group was pleased to hear many good things from Dept. of the Interior and agency personnel with whom we met. Commissioner of Reclamation Connor was pleased to receive specific information from us concerning how water is being provided for the endangered fish through project reoperations, Coordinated Reservoir Operations (CROS) and Coordinated Facilities Operations (CFOPS). Shields provided the Commissioner with a copy of the January 20<sup>th</sup> draft of the *2010 Late Summer And Fall Operations Report of the Historic Users Pool (HUP) Managing Entities And Water Managers* prepared by the Eastern Colorado Area Office of the Bureau of Reclamation. Asst. Secretary of the Interior for Water and Science Anne Castle was very complimentary to us for all of the efforts made to come to Washington each year for the briefing meetings we hold and for the progress being made by the two programs.

The meeting with the Fish and Wildlife Service division directors and Counselor to the Asst. Secretary for Fish, Wildlife and Parks, Michael Bean, went very well. As is the case each year, the Budget Office personnel were quite engaged in learning about our Programs' efforts and asked good questions as well as offering us good advice about making our programs' fiscal needs known and doing a good job in documenting what the impacts will be if we are unable to obtain extension of our annual base funding authorization. We met for the first time with Bert Frost, the Associate Director for Natural Resource Stewardship and Science with the National Park Service and two other NPS personnel.

Although the person serving as the U.S. Fish and Wildlife Service Budget Examiner for the Office of Management and Budget is someone with whom we had not met previously, our meeting with him and the Reclamation Budget Examiner, Matthew Siegel, went well and our group believed that we were able to answer all of his many questions to his satisfaction. He was quite eager to learn about our programs' efforts and his questions reflected an appreciation and understanding of the tradeoffs addressed by program participants such as public demands for sportfishing opportunities versus managing for native fish, etc.

**TRIP PARTICIPANTS:** A list of the people who represented the two recovery programs during some or all of these meetings/briefings is provided below. Not all participants were in Washington, D.C. during the entire period of the trip nor did all participate in each meeting, nonetheless the roster provides a listing of all who participated in one or more meetings. The group consisted of:

- Tom Pitts – Water Users Representative for the Upper Colorado and San Juan Programs
- Darin Bird – Utah Department of Natural Resources (meetings with Utah Delegation and at DOI)
- Robin Thomas – Utah Department of Natural Resources (meetings with Utah Delegation)
- Robert King – Utah Division of Water Resources (Wednesday through Friday)
- Mike Roberts – Environmental Groups Representative, Upper Colorado Program, The Nature Conservancy Colorado River Program
- Randy Kirkpatrick – San Juan Water Commission (Wednesday through Friday)
- Catherine Condon – Counsel, Southern Ute Indian Tribe Representative (Wednesday through Friday)
- T. Darryl Vigil – Jicarilla Apache Nation
- Kevin Terry – Jicarilla Apache Game and Fish Department

Gene Shawcroft – Central Utah Water Conservancy District  
Bruce Whitehead – Southwestern Water Conservation District (Wednesday through Friday)  
David Campbell – USFWS – San Juan River Recovery Program Coordinator  
Tom Chart – USFWS – Upper Colorado River Endangered Fish Recovery Program Director  
Leslie James – Executive Director, Colorado River Energy Distributors Association (meeting with House Energy and Water Development Appropriations Subcommittee staff)  
Mike Greene – Public Service Company of New Mexico  
Jeanette Pablo – PNM Resources (most of the meetings with New Mexico Delegation and several at DOI)  
John Shields – Wyoming State Engineer’s Office and Chairman, Management Committee

**MEETINGS AND CONTACTS:** Attached to this trip report is a listing of those with whom we met during the March 16 through March 22<sup>nd</sup> period (*see* Attachment 1).

**FOLLOW-UP:** Thank you notes (in the form of a text and pictures thank-you document) were transmitted with a short e-mail, to all individuals with whom we met during the DC Briefing Trip.<sup>4</sup> The summary of our March 18<sup>th</sup> meeting with the House Resources Water and Power Subcommittee mentioned above was sent to the Congressional staff members with whom we had met on March 31st. Shields transmitted copies of the four States’ funding support letters to Kevin Terry of the Jicarilla Apache Game and Fish Department who indicated he would work with the Tribal leadership to get letters supporting FY 2012 funding submitted.

Lots of follow-up work needs to be accomplished, including drafting of the annual base funding legislative authorization extension bill, lining up an original sponsor and obtaining cosponsors, and development of draft testimony for a hearing. The troublesome matter of identifying options for a funding “offset” to comply with the provisions of the “cut-go” rule also needs to be addressed once the rules are defined.

**Conclusions and Recommendations:** It remains vitally important for representatives of the two recovery programs to annually visit Congressional, Interior Department and non-governmental organizations’ officials and their staff. These visits keep our programs’ needs and ongoing progress in their minds. There is no substitute for face-to-face meetings to accomplish our trip objectives. Staff turnover occurs from year to year; we remain convinced (and have been told by personnel with whom we meet) that we would be overlooked if we did not make this effort each year. This “annual investment” remains absolutely essential to remind Congress, Interior Department officials and other key non-governmental organizations about what we are doing and why it is important in our States.

Sending the briefing booklet in advance of the meetings is a very important part of the pre-trip and pre-meeting preparations as it demonstrates – along with the backgrounder – that we have specific things to discuss with the staff members. For nearly every meeting, sending on a request for meeting/concise meeting “backgrounder” (front and back side) document via e-mail is likewise very important – the request for meetings at the Department of the Interior will not be responded to unless a written meeting backgrounder is sent. A short and concise backgrounder that includes “what, who, why, when and where” is requested by all of the executive assistants within the Dept. of Interior and Interior agency directorate. This backgrounder was prepared and sent for every one of the meetings that the author set. This pre-delivered backgrounder shortens the meeting time in that those with whom we are meeting are clear about what we are wishing to discuss and the nature of our requests. In addition to reducing confusion, it presents our programs as being professional, thorough and helps in getting the

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<sup>4</sup> Assistant Secretary of the Interior for Water and Science Anne Castle kindly responded to the thank-you e-mail with a reply which stated: “Thanks very much John for your time and that of the RIP team. We appreciate the excellent relationship and your work to ensure continued appropriate funding.”

appointments set the following year. As a result, we have short but productive meetings; obtain the consent of those with whom we need to meet; and manage to stay on our itinerary schedule. The pre-briefing e-mails and conference call should remain part of our briefing trip preparations.

We also were advised that our having sent our September 17, 2010 Supplemental Information and Responses document prepared at Mr. McClintock's request was an important follow-up after being asked questions and receiving requests for more information during last year's meeting with Kiel Weaver and Kristen Glenn. That document was read by Rep. McClintock, who is now Chairman of the Water and Power Subcommittee of the House Natural Resources Committee. It is a good thing that we diligently prepared and transmitted the document addressing Mr. McClintock's concerns to those Congressional staffers.

Thanks are extended to all who scheduled briefing meetings, extended invitations and participated in the trip. Estimations of time requirements to complete the briefing meetings were essentially correct. Concerns expressed during the March 9<sup>th</sup> Implementation Committee conference call about having too many people involved with the briefing party were taken into account, monitored, and in some instances the number of people attending was less than the full party. This matter was largely self-policing and was not a problem. A big **thank you** is extended to the Upper Basin and San Juan water users for again hosting the Congressional Staff Appreciation Luncheon and paying for the printing of the non-federal participants' Congressional funding request brochure. It is a collective effort requiring the timely and faithful execution of many discrete tasks that allows us to accomplish our annual briefing trip's objectives.

**President's FY 2013 Budget:** We can anticipate the schedule for development, approval and release of the President's FY 2013 budget is likely to be the following:

<b><u>Event</u></b>	<b><u>Date</u></b>
Internal meetings within Interior Department	Mid-April, 2011
Departmental Submittal	Mid-May
Initial Allocations	June
OMB submittal	August
Pass-backs from OMB	Late-November
Appeals process	Brief period thereafter
Final decisions locked down	December
Release of President's budget	Early February 2012

**Appended Materials:** Following this narrative are attached documents as described above.

## Attachment 1 2011 Briefing Meetings Recap



Date	Time	Meeting With	Affiliation	Comments and Follow-up
<b>Wednesday March 16</b>	9:45 a.m.	Jonathan Shuffield	Rep. Steve Pearce	Those attending this meeting were those representing the San Juan Recovery Program.
	10:30 a.m.	Joe Williamson	Rep. Cory Gardner	Rep. Gardner clearly understands the need for and supports these recovery programs. Willing to be a cosponsor.
	11:15 a.m.	Rep. Scott Tipton, Mike Hesse <i>and</i> Adam Eckman	Rep. Scott Tipton	Chief of Staff Hesse's advice to us was to "get back to us where we need to fire our bullets" indicating their willingness to help when and where we need it.
	1:00 p.m.	Jonathon Asher	Rep. Jared Polis	Rep. Polis is very supportive of the programs and will co-sponsor legislation
	1:45 p.m.	Charles Cogar	Rep. Mike Coffman	Cogar offered to provide assistance in interpreting the Congressional Budget Office scoring of HR 2288 during the last Congress and to assist us with better understanding the CBO budget baseline methodology. Understands how the Programs are benefitting the Congressman's constituents.
	2:00 p.m.	Aaron Trujillo	Rep. Ben Ray Lujan	Aaron understands the program and expressed willingness on the Representative's behalf to help with supporting the programs' needs.
	3:30 p.m.	Maya Hermann	Rep. Martin Heinrich	Maya understands the program and expressed her desire to be helpful.
	4:00 p.m.	Pete Obermueller	Rep. Cynthia Lummis	Rep. Lummis, as a member of the Appropriations Committee, will assist to the best of her abilities. Pete asked to review the CBO's scoring of HR 2288.
	5:00 p.m.	Cody Stewart Fred Ferguson Kristen Lingley	Rep. Rob Bishop Rep. Jason Chaffetz Rep. Jim Matheson	Those attending this meeting were those representing the participating States, Indian tribes, water users and the environmental community. Asked some interesting questions in re: failure to fund and ESA compliance effects. Will be willing to cosponsor the bill.
<b>Thursday March 17</b>	9:30 a.m.	Tanya Trujillo Josh Johnson	Senator Jeff Bingaman and Senate Energy and Natural Resources Committee	Good meeting. Provided copy of the March 2 <sup>nd</sup> six-Senator "Dear Colleague" letter. Requested sharing of information learned from meeting with House Natural Resources Water and Power Subcommittee staff.
	10:00 a.m.	Chris Tomassi	Sen. Mike Enzi	Good meeting. Tomassi believes that the days of omnibus Senate ENR bills has now passed.
	11:15 a.m.	Senator Tom Udall Jeanette Lyman	Senator Tom Udall	Senator Udall met briefly with the participants. Jeanette expressed general support for the programs and was anxious to hear how the Senator could support the funding efforts.
	11:30 a.m.	Sean Babington	Sen. Michael Bennet	Very good meeting. Senator Bennet is willing to sign an individual or joint delegation funding support letter. Will cosponsor legislation to extend annual base funding authorization
	1:15 p.m.	Jason Albritton Ted Illston J.W. Hackett	Senate Environment & Public Works Committee	Ted Illston, now on Senator Boxer's staff, worked for TNC in their Washington office for many years and participated as part of our briefing group for several years. He stated it was very gratifying to see the progress that these programs are making and that they are

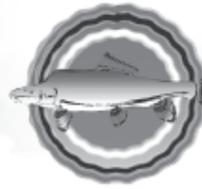
				working so well
	2:00 p.m.	Jimmy Hague Stan Sloss	Sen. Mark Udall	Very good meeting. Senator Udall is willing to sign an individual or joint delegation funding support letter. Will cosponsor legislation to extend annual base funding authorization
	3:30 p.m.	Rachael Taylor Brent Wiles	Senate Interior, Enviro & Related Agencies Approps Subcommittee	Good meeting. Rachael and Brent were very supportive of the job that these recovery programs are doing.
	4:30 p.m.	Brian Clifford	Sen. John Barrasso	Good meeting. We made efforts to provide additional technical information beyond what was presented in the briefing booklet. I believe that Brian was satisfied. In response to a question, he advised that Senator Barrasso has not signed onto any joint delegation funding support letters during this Congress yet. Brian recommended we engage and get indications of support for programs from the Wyoming Association of Rural Water Systems (Mark Pepper).
	5:00 p.m.	John Tanner Staci Wheeler	Senator Orrin Hatch Senator Mike Lee	Our group had to split into two parties in order to finish meeting with Brian Clifford and to conduct this meeting with the Utah Senate Delegation staff members.
Friday March 18	9:45 a.m.	Angie Giancarlo Taunja Berquam	House Energy & Water Devel. Approps Subcomm.	Like many of the other meetings, these staff were interested in hearing what we knew about what the authorization committee's requirements are going to be. We had not met with Angie previously. Taunja indicated support for our efforts and how we are going about what we are doing – very positive feedback.
	11:45 – 1:15 p.m.	Congressional Staff Appreciation Luncheon	House and Senate Delegation and Committee staffers	28 people (14 staff members) attended
	1:45 p.m.	Mallori McClure	Rep. Doug Lamborn	Mallori was very engaged and asked lots of good questions. She indicated Rep. Lamborn understands the importance of these programs to Colorado.
	2:30 p.m.	Kiel Weaver Ian Lyle	House Natural Res. Water & Power Subcommittee <i>and</i> House Natural Resources Insular Affairs, Oceans and Wildlife Subcommittee	All in attendance felt this was a very productive meeting. A separate summary of the meeting discussions, following the agenda prepared for reference by the recovery programs' participants, was developed and has been shared with our Congressional Delegation staff members.
Monday March 21	9:30 a.m.	Roger Cockrell	Senate Energy and Water Development Approps. Subcommittee	Roger took a second copy of the briefing booklet to give to Tyler Owens. He is both disappointed and frustrated with the Fiscal Year 2011 funding CRs and lack of progress in figuring out the way forward.
	11:00 a.m.	Denise Flanagan Gary Weitzner Willie Gilmore Willie Taylor	Deputy Assistant Secretary for Budget, Finance, Performance and Acquisition; Interior Budget Office Director and personnel; and DOI Office of Environmental Policy and Compliance	Advised to be sure that we write down and communicate the ramifications if the annual base funding extension is not accomplished (tell the story of what bad things will happen). Encouraged us to partner with and be involved in Landscape Conservation Cooperatives (LCC) process. Don't be shy about communicating what your future year funding needs are to the agencies when you meet with them.
	1:15 p.m.	Bert Frost	National Park Service Deputy Director and Deputy	Bert asked very good questions and provided feedback, according to John

		<b>Beth Johnson Sharon Kliwinski</b>	Associate Director for Natural Resources Stewardship and Science, DC Liaison for Water Resources Division	Reber (later), that he was very pleased to have the opportunity to meet with our group. Worthwhile holding the meeting.
	<b>2:00 p.m.</b>	<b>Michael Bean Bryan Arroyo Denise Sheehan Gary Frazer Marjorie Nelson</b>	<b>Counsel to Asst. Secretary for Fish, Wildlife and Parks, USFWS Division Chiefs</b> A/D–F&HC; A/D-Budget, Planning & HR; A/D-E/S and key E/S staff	Very good meeting. The Program Directors (Chart and Campbell) did a nice job in taking the lead for this meeting’s presentations. Encouraging feedback.
	<b>3:00 p.m.</b>	<b>Tomer Hasson Matthew Siegel – USBR Examiner</b>	<b>Office of Mgmt &amp; Budget</b> Budget Examiners, Natural Resources Division & Energy, Science & Water Division	We had not met with Tomer previously. He asked very good questions and I felt that we were able to adequately answer them and to provide him considerable additional information beyond just the briefing materials.
	<b>4:30 p.m.</b>	<b>Laurel Angell</b>	<b>Rep. Diana DeGette</b>	Willing to sign funding support letters addressed to Approp. Subcommittees. Advised us that we should seek to get the Republican majority members to deliver – they have a responsibility to govern. We will do what we can.
	<b>5:15 p.m.</b>	<b>Darren Benjamin Grace Stephens</b>	<b>House Interior, Enviro &amp; Related Agencies Approps. Subcommittee</b>	Short meeting. Darren advised that cuts may be coming – the sentiment of the Members of the Subcommittee is that everything is going to have to get pared down and nothing is off the table.
<b>Tuesday March 22</b>	<b>9:30 a.m.</b>	<b>Aaron Greco</b>	<b>Rep. Ed Perlmutter</b>	Willing to sign funding support letters addressed to Approps. Subcommittees. Very supportive of our efforts. Willing to cosponsor the legislative extension bill.
	<b>11:30 a.m.</b>	<b>Anne Castle Deanna Archuleta John Tubbs Lori Carmanian Michael Connor Jeff Hess Dionne Thompson Patti Aaron Dick Beeman</b>	<b>Asst. Secretary for Water and Science; Deputy Asst. Secretaries for W/S, Commissioner of Reclamation; Deputy. Commissioners for External Affairs, Operations and Policy, Management and Budget; Chief for Congressional and Legislative Affairs</b>	It was really nice to end the trip with a meeting with people who communicated their genuine appreciation for the efforts that our programs are making. Commissioner Connor was interested in benefits and particulars about how we are providing water for the fish (we provided HUP report and more). Lori Carmanian asked for info about lessons learned and what has allowed us to have success. Shields provided information to her in e-mail sent on after returning home (based on prior roundtable discussion and success story write-ups).

## Attachment 2 Non-Federal Participants' Fiscal Year 2012 Funding Request Document



Upper Colorado River  
Endangered Fish  
Recovery Program



San Juan River Basin  
Recovery Implementation Program

### Requested Fiscal Year 2012 Congressional Appropriations

The non-federal participants in the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program request the support of the Congress for fiscal year 2012 funding consistent with the President's recommended budget as follows:

#### U.S. Fish and Wildlife Service

**\$706,300** of "Recovery Program" funds for the **Upper Colorado Endangered Fish Recovery Program** (*Resources Management Appropriation; Ecological Services Activity; Endangered Species Subactivity; Recovery Element*)

- **Program management:** Funds for salaries, expenses and recovery activities of the Program staff for the critically-important day-to-day program administration and management essential for continuing success of this multi-agency, multi-element, large river basin species conservation partnership.
- **Monitoring achievement of recovery goals:** FWS' estimations of the abundance of fish populations, stocking evaluations and monitoring of fish and habitat establish the progress being made towards accomplishing the recovery goals' downlisting and delisting criteria.
- **Data Management:** FWS personnel in the FWS CRFP Offices maintain the Program's essential computerized inventory database systems - providing management and analysis tools to assess species' response to program activities. Species' response determines when the recovery goals are met.

**\$200,000** of "Recovery Program" funds for the **San Juan River Basin Recovery Implementation Program** (*Resources Management Appropriation; Ecological Services Activity; Endangered Species Subactivity; Recovery Element*)

- **Program management and FWS participation:** Salaries and expenses of the San Juan Program Coordinator and assistant and other related FWS expenses in completing Program actions will be paid with this requested funding.

**\$485,800** for the **Ouray National Fish Hatchery** (*Fisheries and Aquatic Resource Conservation Activity; National Fish Hatchery Operations Subactivity*)

- Meeting the ongoing operation, maintenance and upkeep expenses associated with this innovative Program hatchery is essential to meeting the Upper Colorado Program's stocking objectives.

#### Bureau of Reclamation

**\$6,248,000** in "Endangered Species Recovery Implementation Program" funds within the Upper Colorado Region budget (**\$5,698,000** for construction activities for the **Upper Colorado River Endangered Fish Recovery Program**; **\$150,000** for construction management activities for the **Upper Colorado River Endangered Fish Recovery Program** and **San Juan River Basin Recovery Implementation Program**; and **\$400,000** for **Fish and Wildlife Management and Development** activities to avoid jeopardy).

- **\$5,698,000** for the **Orchard Mesa Irrigation District Canal Automation Project** near Palisade, CO, to initiate construction of an innovative canal automation system to conserve (17,000 acre-feet +) and redirect water for instream flows.
- **\$400,000** for **Fish and Wildlife Management and Development** activities to avoid jeopardy within the Upper Colorado River, Pecos River, Rio Grande, and Bonneville River Basins.

- **\$100,000** for **Upper Colorado Program Management** for contracting, budgeting, reporting, contract administration, tracking expenditures, and addressing issues and concerns associated with capital project construction.

- **\$50,000** for **San Juan Program Management** for budgeting, contracting and contract administration, reporting, tracking expenditures, and transferring Capital Improvement Program funds to the appropriate entities.

## Funding Support Letters Demonstrate Congressional and Grass Roots Support

Joint delegation letters demonstrating strong bipartisan support by Members of Congress representing Colorado, New Mexico, Utah and Wyoming have been routinely submitted to the Congressional Appropriations Committees supporting the programs' funding. Testimony supporting appropriations for the recovery programs has been previously submitted to Congress by:

### Participating States

- State of Colorado
- State of Utah
- State of Wyoming
- State of New Mexico

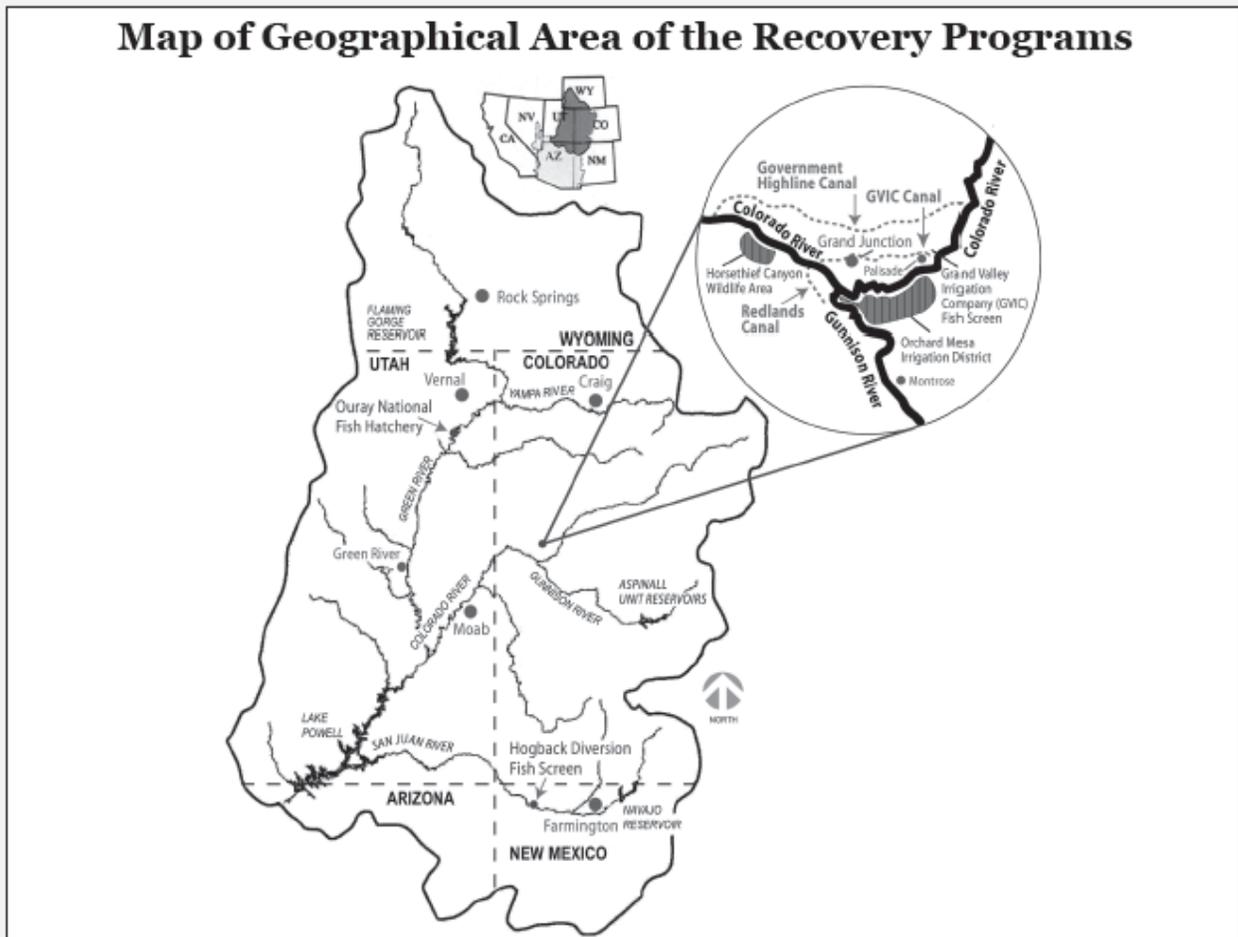
### American Indian Tribes

- The Navajo Nation
- Southern Ute Tribe
- Ute Mountain Ute Tribe
- Jicarilla Apache Nation

### Cities, Water Users and Private Organizations

- The Nature Conservancy
- Arizona Public Service
- BHP Billiton
- Central Utah Water Conservancy District
- City of Aurora, Colorado
- City of Colorado Springs, Colorado
- City of Farmington, New Mexico
- Colorado River Water Conservation District
- Colorado Water Congress
- Denver Water
- Dolores Water Conservancy District
- Grand Valley Water Users Association
- Northern Colorado Water Conservancy District
- Orchard Mesa Irrigation District
- Pueblo Board of Water Works
- Public Service Company of New Mexico
- San Juan Water Commission
- Southwestern Water Conservancy District
- Tri-County Water Conservancy District
- Uncompahgre Valley Water Conservancy District
- Upper Gunnison Water Conservancy District
- Utah Water Users Association
- Wyoming Water Association

## Map of Geographical Area of the Recovery Programs



## Attachment 3

03/08/11

### **Proposed 2011 Amendments to P.L. 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**

**REQUEST:** Members of Congress representing the States of Colorado, New Mexico, Utah, and Wyoming are requested to co-sponsor amendments to P.L. 106-392 for the Upper Colorado and San Juan River Basin endangered fish recovery programs that will

- **continue annual funding at currently authorized levels for the two programs through 2023.**

**NEED:** P.L. 106-392 authorizes the Bureau of Reclamation to provide cost sharing for capital construction and annual operations for the Upper Colorado and San Juan River endangered fish recovery programs. *The law recognizes significant cost sharing contributions by other program participants, including the States of Colorado, Wyoming, Utah, and New Mexico, Colorado River Storage Project (CRSP) power customers, and water users.*

P.L. 106-392 authorized annual base funding from CRSP power revenues in the amount of \$6 million, adjusted for inflation (\$4 million for the Upper Colorado Program and \$2 million for the San Juan Program). Section 3(d)(2) provides for recommendations to Congress by the Secretary of the Interior on continued use of hydropower revenues (DOI, 2010) and subsequent Congressional reauthorization to continue full annual base funding from hydropower revenues beyond FY 2011. Otherwise, annual base funding from power revenues can be used only for monitoring and operation/maintenance of capital projects. This provision was intended to provide a review of the programs, not to reduce full funding.

Unless reauthorized by Congress, annual base funding will decrease by 39% after fiscal year 2011. Critical activities eliminated from both recovery programs (non-native fish management, research, program management, and public involvement) would delay and likely prevent attainment of recovery goals and set back the recovery programs' restoring of populations of the endangered fishes – the means by which recovery of the species will be achieved. As a result, ESA compliance provided by recovery program actions for more than 2,100 federal, tribal and non-federal water projects, as well as future projects, would not likely continue.

The extension to 2023 will authorize annual funding through the projected delisting date for all four endangered fish species and conform the authorization date with the authorization date for the programs' capital funding in P.L. 106-392. Annual funding will be needed until the species are delisted.

**PREVIOUS LEGISLATION:** Legislation was introduced in the 111<sup>th</sup> Congress to extend annual funding from power revenues through 2023. In order to comply with “pay-go,” the House version of the legislation (H.R. 2288) was amended to authorize appropriations to replace the lost power revenues rather than simply extending the authorization to continue to use the Upper Colorado River Basin Fund power revenues. The Senate did not pass the proposed legislation (S. 1453) at the end of the 111<sup>th</sup> Congress, and the bill was not signed into law.

(over)

**PENDING LEGISLATION:** Bill language will depend on final interpretation of House “cutgo” rules. If cuts are required only for use of power revenues, the introduced legislation may be introduced to authorize appropriations. If cuts are required for both appropriations and use of power revenues, legislation will likely be introduced to authorize continued use of power revenues, since cuts will have to found in either case. Program participants support continued use of hydropower revenues. This is also the intent of Congress, per the original legislation.

**SUPPORT FOR PREVIOUS LEGISLATION:** Letters of support and/or testimony supporting extension of annual base funding were submitted by:

<b>Governors:</b>	<b>Water Users:</b>
States of Colorado, New Mexico, Utah, Wyoming	Central Utah Water Conservancy District
	City of Aurora, Colorado
<b>Power Customer Interests:</b>	Colorado River Water Conservation District
Colorado River Energy Distributors Association	Colorado Springs Utilities
Arizona Public Service	Denver Water
	Dolores Water Conservation District
<b>Environmental Organizations:</b>	Grand Valley Water Users Association
The Nature Conservancy	Northern Colorado Water Conservancy District
Western Resource Advocates	Orchard Mesa Irrigation District
	Pueblo Board of Water Works
<b>Tribes:</b>	San Juan Water Commission
Jicarilla Apache Nation	Southwestern Water Conservation District
Southern Ute Tribe	Tri-County Water Conservancy District
	Uncompahgre Valley Water Users Association
<b>State Water Organizations:</b>	
Colorado Water Congress	
Utah Water Users Association	
Wyoming Water Association	

**A SUCCESS STORY:**The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program were established under cooperative agreements as multi-agency partnerships in 1988 and 1992, respectively. *Recovery program partners include the States of Colorado, New Mexico, Utah, and Wyoming; Southern Ute Indian Tribe; Ute Mountain Ute Tribe; Jicarilla Apache Nation; Navajo Nation; environmental organizations; water users; CRSP power customers; Bureau of Reclamation; U.S. Fish and Wildlife Service; Bureau of Land Management; National Park Service; Bureau of Indian Affairs; and Western Area Power Administration.* These recovery programs are recovering populations of endangered humpback chub, bonytail, Colorado pikeminnow, and razorback sucker while water use and development continues to meet human needs. Actions of the recovery programs provide Endangered Species Act (ESA) compliance for 2,100 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 in Colorado, Utah, Wyoming, and New Mexico. No lawsuits have been filed on ESA compliance provided by the recovery programs. The programs have streamlined compliance with the ESA for federal agencies, tribes, and water users.

## Attachment 4

### Summary of March 18<sup>th</sup> Meeting with House Natural Resources Water and Power Subcommittee Staff Members



Non-Federal Representatives of the Upper Colorado River Endangered Fish Recovery Program and San Juan River Basin Recovery Implementation Program



Upper Colorado River Endangered Fish Recovery Program

### Summary of Meeting with House Natural Resources Water and Power and Insular Affairs, Oceans and Wildlife Subcommittees

Friday, March 18, 2011

A meeting among the non-federal participants to the Upper Colorado and San Juan River Basin Endangered Fish Recovery Programs and staff of the House Natural Resources Water and Power Subcommittee was held on Friday March 18, 2011 in Room 1522 of the Longworth House Office Building. The meeting began at 2:30 p.m. and ended about 4:10 p.m. Those in attendance were: Kiel Weaver and Ian Lyle of the Subcommittee staff, Tom Pitts, Mike Roberts, Randy Kirkpatrick, Darin Bird, Gene Shawcroft, Mike Greene, Darryl Vigil, Kevin Terry, Tom Chart, Dave Campbell and John Shields.

An agenda had been prepared for reference by the Recovery Programs personnel as to subjects and topics that should be addressed during the meeting. For purposes of preparing this meeting summary, that agenda is followed and the discussion concerning each item is summarized herein.

#### 1. Upper Colorado River Basin Fund Annual Base Funding Authorization Extension Legislation:

##### A. Application of Cut-as-you-Go<sup>5</sup>:

##### 1. Does it apply to authorization as well as appropriation?

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#### **5 Provisions of H. Res. 5, Adopting Rules for the 112<sup>th</sup> Congress:**

INITIATIVES TO REDUCE SPENDING AND IMPROVE ACCOUNTABILITY.—

(1) CUT-AS-YOU-GO.—In rule XXI, amend clause 10 to read as follows:

“10.(a)(1) Except as provided in paragraphs (b) and (c), it shall not be in order to consider a bill or joint resolution, or an amendment thereto or a conference report thereon, if the provisions of such measure have the net effect of increasing mandatory spending for the period of either—

“(A) the current year, the budget year, and the four fiscal years following that budget year; or

“(B) the current year, the budget year, and the nine fiscal years following that budget year.

“(2) For the purpose of this clause, the terms ‘budget year’ and ‘current year’ have the meanings specified in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the term ‘mandatory spending’ has the meaning of ‘direct spending’ specified in such section 250 except that such term shall also include provisions in appropriation Acts that make out year modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010.

“(b) If a bill or joint resolution, or an amendment thereto, is considered pursuant to a special order of the House directing the Clerk to add as new matter at the end of such bill or joint resolution the entire text a separate measure or measures as passed by the House, the new matter proposed to be added shall be included in the evaluation under paragraph (a) of the bill, joint resolution, or amendment.

2. Does it apply to power revenues as well as to appropriations?
3. What is the distinction, if any, between authorizations of power revenues (under “Cut-Go”) as reimbursable funds versus being non-reimbursable<sup>6</sup>?
4. Level and kind of offsets that would be required?
  - a.3.1  $M/\text{year} \times 7 \text{ years} = \$21.7 \text{ M}$  and then if we assume that the composite of the Consumer Price Index will, for analysis sake, increase by a total of 6 percent during that 7 year period; then the amount of deficit increase that CBO will presumably score against our bill would be \$23.0 M.
  - b. Who makes the determination of the “value” of the spending reduction? Who calculates the present value of the foregone federal expenditures? Conversely, are past-year project cost estimates to complete a project converted to present value dollars for computation of the expenditures reduction? Who, how and when will such determinations be made for purposes of scoring legislation?

**Discussion:** The Subcommittee’s staff advised us that the extension of expiring authorization to use Upper Colorado River Basin Fund power revenues for annual base funding purposes will come under and be affected by Cut-Go. Cut-Go applies to authorizations as well as appropriations, and appropriations would include authorization to use power revenues – and hence applies to revenues. Unlike Pay-Go which applied during the last Congress and applied to mandatory spending (hence, by changing H.R. 2288’s language during the last Congress to make the annual base funding source “subject to appropriations” the House Resources Committee avoided the point of order raised by Pay-Go), Cut-Go applies to both discretionary and mandatory spending. Therefore, in any case a spending reduction or offset will be necessary. That offset or offsets would need to be found within the House Resource Committee’s area of jurisdiction and responsibility. It was suggested that reductions in Land and Water Conservation Fund expenditures might be an example of an offset that some would consider acceptable, conversely cuts to Reclamation’s Safety of Dams or Rural Water Systems budget line-items would very likely raise huge objections on the part of Committee members.

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6 Recall that the applicable provisions in **P.L. 106-392** provide that: “(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, 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.”

Questions were asked about “Mandatory” versus “Discretionary” spending. Discretionary spending is still “subject to appropriation” which, in the Subcommittee staff’s opinion, “will be easier to stomach” for the Committee’s Members and House Members. The statement was made that mandatory spending is disliked because Congress has no control. Also, if power revenues are used finding a cut would be more definite. Examples of potential cuts would include items specifically in the President’s recommended budget. Relative to addressing the matter of the annual base funding amounts being indexed for inflation and the non-reimbursability of the power revenues, one way to avoid these matters being issues is to not address them in the bill – and thus their inclusion in the existing recovery program authorization statute, as amended, would not be affected.

**B.Length of the reauthorization (authorization extension) period:**

- 1.We seek extension of the legislative authorization to use UCR Basin Fund power revenues for all annual base funding purposes through 2023.
  - a.We have heard that there are some proposals to limit the period of authorization of expenditures to a specific period of time.

**Discussion:** The Republican Leadership has provided instructions to each of the House Committees that all authorizations are to be made subject to an automatic “sunset” of no more than 7 years; therefore our bill could run through 2018 but would need additional authorization to carry spending through 2023.

**C.Drafting of the Bill:**

- a.Providing for use of UCR Basin Fund Power Revenues?
- b.Who?
- c.When?
- d.What needs to be specified in the bill with regard to overhead (cost recovery charges) levels associated with funds transferred from Bureau of Reclamation and other parties to the U.S. Fish and Wildlife Service?

**Discussion:** The Recovery Programs’ group reiterated their desire to have the legislative extension provide for the use of Upper Colorado River Basin Fund power revenues. They noted that would be consistent with the agreement they had reached among themselves in 1998 when they negotiated the terms of the recovery programs’ authorization legislation, would be consistent with the intent of Congress as expressed in Public Law 106-392 and is the common sense approach that bypasses the difficulty of seeking inclusion of funding needed on an annual and ongoing basis into the President’s budget.

The Subcommittee staff noted their willingness to assist with the drafting of the bill. In terms of what needs to be specified in the bill, it will need to have an identified offset for the bill to be passed out of the Natural Resources Committee. It was mentioned that the offset may not need to be spelled out and written into the bill when it is introduced, but it would need to be understood what the offset would be in order to get sponsorship and co-sponsorship. The Subcommittee staff recommended that the programs’ participants try to come up with four or five suggestions for the requisite offset and submit them to the Subcommittee staff for consideration and feedback.

The Subcommittee staff would work with the Congressional Budget Office (CBO) and with the Bureau of Reclamation to establish the authorization bill fiscal score and the amount of the offset. We asked a couple of questions about the mechanics of converting future sums to present value, etc., and it was recognized that those details would be addressed. The Subcommittee staff assured the group there would be multiple levels of interaction with the CBO and Reclamation to hopefully get what we need. Regarding the scoring, the CBO would work with 5 & 10-year windows and would assess the fiscal impacts for the 7 year authorization period; however the Subcommittee staff presumes that the analysis would reflect that years 8, 9, & 10 would be scored as having zero fiscal impact because of the seven-year authorization period direction dictated by the House Leadership.

Regarding the matter of overhead/cost recovery factors being addressed during the hearing, the Subcommittee staff advised that, for example, the Insular Affairs, Oceans and Wildlife Subcommittee dictates overhead rates in legislation coming before it. The San Juan Recovery Program will likely be required to reduce its overhead rate and that legislative provision would probably be applied to both the Upper Colorado and San Juan programs.

#### A. Selection of Lead Sponsor of Bill and Efforts to Gain Co-sponsorship, Schedule for Introduction, and Schedule and Testimony for the Bill's Hearing

**Discussion:** Although Chairman Hastings has indicated that there is no “unfinished business” arising from the last Congress and that all measures have to start over, as a practical matter commitments have been made that the first hearings on authorization bills before the Water and Power Subcommittee will be on three non-controversial bills; they will be the Hoover Power Allocation Act of 2011 (H.R. 470), a bill addressing the C.C. Cragin Dam and Reservoir within the Salt River Project District (H.R. 489) and a bill introduced by Rep. Matheson to allow the Uintah Water Conservancy District in Utah to prepay a municipal and industrial water facilities repayment contract (H.R. 818). Based on the House’s recess schedule and the hearings that will be held for the three bills mentioned, the Committee is “booked” for May. It is thus likely that the endangered fish recovery programs bill would be able to have a bill hearing (and the Subcommittee staff believes that our legislative measure would deserve a hearing by itself) in June that would potentially involve 3 or 4 witnesses.

The staff brought to the recovery programs group’s attention the composition of the Water and Power Subcommittee and of the Natural Resources Committee of this 112<sup>th</sup> Congress, pointing out that the Water Subcommittee has only two majority members who are not freshmen (the exceptions being Chairman McClintock and Rep. Gohmert of TX). At the full Committee level, the great majority of the majority members are freshmen. This has significance in terms of how the Committee will function and how legislation will be considered. The Subcommittee staff observed that the new members are looking at all expenditures through a magnifying glass. Staff stated that the recovery programs can anticipate being asked to provide complete information on their program budgets for the past five years. Further, Water and Power Subcommittee Chairman McClintock is a details guy and developed a reputation while serving in the California legislature (that has followed him to Capitol Hill) of being a budget guru - and thus he wants to know the numbers. He reads everything that is prepared and presented. He will want to know and understand when the recovery programs are projected to end, as that was a question he verbalized after reading the legislative history for these two recovery programs.

The Subcommittee staff addressed the matter of testimony concerning the need for extending the authorization to use power revenues for annual base funding. They suggested we are in a position to state that the programs are legally defensible, provide critically important Endangered Species Act compliance for a great number of water projects, fulfill Federal government trust responsibilities to the participating Indian tribes and provide the means to implement Indian water rights settlements. Conversely, abrogation of the Federal trust responsibility would occur in the event that the extension does not occur, ESA non-compliance issues would arise and there would be other consequences that should be described in the testimony. It would be prudent to highlight the relationships between job creation and maintenance in the Intermountain West and these recovery programs in the testimony submitted to the Committee. The Subcommittee staff reiterated their willingness and desire to work with the recovery programs to obtain legislative extension of the annual base funding authority for the two recovery programs.

#### B.Coordination with the Senate Energy and Natural Resources Committee

**Discussion:**The Subcommittee staff noted they will coordinate with Tanya and Josh on the Senate side and keep them informed as the process to consider and move a House bill goes forward. They noted that it will be useful and work to the recovery programs' advantage to be able to make the case and provide some assurances to the House Natural Resources Committee that this recovery program annual funding bill will go forward because the members' sentiment will be "we don't want to do all this work in the House only to have it die in the Senate."

**Attachment 5**  
**Mar. 2, 2011 “Dear Colleague” Senators’ Letter in re: Legislative Conditions**

**United States Senate**  
WASHINGTON, DC 20510

March 2, 2011

Dear Colleague,

With our national debt poised to reach its \$14.3 trillion limit within the very near future, taxpayers expect we will work together to reduce wasteful and unnecessary spending and be more vigilant about how we spend public funds. As stewards of our nation’s finances, we must ensure our good intentions today are not paid for at the expense of future generations. This means no longer spending money we do not have to pay for programs we do not need.

The House of Representatives has enacted a number of requirements to ensure any bill considered by the chamber does not grow the size or cost of the government or increase our national debt. We believe the Senate should apply these and other commonsense practices to restore fiscal responsibility and increase accountability and transparency to the legislative process.

We, therefore, are notifying you of our intention to object to the consideration of any legislation that fails to meet any of the following standards:

- **All New Spending Must Be Offset with Cuts to Lower Priority Spending:** Congress authorizes billions of dollars in new spending every year to create new or expand existing government programs. Yet, few bills are passed to eliminate outdated, duplicative, unnecessary, inefficient, wasteful, or low priority programs. To make government more efficient, any legislation authorizing new spending or creating a new agency, office, program, activity, or benefit or increasing the authorization of an existing function must offset the cost of this expansion by eliminating an existing program or function or reducing the authorized funding level of ongoing spending.
- **Government Programs Must Be Periodically Reviewed and Renewed:** Never ending government programs must end. Congress should periodically determine whether or not every government program is working as intended, is still needed, or is worthy of continued taxpayer support. To ensure this happens, any legislation establishing or continuing an agency, office, or program must also include a “sunset” date at which point Congress must decide whether or not to update or extend the life of the program.
- **The Cost and Text of Bills Must Be Available Prior to Passage:** Too many bills costing billions of dollars with far reaching implications are approved by the Senate with little debate, few if any amendments, and not even time to read the actual text of the legislation. To guarantee taxpayers and senators have sufficient time to read bills and information to understand their cost and impact, all legislation must be publicly available in an electronic format for at least three full days along with a cost estimate completed by the Congressional Budget Office (CBO) prior to being passed.

- **Duplicative Government Programs Must Be Consolidated or Eliminated:** Despite the existence of hundreds of duplicative federal programs costing billions of dollars, Congress continues to create new programs with similar missions, goals, and purposes. To reduce redundancy, any bill creating a new program that replicates a current government mission must consolidate overlapping activities or eliminate the existing programs.
- **Congress Must Not Infringe Upon the Constitutional Rights of the People:** Article I, Section 8 of the Constitution grants Congress a very limited set of enumerated powers. Far too often, Congress infringes upon the rights and liberties reserved for the people and the states provided elsewhere in the Constitution. These overreaches are no more than an afterthought when most bills are debated. To restore the intended balance of powers between the states and the federal government and to preserve the freedoms guaranteed by the Constitution, all bills must have a clear and obvious basis connected to one of the enumerated powers and must not infringe upon any of the rights guaranteed to the people.

By making clear these expectations now, it is our hope we can work together earlier in the legislative process to resolve any differences that could otherwise delay or stop the passage of your legislative priorities. And while we expect all of these standards to be met for each bill the Senate considers, this is not an exhaustive list of all the reasons we may individually object to a particular bill or unanimous consent request.

Sincerely,

Tom Coleman

John McCain

Jim DeMint

Rand Paul

Kelly Ayotte

John Ensign

Wendell Lieb

Ray Johnson

## **Attachment 5**

### ***Upper Colorado River Endangered Fish Recovery Program And San Juan River Basin Recovery Implementation Program***

Congressional Staff Appreciation Luncheon Attendees

Friday, March 18, 2011

1. Randy Kirkpatrick, San Juan Water Commission
2. Tom Pitts, Water Users Rep., Upper Colo. & San Juan Recovery Programs
3. Tom Chart, Program Director, Upper Colo. River End. Fish Recovery Program
4. David Campbell, Program Director, San Juan River Basin Recovery Program
5. Robert King, Utah Division of Water Resources, State of Utah
6. Darin Bird, Utah Department of Natural Resources, State of Utah
7. Catherine Condon, Counsel, Southern Ute Indian Tribe
8. Darryl Vigil, Jicarilla Apache Nation
9. Kevin Terry, Jicarilla Apache Game and Fish Department
10. Gene Shawcroft, Central Utah Water Conservancy District
11. Bruce Whitehead, Southwestern Water Conservation District
12. Mike Roberts, The Nature Conservancy's Colorado River Project
13. John Shields, Wyoming State Engineer's Office, State of Wyoming
14. Mike Greene, Public Service Company of New Mexico
15. Jesse Allen, Office of Representative Cynthia Lummis
16. Pete Obermueller, Office of Representative Cynthia Lummis
17. Jimmy Hague, Office of Senator Mark Udall
18. Stacy A. Wheeler, Office of Senator Mike Lee
19. Brian Clifford, Office of Senator John Barrasso
20. Jeanette Lyman, Office of Senator Tom Udall
21. Camille Calimlim, House Natural Resources Water and Power Subcommittee
22. Karen Hyun, House Natural Resources Insular Affairs, Oceans & Wildlife Subcommittee
23. Tanya Trujillo, Senate Energy and Natural Resources Committee
24. Ben Patton, Office of Senator Orrin Hatch
25. Matt Jensen, Office of Senator Orrin Hatch
26. John Tanner, Office of Senator Orrin Hatch
27. Charles Cogar, Office of Rep. Mike Coffman