



# Upper Colorado River Endangered Fish Recovery Program

Final Summary Dated: December 4, 2017

**Discussion of proposed funding legislation for Recovery Programs:  
Joint meeting of the Upper Colorado River Endangered Fish Recovery Program Management  
Committee and the San Juan River Basin Recovery Implementation Program Coordination Committee**

Monday, September 11, 2017

Conference call purpose:

To attempt to finalize proposed funding legislation language for both Recovery Programs, as discussed previously at the August 15<sup>th</sup> Upper Colorado River Recovery Program Management Committee meeting and the September 1<sup>st</sup> conference call.

Pre-call information:

(Email from Patrick McCarthy to Committee on September 10, 2017):

**Subject: Revisions to annual funding reauthorization legislation for the Upper Colorado River and San Juan River Recovery Programs**

*Tom, Sharon, and members of the UCREFRP Management Committee and SJRBRIP Coordination Committee*

*Having considered the issues and alternatives discussed during the September 1 UCREFRP MC call, The Nature Conservancy and Western Resource Advocates would like to offer a new alternative for consideration during tomorrow's (9/11/17) MC/CC follow-up call.*

*The compromise that was proposed at the conclusion of the 9/1 call – a two-year extension of base funding for O&M and monitoring to 2025 – addresses WAPA's concern about lack of an end date for hydropower funding but fails to provide a secure source of funds for critical O&M and monitoring contracts for which Reclamation is responsible well beyond 2025.*

*We offer an alternative that addresses the risk to WAPA of the uncontrolled expansion of these non-reimbursable charges while also managing the risk to Reclamation and the other Program partners that funding for key recovery-related activities will be lost. This alternative is to tie those charges to actual contracts and costs and impose a total cap on them, subject to reformulation by Congress upon review of the Programs' 2021 report. Based on our review of current and anticipated O&M/monitoring costs, we propose an annual cap of \$5.2M – an amount that would permit the Recovery Programs to continue to support these critical activities while limiting WAPA's funding commitment post-2023.*

*Please see the attached reauthorization legislation mark-up for full details. We look forward to tomorrow's discussion – and to reaching consensus on a solution.*

*Patrick McCarthy, Deputy Director, Colorado River Program*

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(Email from Patrick McCarthy to Committee on September 11, 2017):  
MC and CC members and Recovery Program staff:

I would like to provide some additional information about the TNC/WRA reauthorization legislation proposal – specifically, the basis of the proposal’s \$5.2M cap on hydropower revenue to support O&M and monitoring.

This funding amount was derived from the Secretary of the Interior’s report to Congress last December titled [“Utilization of Power Revenues for Annual Base Funding of the Upper Colorado River and San Juan River Basin Recovery Implementation Programs”](#) Specifically, we used the report’s determination of the cost of “remaining activities eligible for annual base funding after 2019 without reauthorization” highlighted in the table on page 7:

<i>Recovery Program</i>	<i>Currently Available Annual Base Funding (FY 2016 Dollars)1/</i>	<i>Reductions in Annual Base Funding After 2019 Without Reauthorization 2/</i>	<i>Remaining Activities Eligible for Annual Base Funding After 2019 Without Reauthorization</i>
<i>Upper Colorado</i>	\$5,448,100	-\$2,058,200	\$3,390,000
<i>San Juan</i>	\$2,724,100	-\$872,800	\$1,851,300
<b>Total:</b>	<b>\$8,172,300</b>	<b>-\$2,931,000</b>	<b>\$5,241,300</b>
<b>Percent:</b>	<b>100%</b>	<b>-36%</b>	<b>64%</b>

1/ Power revenues initially authorized for use as annual base funds by P.L. 106-392 indexed to 2016 dollar levels.

2/ Includes some program management costs directly related to monitoring and operation and maintenance of capital projects that may be eligible for continued power revenue funding after fiscal year 2019.

This figure is based on Table 3, in the report’s appendix: \$3,390,000 + \$1,851,200 = **\$5,241,200**.

**TABLE 3.**—Current activities and estimated costs (in FY 2016 dollars) of the Upper Colorado and San Juan recovery programs eligible for annual base funding from power revenues beyond fiscal year 2019 without further amending P.L. 106-392.

<i>Recovery Program Element or Activity</i>	<i>Recovery Program</i>	
	<i>Upper Colorado</i>	<i>San Juan</i>
<i>Habitat management</i>	\$402,200	\$315,700
<i>Habitat development</i>	\$494,000	\$0
<i>Propagation and stocking</i>	\$870,800	\$515,900
<i>Monitoring</i>	\$1,623,000	\$1,019,600
<i>Total:</i>	<b>\$3,390,000</b>	<b>\$1,851,200</b>

The activities listed in Table 3 include the operations, maintenance, and monitoring conducted by the two Recovery Programs. By the terms of the TNC/WRA proposal, these activities would still be funded by hydropower revenues in the event that funding agreement for Programs is not renegotiated prior to their scheduled deauthorization in 2023. Thus, these core activities of the Programs would continue to be funded until a new agreement is reached.

I hope that this information sufficiently “unpacks” the \$5.2M funding cap and is useful in this afternoon’s conference call.

*Patrick McCarthy, Deputy Director, Colorado River Program*

## Summary:

Henry provided a brief summary of the discussions and process preceding this conference call (see previous summaries). Proposals for legislation wording include re-authorization with only a date change, a proposal prepared by Henry and Tom to address concerns raised by Western Area Power Administration, adding a 2025 funding date proposal, and the most recent proposal from The Nature Conservancy (TNC) and Western Resource Advocates (WRA). Patrick summarized the most recent proposal from TNC and WRA (described in emails above), and hopes these updates ameliorate other stakeholder concerns, while continuing to fund the critical actions of monitoring and operation and maintenance of existing projects that have been constructed. He noted they prefer the date change only option, but drafted a potential revision based on concerns they heard from other partners. Primary components of the new proposal include:

- preserving the date change for continued Program authorization; and
- establishing a \$5.2M cap on hydropower revenues to specifically fund operation and maintenance, and monitoring (funding cap figure extracted from 2016 Report to Congress)

This proposal attempts to honor multiple stakeholder concerns by retaining a fallback funding source for O&M and monitoring, but prevents uncapped expenses from hydropower revenues. Questions were raised about the types of projects included in the \$5.2M, the Upper Basin Program office responded that it was based on items identified as such in the RIPRAP tables. Some participants asserted that it is important to distinguish O&M of capital projects from operational expenses that are funded through base funds and expressed a desire to revisit this number.

The clause being debated funds elements of the Programs that could be seriously impacted if ignored for even short time periods (operation & maintenance, and long term monitoring) even if the Programs are not authorized to receive base annual funding. WAPA is concerned about using hydropower revenues beyond 2023 unless the Programs are re-authorized and the cooperative agreements are in place. Proponents of the clause stated that funding under this clause provides some risk management to existing commitments, such as long term datasets and capital projects. Tom Pitts explained the original intention of the clause was to provide fallback funding for those most critical aspects of the Programs in case Congress did not provide authorization. The clause was to cover a lapse in authorization, not to be a perpetual funding source.

Many voiced that it is most important to collaboratively figure out how to maintain ESA compliance so that water use development continues and to achieve recovery. Re-negotiating continued implementation of recovery actions is the most important aspect of these discussions. We know that lots of Programs' actions will need to be funded even after the Programs cease to exist in their current form, such as capital features, water contracts, and other important actions. These will all need to be negotiated.

Colorado and the NPS supported the two year extension for the clause. The extension to 2025 for O&M and monitoring was an attempt to cover any lag time between stakeholder agreement on funding commitments and Congressional authorization. That is, it provides more time to get the legislation passed.

No decision was made at this time. Stakeholders needed to reconvene in-house with their boards, constituents, and interested parties.

Attachment 1: Attendees

Upper Colorado River Recovery Program Management Committee members:

Henry Maddux, chair	State of Utah
Michelle Garrison	State of Colorado
Steve Wolff	State of Wyoming
Tom Pitts	Water Users
Patrick McCarthy	Environmental Interests
Shane Capron	WAPA
Leslie James	CREDA
Marj Nelson	USFWS
Kathy Callister for Brent Uilenberg	USBR
Melissa Trammell	NPS
Tom Chart (non-voting)	Upper Colorado River Recovery Program Director

San Juan Recovery Program Coordination Committee members:

Catherine Condon	Southern Ute Indian Tribe
Tom Pitts	Water Users
Stanley Pollack	Navajo Nation
Michelle Garrison	State of Colorado
Kathy Callister for Brent Uilenberg	USBR
Kristin Green	State of New Mexico
Patrick McCarthy	Environmental Interests
Sharon Whitmore (non-voting)	San Juan Recovery Program Director

Recovery Programs staff:

Angela Kantola	Upper Colorado River Recovery Program Deputy Program Director
Kevin McAbee	Upper Colorado River Recovery Program Director's Office
Julie Stahli	Upper Colorado River Recovery Program Director's Office
Don Anderson	Upper Colorado River Recovery Program Director's Office
Nate Franssen	San Juan Recovery Program Director's Office
Scott Durst	San Juan Recovery Program Director's Office
Dave Campbell	Former San Juan Recovery Program Director

Others:

Robert Wigington	WRA
Edalin Koziol	TNC
Lain Leoniak	Colorado Department of Law
Dave Speas	USBR
Ryan Christianson	USBR
Mark McKinstry	USBR
Ed Warner	USBR (Upper Colorado River Implementation Committee)
Carly Brown	State of Colorado
Lynn Jeka	WAPA (Upper Colorado River Implementation Committee)
Steve Johnson	WAPA (Upper Colorado River Implementation Committee)