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**Testimony Supporting Enactment of H.R. 6060
“*Endangered Fish Recovery Programs Extension Act of 2012*”
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**

**Before the Water and Power Subcommittee
of the Committee on Natural Resources
U.S. House of Representatives
Washington D.C.**

July 10, 2012

Chairman McClintock, Ranking Member Napolitano, and Members of the Subcommittee, my name is John Shields. I am the Interstate Streams Engineer for the Wyoming State Engineer's Office in Cheyenne, Wyoming. I represent Wyoming on the Management Committee of the Upper Colorado Endangered Fish Recovery Program. That committee reports to the Program's governing committee. Wyoming participated in negotiation of the Program and has participated in implementation of the Upper Colorado River Endangered Fish Recovery Program since its inception in 1988. I am here to testify in support of H.R. 6060, the *Endangered Fish Recovery Programs Act of 2012*, a bill 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.

H.R. 6060 addresses the needs of both the Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program (Programs). Extension of the authority to continue use of Colorado River Storage Project (CRSP) hydropower revenues is critical to the ability of these Programs to realize their goals. Absent such reauthorization, the Programs face losing more than \$3 million in annual base funding (more than 40 percent of the annual total) used for critically important nonnative fish management and control, scientific research, administration/program management and public information activities. As a result, the Programs' ability to restore the four endangered fish species to self-sustaining population levels, which is the all-important benchmark to achieve recovery of the fish would be both impeded and significantly delayed. In turn, we foresee that Endangered Species Act compliance being provided for water projects across the Upper Colorado and San Juan river basins would be impacted. Both outcomes are unacceptable to all of the recovery programs' participants.

Upper Colorado And San Juan River Basin Recovery Programs

The Upper Colorado River Endangered Fish Recovery Program and the San Juan River Basin Recovery Implementation Program are using innovative, cost-effective measures to recover four species of endangered Colorado River fishes. At the same time, water and hydroelectric power resources are being managed within state and federal laws and tribal rights to meet the needs of people in growing western communities.

The Programs have the goals of recovering the four fish species in the Upper Colorado River basin while water development and management activities proceed in compliance with state laws, interstate compacts, and the federal Endangered Species Act (ESA).

These Programs have recovery goals that provide objective, measurable criteria for downlisting and delisting the species, including numeric population goals and a set of specific recovery activities. The recovery goals allow the Programs to monitor progress towards achieving recovery, to assess the effectiveness of management actions, and to adjust recovery efforts through adaptive management. The U.S. Fish and Wildlife Service (USFWS) is required, pursuant to Section 4 of the ESA, to provide a status review of each listed species' progress towards recovery each five years. The Service has projected recovery of the four fish species will occur by the end of 2023, at which time the Programs will end. These timelines to achieve recovery are found in the recently published five-year reviews for the Colorado pikeminnow and humpback chub and the in-draft species' status reviews for the bonytail and razorback sucker. The recovery programs will end when the four species of endangered fish have been recovered.

The Programs have substantial grassroots support among their participants, which include the four Upper Basin states (Colorado, New Mexico, Utah and Wyoming), American Indian tribes (Navajo Nation, Jicarilla Apache Nation, Southern Ute Tribe and Ute Mountain Tribe), water users, power customers and environmental organizations. Five federal agencies (USFWS, Bureau of Reclamation, National Park Service, and Western Area Power Administration and Bureau of Indian Affairs) participate in the Programs. These diverse interests continue to demonstrate that working cooperatively produces far greater results than independent efforts.

The recovery programs are currently providing ESA compliance for 2,320 federal, tribal, and nonfederal water projects, including every Bureau of Reclamation project in the Upper Basin upstream of Lake Powell, water projects that meet the United States' trust obligations to American Indian tribes, and literally hundreds of non-federal water projects providing water for municipal, irrigation, industrial, and recreational uses. No lawsuits have been filed as a result of ESA compliance under the Programs. The programs use adaptive management to evaluate and revise management actions as new information becomes available.

Public Law 106-392 and its Subsequent Amendments

P.L.106-392, signed into law on October 30, 2000, authorizes the Bureau of Reclamation to provide cost-sharing for capital construction and fund annual operations for these two endangered fish recovery Programs. The law recognizes significant and specific cost-sharing contributions to the Programs by the States of Colorado, Wyoming, Utah, and New Mexico, power customers, and water users for these purposes.

P.L. 106-392 has been amended three times with substantial bi-partisan support in both the House of Representatives and United States Senate. P.L.107-375 extended the period for capital construction to 2008 for both Programs. P.L.109-183 extended the period for construction of capital projects for the Programs through FY 2010, authorized an additional \$15 million in capital expenditures for the Upper Colorado Program, and recognized an additional \$11 million in non-federal cost-share contributions. P.L. 111-11 provided an additional \$27 million in authority for federal funding of capital projects, recognized an additional \$56 million in non-federal contributions, and extended the authority to expend funding for capital projects through the end of FY 2023, which is the expected recovery date for the endangered fish species.

Capital project funds have been used to construct hatchery facilities, fish passages and screens, complete water acquisition projects and restore floodplain habitat across the San Juan and Upper Colorado basins. P.L. 106-392 provided for three sources of capital funds within these programs: federal appropriations (provided within Reclamation's "Endangered Species Recovery Implementation Program" budget line-item) along with \$17 million of CRSP power revenues from CRSP power users and \$17 million provided by the States of Colorado, New Mexico, Utah and Wyoming.

P.L. 106-392 expressly authorized the use of a maximum of \$6 million per year (indexed for inflation) of CRSP hydropower revenues to support the annual base funding needs of the Programs through the end of fiscal year 2011. As noted, operation and maintenance of the hatcheries, fish passages, fish screens, and flooded bottomland facilities, monitoring of the four endangered fish populations, and nonnative fish management, scientific research, administration/program management and public information activities are all conducted with annual base funding.

H.R. 6060 Will Extend Authority to Use Power Revenues For Annual Base Funding

Annual base funding activities contribute significantly to successfully completing recovery actions specified in the species' recovery goals, including instream flow identification, evaluation, and protection; habitat restoration and maintenance; management of nonnative fish impacts; endangered fish propagation and stocking; scientific research, monitoring, and data management; public information and involvement; and administrative program management. The USFWS, the four participating states, the four American Indian Tribes, and water users also contribute – and will continue to provide – additional annual funding and in-kind contributions for these activities. The cooperative agreements for both programs reflect that all participants have committed to the conduct of these Programs through the end of FY 2023.

The extension of authority to the end of fiscal year 2019 contained in H.R. 6060 complies with the current House of Representatives' protocol limiting authorizations to 7 years after the year of enactment. The recovery programs' participants anticipate the need to seek an additional extension of authority prior to the end of fiscal year 2019 based on current projections that each of the four species of endangered fish will not be delisted (e.g., recovered) until 2023.

Importantly, H.R. 6060 will extend the authority to use CRSP hydropower revenues through fiscal year 2019 at currently authorized levels. At that time, authority to use annual base funding for activities other than operation and maintenance of capital projects and monitoring will terminate without continuing authorization by the Congress.

Recommendation: Enact H.R. 6060

H.R. 6060 should be enacted into law. Enactment will allow the two recovery programs to continue to use CRSP hydropower revenues for all annual base funding activities through 2019. All of the ongoing annual base funding activities are critical to these Programs accomplishing their primary goal of recovering the four endangered fish species by 2023.

I greatly appreciate the opportunity to submit testimony supporting the enactment of H.R. 6060.