

Calendar No. 1005110TH CONGRESS
2D SESSION**S. 3189**

To amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2008

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend Public Law 106–392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Endangered Fish Re-
3 covery Programs Improvement Act of 2008”.

4 **SEC. 2. ENDANGERED FISH RECOVERY PROGRAMS.**

5 (a) **DEFINITIONS.**—Section 2 of Public Law 106–392
6 (114 Stat. 1602) is amended—

7 (1) in paragraph (5), by inserting “, rehabilita-
8 tion, and repair” after “and replacement”; and

9 (2) in paragraph (6), by inserting “those for
10 protection of critical habitat through stabilization of
11 adjacent stream banks and adjacent impacted infra-
12 structure, those for preventing entrainment of fish
13 in water diversions,” after “instream flows,”.

14 (b) **AUTHORIZATION TO FUND RECOVERY PRO-**
15 **GRAMS.**—Section 3 of Public Law 106–392 (114 Stat.
16 1603; 120 Stat. 290) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking
19 “\$61,000,000” and inserting “\$88,000,000”;

20 (B) in paragraph (2), by striking “2010”
21 and inserting “2023”; and

22 (C) in paragraph (3), by striking “2010”
23 and inserting “2023”;

24 (2) in subsection (b)—

1 (A) in the matter preceding paragraph (1),
 2 by striking “\$126,000,000” and inserting
 3 “\$209,000,000”;

4 (B) in paragraph (1)—

5 (i) by striking “\$108,000,000” and
 6 inserting “\$179,000,000”; and

7 (ii) by striking “2010” and inserting
 8 “2023”; and

9 (C) in paragraph (2)—

10 (i) by striking “\$18,000,000” and in-
 11 sserting “\$30,000,000”; and

12 (ii) by striking “2010” and inserting
 13 “2023”;

14 (3) in subsection (e)(4), by striking
 15 “\$31,000,000” and inserting “\$87,000,000”; and

16 (4) in subsection (d)—

17 (A) in paragraph (2)—

18 (i) in the fourth sentence, by striking
 19 “2011” and inserting “2023”;

20 (ii) in the fifth sentence, by striking
 21 “2008” and inserting “2020”; and

22 (iii) in the sixth sentence, by striking
 23 “2011” and inserting “2023”;

24 (B) by striking paragraph (3) and insert-
 25 ing the following:

1 “(3) DUTY OF WESTERN AREA POWER ADMIN-
2 ISTRATION AND BUREAU OF RECLAMATION.—

3 “(A) DEFINITIONS.—In this paragraph:

4 “(i) ADMINISTRATOR.—The term ‘Ad-
5 ministrato^r’ means the Administrator of
6 the Western Area Power Administration.

7 “(ii) COMMISSIONER.—The term
8 ‘Commissioner’ means the Commissioner of
9 Reclamation.

10 “(iii) UPPER COLORADO RIVER BASIN
11 FUND.—The term ‘Upper Colorado River
12 Basin Fund’ means the fund established
13 under section 5(a) of the Act of April 11,
14 1956 (commonly known as the ‘Colorado
15 River Storage Project Act’) (43 U.S.C.
16 620d(a)).

17 “(B) DUTY OF ADMINISTRATOR AND COM-
18 MISSIONER.—The Administrator and the Com-
19 missioner shall maintain sufficient revenues in
20 the Upper Colorado River Basin Fund to meet
21 the obligation of the Administrator and Com-
22 missioner to provide base funding in accordance
23 with paragraph (2).

24 “(C) INSUFFICIENT FUNDS.—If the Ad-
25 ministrato^r and the Commissioner jointly deter-

1 mine that the amount of funds in the Upper
2 Colorado River Basin Fund may not be suffi-
3 cient to meet the obligations of section 5(e)(1)
4 of the Act of April 11, 1956 (commonly known
5 as the ‘Colorado River Storage Project Act’)
6 (43 U.S.C. 620d(e)(1)) and paragraph (2); base
7 funding may be provided through loans to the
8 Administrator from the Colorado Water Con-
9 servation Board Construction Fund (Col. Rev.
10 Stat. 37-60-121 (2008)) in lieu of funds that
11 would otherwise be collected from power reve-
12 nues and used for storage project repayments.

13 “(D) REPAYMENT.—

14 “(i) AGREEMENT.—Subject to an
15 agreement entered into among the Colo-
16 rado Water Conservation Board, the Ad-
17 ministrator, and the Commissioner, the
18 Administrator may repay any loan pro-
19 vided under subparagraph (C) from power
20 revenues collected after September 30,
21 2019.

22 “(ii) NEGOTIATION OF LOANS AND
23 FUTURE CONTRACTS.—The agreement de-
24 scribed in clause (i), and any loan contract
25 that may be entered into among the Colo-

1 rado Water Conservation Board, the Ad-
 2 ministrator, and the Commissioner, shall
 3 be negotiated in consultation with Salt
 4 Lake City Area Integrated Projects Firm
 5 Power Contractors.

6 “(iii) REQUIRED PROVISIONS.—The
 7 agreement described in clause (i) and each
 8 loan contract described in clause (ii) shall
 9 include provisions that are designed—

10 “(I) to minimize impacts on elec-
 11 trical power rates; and

12 “(II) to ensure that loan repay-
 13 ment to the Colorado Water Con-
 14 servation Board (including principal
 15 and interest) is treated as non-
 16 reimbursable and as having been re-
 17 paid and returned to the general fund
 18 of the Treasury as costs assigned to
 19 power for repayment under section 5
 20 of the Act of April 11, 1956 (com-
 21 monly known as the ‘Colorado River
 22 Storage Project Act’) (43 U.S.C.
 23 620d).

24 “(III) REPAYMENT DEADLINE.—

25 The repayment of a loan provided

1 under subparagraph (C) shall be com-
 2 pleted not later than September 30,
 3 2057.”; and

4 (C) by adding at the end the following:

5 “(4) FAILURE TO OBTAIN LOAN.—

6 “(A) REPORT.—If the Administrator of
 7 the Western Area Power Administration is un-
 8 able to obtain a loan from the Colorado Water
 9 Conservation Board under paragraph (3)(C),
 10 the Administrator and the Commissioner of
 11 Reclamation shall submit to the appropriate
 12 committees of Congress a report describing the
 13 projected base funding shortfall with respect to
 14 the Colorado River Basin Fund established
 15 under section 5(a) of the Act of April 11, 1956
 16 (commonly known as the ‘Colorado River Stor-
 17 age Project Act’) (43 U.S.C. 620d(a)).

18 “(B) AUTHORIZATION OF APPROPRIA-
 19 TIONS.—There are authorized to be appro-
 20 priated to the Secretary such sums as are nec-
 21 essary to eliminate the base funding shortfall
 22 described in subparagraph (A).”.

23 **SECTION 1. SHORT TITLE.**

24 *This Act may be cited as the “Endangered Fish Recov-*
 25 *ery Programs Improvement Act of 2008”.*

1 **SEC. 2. ENDANGERED FISH RECOVERY PROGRAMS.**

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7 protection of critical habitat, those for preventing en-
8 trainment of fish in water diversions,” after
9 “instream flows.”

10 (b) *AUTHORIZATION TO FUND RECOVERY PRO-*
11 *GRAMS.*—Section 3 of Public Law 106–392 (114 Stat. 1603;
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1 (ii) by striking “2010” and inserting
2 “2023”; and
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4 (i) by striking “\$18,000,000” and in-
5 serting “\$30,000,000”; and
6 (ii) by striking “2010” and inserting
7 “2023”; and
8 (3) in subsection (c)(4), by striking
9 “\$31,000,000” and inserting “\$87,000,000”.

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