



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Water, Wildlife and Fisheries Republican Members
From: Subcommittee on Water, Wildlife and Fisheries staff,
Annick Miller (annick.miller@mail.house.gov) and Doug Levine
(doug.levine@mail.house.gov); x5-8331
Date: Thursday, July 27, 2023
Subject: Legislative Hearing on: **H.R. 1437, H.R. 1792, H.R. 2950, H.R. 2982, H.R. 4051, H.R. 4094, H.R. 4587, and H.R. 4596**

The Subcommittee on Water, Wildlife and Fisheries will hold a legislative hearing on: H.R. 1437 (Rep. Rose), “*Black Vulture Relief Act of 2023*”; H.R. 1792 (Rep. Radewagen), “*South Pacific Tuna Treaty Act of 2023*”; H.R. 2950 (Rep. Huffman), “*Coastal Habitat Conservation Act of 2023*”; H.R. 2982 (Rep. Tonko), “*New York-New Jersey Watershed Protection Act*”; H.R. 4051 (Rep. Wittman), “*SHARKED Act*”; H.R. 4094 (Rep. Curtis), “*Great Salt Lake Stewardship Act*”; H.R. 4587 (Rep. Rutherford) “*Red Snapper Act*”; and H.R. 4596 (Rep. Boebert), “*Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023*”, **on Thursday, July 27, 2023, at 10:15 a.m. EDT in 1334 Longworth House Office Building.**

Member offices are requested to notify Thomas Shipman (thomas.shipman@mail.house.gov) by 4:30 p.m. on Wednesday, July 26, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- Republican bills in today’s hearing address local issues.
- H.R. 1437 by Rep. Rose gives ranchers and cattlemen more options to address the devastating impacts of black vulture predation.
- H.R. 1792 by Rep. Radewagen implements the 2016-agreed to treaty amendments that are vital for fishing access by U.S. vessels, many of which land their fish in American Samoa.
- H.R. 4051 by Rep. Wittman creates a task force to address the increasing conflicts between fishermen and sharks.
- H.R. 4094 by Rep. Curtis gives the Department of the Interior more flexibility in addressing the issues surrounding the Great Salt Lake Basin.
- H.R. 4587 by Rep. Rutherford prevents the National Oceanic and Atmospheric Administration (NOAA) from implementing draconian fishing closures without the best available science.
- H.R. 4596 by Rep. Boebert reauthorizes two successful fish recovery programs that provide Endangered Species Act compliance for more than 2,500 federal and non-

federal water projects depleting approximately 3.7 million acre-feet per year in the Upper Colorado River and San Juan River Basins.

II. WITNESSES

Panel I:

- ***The Honorable Rob Wittman***, Representative from the First District of Virginia
- ***The Honorable Amata Radewagen***, Representative from American Samoa
- ***The Honorable John Curtis***, Representative from the Third District of Utah
- ***The Honorable Lauren Boebert***, Representative from the Third District of Colorado
- ***The Honorable John Rutherford***, Representative from the Fifth District of Florida
- ***The Honorable Paul Tonko***, Representative from the Twentieth District of New York
- ***The Honorable John Rose***, Representative from the Sixth District of Tennessee
- ***The Honorable Jared Huffman***, Representative from the Second District of California

Panel II:

- ***Dr. Kelly Kryc***, Deputy Assistant Secretary for International Fisheries, National Oceanic and Atmospheric Administration, Washington, DC
- ***Mr. Stephen Guertin***, Deputy Director for Program Management and Policy, U.S. Fish and Wildlife Service, Washington, DC

Panel III:

- ***Mr. William Gibbons-Fly***, Executive Director, American Tunaboat Association, San Diego, CA [H.R.1792]
- ***Mr. Jack Graham***, Captain, Afishianado Charters, Nags Head, NC [H.R. 4051]
- ***Ms. Jessica McCawley***, Director of the Division of Marine Fisheries Management, Florida Fish and Wildlife Conservation Commission, Tallahassee, FL [H.R. 4587]
- ***Mr. Gene Shawcroft***, General Manager of the Central Utah Water Conservancy District, Orem, UT [H.R.4094]
- ***Mr. Steve Wolff***, General Manager, Southwestern Water Conservation District, Durango, CO [H.R. 4596]
- ***Mr. Charlie Beshler***, Property Rights and Environmental Management Committee Chair, National Cattlemen's Beef Association, Patton, MO [H.R. 1437]***Ms. Genevieve Genest***, Donor Relations Manager, Galveston Bay Foundation, Kemah, TX [H.R. 2950] [*minority witness*]
- ***Mr. Seth Atkinson***, Quillback Consulting, Santa Cruz, CA [H.R. 4587] [*minority witness*]

III. BACKGROUND

H.R. 1437 (Rep. John Rose, R-TN), “Black Vulture Relief Act of 2023”

H.R. 1437 would allow livestock producers or an employee of a livestock producer to take a black vulture, without a permit, if it is causing, or if there is a reasonable belief that the black vulture will cause: death, injury, or destruction to livestock. The bill requires livestock producers to report to the U.S. Fish and Wildlife Service (USFWS) no later than January 31 of each year if they have taken a black vulture in the preceding year. The USFWS is required to make available on its website, no later than 180 days after the enactment of the bill, a reporting form for livestock producers.

Black vultures are protected under the Migratory Bird Treaty Act (MBTA)¹ and inhabit much of the Eastern and Central United States, with a range extending all the way into South America.² The MBTA prohibits the “take” including the killing, capturing, selling, trading, and transport, of listed birds without prior authorization by the USFWS, which requires an extensive permitting process.³ Permits are usually issued to states, who then issue sub-permits to livestock producers. These sub-permits allow for three takes,⁴ with the option to go up to five in some states.⁵ From 2015-2019, requests to the USFWS for depredation permits for the lethal take of black vultures increased by 26 percent.⁶

Black vultures are known to be a threat to livestock: inflicting damage by plucking their eyes, eating tongues of newborn animals, and killing and feeding on smaller farm animals, like chickens. Black vultures regularly attack and feed on calves, often killing the animals during birth or immediately after birth. According to a 2017 report by the U.S. Department of Agriculture (USDA), vulture species were responsible for 10 percent of all calves lost to predators.⁷

The USFWS works in partnership with the USDA’s Animal and Plant Health Inspection Service (APHIS) to help producers experiencing black vulture-related problems. According to APHIS’ Fiscal Year (FY) 2024 Budget Justification they “conducted direct control in 22 States in 2022, removing 13,154 black vultures and dispersing 83,454 black vultures to protect agriculture, human health and safety, and property.”⁸ However, problems persist for livestock producers in

¹ 16 U.S.C. 703-712

² “Black vulture.” Hawk Mountain Global Raptor Conservation. [Black Vulture | Hawk Mountain Sanctuary: Learn Visit Join](#)

³ “Migratory Bird Treaty Act of 1918.” U.S. Fish and Wildlife Service. [Migratory Bird Treaty Act of 1918 | U.S. Fish & Wildlife Service \(fws.gov\)](#)

⁴ “Black Vulture Depredation Permit Program.” Maryland Farm Bureau. <https://mdfarmbureau.com/depredation-permit/#:~:text=Sub%2Dpermits%20are%20good%20for%20up%20to%2012%20months.&text=A%20maximum%20of%20three%20E2%80%9Ctakes.in%20the%20MDFB%20statewide%20permit.>

⁵ “VDACS Launches Black Vulture Depredation Permit Pilot Program to Assist Commonwealth’s Livestock Producers.” Virginia Department of Agriculture and Consumer Services. <https://www.vdacs.virginia.gov/press-releases-220927-black-vulture.shtml>

⁶ “Black vulture conflict and management in the United States: damage trends, management overview, and research needs.” U.S. Department of Agriculture. Kluever et al. 2020. <https://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=1669&context=hwi>

⁷ “Managing Vulture Damage.” U.S. Department of Agriculture. September 2019. https://www.aphis.usda.gov/publications/wildlife_damage/content/printable_version/fs_vulture_damage_man.pdf

⁸ “2024 USDA Explanatory Notes – Animal and Plant Health Inspection Service.” Animal and Plant Health Inspection Service. 2023. Page 23-116. [2024 USDA Explanatory Notes](#)

dealing with predatory black vultures, with depredations being confirmed in 18 states.⁹ For example, results from a 2022 study conducted by APHIS and Purdue University in Indiana showed that 38 percent of cattle producers in Indiana reported livestock losses due to black vultures.¹⁰

H.R. 1437 is a bi-partisan bill that is cosponsored by Representatives Rick Allen (R-GA), Troy Balderson (R-OH), Andy Barr (R-KY), Josh Brecheen (R-OK), James Comer (R-KY), Rick Crawford (R-AR), Kevin Hern (R-OK), Max Miller (R-OH), August Pfluger (R-TX), Darren Soto (D-FL), and Steve Womack (R-AR).

H.R. 1792 (Rep. Amata Radewagen, R-AS), “South Pacific Tuna Treaty Act of 2023”

The United States ratified the South Pacific Tuna Treaty on December 21, 1987, and it entered into force on June 15, 1988.¹¹ The Treaty provides United States purse seine vessels with fishing access to the waters under the jurisdiction of the 16 Pacific Island Parties (PIPs). The PIPs are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Republic of the Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. Under a separate Economic Assistance Agreement associated with the Treaty, the United States provides \$21 million per year to the PIPs.

The United States and the PIPs had been renegotiating the Treaty and its Annexes since 2009 to update the text and extend the terms of fishing access for U.S. vessels. In 2016, after the U.S. notified that it planned to withdraw from the Treaty,¹² the parties agreed in principle on a revised “business model” under the Treaty.¹³ The Annexes include the terms and conditions for a more viable framework for U.S. industry fishing access. The parties formally adopted the agreed amendments to the Treaty and its Annexes on December 3, 2016.

On August 28, 2018, then President Trump transmitted to Congress the agreed amendments to the Treaty.¹⁴ In this communication, the administration indicated that it will separately recommend changes to the South Pacific Tuna Act to reflect the amendments. The amendments are not self-executing. The United States implements the South Pacific Tuna Treaty through the South Pacific Tuna Act.¹⁵ H.R. 1792 would amend the South Pacific Tuna Act to incorporate these amendments. As currently drafted, the bill includes “such sums” authorizations of appropriations, which are not in compliance with House floor protocols.

⁹ “Spatial risk modeling of cattle depredation by black vultures in the midwestern United States.” *The Journal of Wildlife Management*. Quinby et al. 4/12/22. <https://wildlife.onlinelibrary.wiley.com/doi/full/10.1002/jwmg.22231>

¹⁰ “2024 USDA Explanatory Notes – Animal and Plant Health Inspection Service.” Animal and Plant Health Inspection Service. 2023. Page 23-116. [2024 USDA Explanatory Notes](https://www.aphis.usda.gov/animal-plant-health/2024-usda-explanatory-notes)

¹¹ NOAA Fisheries, “South Pacific Tuna Treaty.” NOAA, 8 Oct. 2021, <https://www.fisheries.noaa.gov/pacific-islands/international-affairs/south-pacific-tuna-treaty>

¹² Kearns, M. “US decides to withdraw from Pacific tuna treaty.” *Seafood Source*, January 19, 2016. <https://www.seafoodsource.com/news/supply-trade/us-decides-to-withdraw-from-pacific-tuna-treaty>

¹³ “Parties to South Pacific Tuna Treaty Agree on Principles of Fishing Access.” International Institute for Sustainable Development, July 5, 2016. <http://sdg.iisd.org/news/parties-to-south-pacific-tuna-treaty-agree-on-principles-of-fishing-access/>

¹⁴ Treaty Document 115-3. Message from the President of the United States on “Amendments to the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America” <https://www.congress.gov/115/cdoc/tdoc3/CDOC-115tdoc3.pdf>

¹⁵ 16 U.S.C. 973 et seq.

H.R. 1792 is co-sponsored by Rep. Ed Case (D-HI).

Treaty Amendments:

All the proposed Treaty amendments can be found [here](#). Below are some highlights.

The amendments add definitions for "Closed Areas", and the "Convention". The amendments delete the definition of the "Treaty Area", and redefine "Licensing Area" to mean all waters under the jurisdiction of the PIPs except for internal waters, territorial seas, archipelagic waters, and any closed area. The deletion of the Treaty Area definition and changes to the Licensing Area mean the Treaty no longer applies to any portion of the high seas, which will eliminate one previous source of tension under the Treaty.

The amendments simplified Treaty Articles to say vessels shall be permitted to engage in fishing in the Licensing Area in accordance with the terms of the Treaty. Additional changes were agreed to, stipulating that no fishing vessel of the United States shall be used for fishing in any Closed Area, or in the Licensing Area, except in accordance with a license issued by the National Oceanic and Atmospheric Administration (NOAA) Administrator. Provisions are included that will help ensure that U.S. fishing vessels will still have opportunities to obtain fishing access even if the U.S. government and the PIPs are unable to conclude new multilateral access terms in future rounds of negotiation.

H.R. 2950 (Rep. Jared Huffman, D-CA), "Coastal Habitat Conservation Act of 2023"

The bill would authorize the USFWS's Coastal Program, which is a voluntary, partnership-based program created administratively in 1984 to provide technical and financial assistance for habitat conservation in coastal watersheds. Specifically, the bill would authorize the Coastal Program through FY 2028, authorizing funding at \$20 million for FY 2024, \$21.5 million for FY 2025, \$22.5 for FY 2026, \$23.75 million for FY 2027, and \$25 million for FY 2028. On average, the Program has been appropriated about \$13 million annually since FY 2013.¹⁶ As currently written funding above FY 2023 appropriated levels would require a pay-for to comply with House floor protocols.

In its FY 2024 budget justifications, the USFWS requested \$20.4 million for the Coastal Program, \$6.5 million above the FY 2023 enacted level.¹⁷ In addition, the budget justification stated that it intends to use the Coastal Program to contribute to the 30x30 initiative.¹⁸ The Biden administration's 30x30 effort, now called the "America the Beautiful" initiative, is a proposal that would put 30 percent of U.S. lands and waters under conservation and preservation status by 2030.¹⁹ The 30x30 initiative has been met with strong opposition by House Committee on Natural Resources Republicans due in part to the initiative's nebulous definition of what constitutes conservation status and its potential to lock up public lands from multiple use.

¹⁶ "FY 2022 Fish and Wildlife Service Budget Justifications." U.S. Fish and Wildlife Service. 2021. Page HC-5. [FY2022 Fish and Wildlife Service Budget Justifications](#).

¹⁷ "FY 2024 Fish and Wildlife Service Budget Justifications." U.S. Fish and Wildlife Service. 2023. Page EX-11. [FY 2024 Fish and Wildlife Service Budget Justification](#).

¹⁸ *Id.* at Page HC-1.

¹⁹ "Biden-Harris Administration Outlines "America the Beautiful" Initiative." U.S. Fish and Wildlife Service. 5/6/21. <https://www.doi.gov/pressreleases/biden-harris-administration-outlines-america-beautiful-initiative>

Actions by the Coastal Program are guided by a 5-year national strategic plan, the current plan runs until 2026.²⁰ USFWS states that it will be “focusing resources on addressing the impacts of climate change to marginalized coastal communities,” and “the Coastal Program is supporting the environmental justice goal of America the Beautiful.”²¹

The Coastal Program has never been formally authorized by Congress. However, the USFWS justifies its authority to implement this program under the Fish and Wildlife Coordination Act and the Fish and Wildlife Act of 1956.²² The Fish and Wildlife Coordination Act gave the USFWS the authority to investigate and report on proposed federal actions that affect any stream or body of water, and to provide recommendations to minimize impacts on fish and wildlife resources.²³ The Fish and Wildlife Act of 1956 authorized the Secretary of the Interior to take steps required for the development, management, advancement, conservation, and protection of fisheries resources and wildlife resources through research, acquisition of refuge lands, development of existing facilities, and other means.²⁴

H.R. 2950 has one cosponsor, Rep. Jenniffer Gonzalez-Colon (R-PR) and a similar version of this bill received a hearing last Congress.

H.R. 2982 (Rep. Paul Tonko, D-NY), “New York-New Jersey Watershed Protection Act”

H.R. 2982 would require the Secretary of the Interior, through the USFWS, to create a New York-New Jersey Watershed Restoration Program (Program) and accompanying grant program. In carrying out the Program, the USFWS would be required to work with the two states and relevant partners in the watershed to identify, prioritize, and implement restoration and protection activities. The USFWS would be tasked with working with these partners to develop a watershed-wide strategy, provide technical assistance toward restoration, and establish and administer a grant program to support restoration projects. The bill defines the “New York-New Jersey Watershed” as “all land area whose surface water drains into New York-New Jersey Harbor, the waters contained within that land area, and the estuaries associated with those watersheds.”

The bill would authorize \$20 million for each of fiscal years 2024 through 2029, of which at least 75 percent must be used to carry out the grant program. The cost-share provisions of the bill state that the non-federal cost-share shall not be more than 50 percent. In addition, the bill prohibits the federal government from maintaining ownership of any land acquired under the Act, except for the purposes of transferring ownership to an entity authorized by the bill. This language was included at the request of Committee Republicans last Congress. These entities include state, tribal, and local governments, as well as non-profit organizations and institutions of higher education. The bill contains a sunset provision that provides for the bill to have no force or effect on/after October 1, 2030.

²⁰ *Supra* note 17 at Page HC-7.

²¹ *Id.*

²² *Id.* at Page HC-2.

²³ *Id.*

²⁴ *Id.*

H.R. 2982 is drafted to replicate the framework of the Delaware River Basin Conservation Act (DRBCA), which was included in the Water Infrastructure Improvements for the Nation Act (WIIN Act, P.L. 114-322).²⁵ The bill, as written, does not currently contain a pay-for as required by House floor protocols. The bill has 14 bi-partisan cosponsors (7 Republicans and 7 Democrats), all from the New York and New Jersey delegations. A similar version of this bill received a hearing last Congress and was marked up by the full Committee, it was order reported favorably 24-18.²⁶

H.R. 4051 (Rep. Rob Wittman, R-VA), “SHARKED Act”

The bill would require the Secretary of Commerce to establish a task force to address shark depredation, which occurs when a shark eats or damages a hooked fish before an angler can reel in their catch. The task force membership would include state and federal fishery managers, such as representatives from Regional Fishery Management Councils, the Marine Fisheries Commissions, the state fish and wildlife agencies from the states within the Regional Fishery Management Councils, the National Marine Fisheries Service (NMFS) and shark experts from the Fisheries Service, and non-federal experts. The task force would be responsible for improving coordination and communication across the fisheries management community on shark depredation, identifying research priorities and funding opportunities.

H.R. 4051 has a seven-year sunset and is co-sponsored by Representatives Garret Graves (R-LA), Daren Soto (D-FL), and Marc Veasey (D-TX).

H.R. 4094 (Rep. John Curtis, R-UT), “Great Salt Lake Stewardship Act”

The Central Utah Project (CUP) was authorized in 1956 under the Colorado River Storage Project (CRSP) Act as a participating project of the Colorado River Storage Project.²⁷ The CUP moves water from the Colorado River basin in eastern Utah to the western slopes of the Wasatch Mountain range to meet the needs for irrigation, municipalities, businesses, generate hydroelectric power, fish and wildlife conservation, and recreation.²⁸

To facilitate planning and construction, the CUP is divided into six units: Bonneville, Jensen, Uintah, Upalco, Ute Indian and Vernal.²⁹ The Bonneville, Jensen, Upalco, and Vernal Units were authorized by the 1956 CRSP Act. The Uintah and Ute Indian Unit were authorized by the 1968 Colorado River Basin Project Act.³⁰

Construction of the CUP was originally the responsibility of the Bureau of Reclamation, however in 1992 Congress passed the Central Utah Project Completion Act (CUPCA) which transferred responsibility for planning and construction activities to the Central Utah Water Conservancy District and placed responsibility for oversight of the CUP with the Assistant

²⁵ P.L. 114-322, Title III, Subtitle E.

²⁶ H. Rept. 117-576 – New York-New Jersey Watershed Protection Act

²⁷ 43 USC 620

²⁸ Department of the Interior, “About the Central Utah Project Completion Act Office”, <https://www.doi.gov/cupcao/about>

²⁹ Central Utah Water Conservancy District, “Central Utah Project Completion Act (CUPCA)”, <https://cuwcd.gov/posts/20210804-cupca.html#gsc.tab=0>

³⁰ *Id.*

Secretary for Water and Science at the Department of the Interior through the creation of the CUPCA Office.³¹

H.R. 4094 amends CUPCA by expanding the geographic area covered by CUPCA's water conservation program to include the entire Great Salt Lake drainage basin. The bill specifically states that this expansion shall be funded through current funding authorities.

H.R. 4094 is sponsored by the entire Utah delegation.

H.R. 4587 (Rep. John Rutherford, R-FL), "Red Snapper Act"

The bill would prevent the National Oceanic and Atmospheric Administration (NOAA) from implementing area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is complete and the findings are integrated into the fishery's stock assessment.

The South Atlantic Red Snapper is managed by the South Atlantic Fishery Management Council (SAFMC). The Council was created under the Magnuson-Stevens Fishery and Conservation Management Act of 1976 (MSA), which is the primary law governing fisheries resources and fishing activities in federal waters. The Councils implement the statutory goals of MSA, in coordination with NMFS. This process is accomplished through Council-based Fisheries Management Plans (FMPs) for each fishery. FMPs require scientific stock assessments of the fishery. Following a Council's development of an FMP, a Council forwards the plan to NOAA for approval. If the plan is approved, NMFS must then issue regulations to implement the plan.³²

The South Atlantic red snapper is a highly sought commercial and recreational reef fish whose annual harvest levels are dependent on fishery management decisions based on stock assessments. Since 2010, the South Atlantic red snapper has rebounded and both scientists and fishermen agree the stock is at record abundance and biomass.³³ However, success in rebuilding the species population has not translated into management that provides reasonable harvest opportunities. The recreational fishery has largely been closed for the past 13 years except for a few weekend openings. In 2023, the season was two days.³⁴

Successful rebuilding has not affected the status of the Atlantic red snapper stock. The most recent stock assessment was completed in 2021, known as SEDAR 73.³⁵ The results of SEDAR 73 indicated that South Atlantic red snapper are overfished, and overfishing is occurring.³⁶ Although red snapper are abundant, the fishery is considered overfished because most of the fish in the stock are young, and it is believed that older fish are the key to a healthy population. The

³¹ P.L. 102-575

³² "About the MSA." U.S. Regional Fishery Management Councils, <http://www.fisherycouncils.org/about-the-msa>.

³³ Testimony from Martha Guyas before the House Natural Resources Committee, March 8, 2023.

https://naturalresources.house.gov/uploadedfiles/testimony_guyas.pdf

³⁴ "NOAA Fisheries Announces Limited Openings of Recreational and Commercial Red Snapper Seasons in South Atlantic Federal Waters" May 23, 2023 <https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-limited-openings-recreational-and-commercial-red-snapper-3>

³⁵ SEDAR 73 South Atlantic Red Snapper Stock Assessment Report, <https://www.fisheries.noaa.gov/inport/item/65078>

³⁶ Draft Regulatory Amendment 35 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region, March 2023. https://safmc.net/documents/sg_a3a_regam35draftamendment_mar2023-pdf/

assessment asserts that the overfishing is being primarily driven by high numbers of dead discards by the recreational sector.³⁷

This has raised questions over the data utilized to make fishery management determinations. As a result, Congress appropriated \$5.1 million over a three-year period to conduct a “South Atlantic Great Red Snapper Count.”³⁸ The South Atlantic Red Snapper Count will provide independent data on Atlantic red snapper to inform the next stock assessment.

Despite this ongoing work, NOAA has advocated for the SAFMC to consider seasonal and/or area-based bottom fishing closures for all 55 species of snapper grouper as a way address overfishing.³⁹ H.R. 4587 would prevent NOAA from forcing any area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is complete and the findings are integrated into the fishery’s stock assessment.

H.R. 4587 has seven Republican co-sponsors: Representatives Buddy Carter (R-GA), Mario Diaz-Balart (R-FL), Jeff Duncan (R-SC), Neal Dunn (R-FL), Garret Graves (R-LA), Nancy Mace (R-SC), and Michael Waltz (R-FL).

H.R. 4596 (Rep. Lauren Boebert, R-CO), “Upper Colorado and San Juan River Basins Endangered Fish Recovery Program Reauthorization Act of 2023”

The Upper Colorado and San Juan River Basins provide key sources of water in the western United States. The Bureau of Reclamation (Reclamation) has constructed numerous water and power projects to store and use the water for irrigation, drinking water, hydropower, and flood control purposes, and to benefit recreation and fish and wildlife in the western United States. Facilities include the Colorado River Storage Project’s (CRSP) Flaming Gorge Unit, which can store over 3.5-million-acre feet of water and can generate over 150 megawatts of power.⁴⁰ The three dams that make up the Aspinall Unit, also in the CRSP system, store more than 1-million-acre feet of water and can generate more than 275 megawatts of power.⁴¹

The Endangered Species Act of 1973 (ESA) has significant impacts on the CRSP and other Reclamation and non-federal water projects. The Colorado and San Juan Rivers are home to 14 native fish species. In 1988, four of these species—the Colorado pikeminnow, razorback sucker, humpback chub and bonytail—were listed as “endangered” under the ESA. Those designations led to the threat of water and power-use restrictions. As a result, the states of Colorado, New Mexico, Utah, and Wyoming signed cooperative agreements with the federal government in 1988 and 1992 to help achieve the dual goals of recovering endangered fish populations while

³⁷ Id.

³⁸ “South Atlantic Red Snapper Research Spend Plan”, South Atlantic Fishery Management Council, <https://safmc.net/documents/noaa-satl-red-snapper-count-june-2022/>

³⁹ Testimony from Martha Guyas before the House Natural Resources Committee, March 8, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_guyas.pdf

⁴⁰ “Flaming Gorge Unit.” U.S. Bureau of Reclamation. <https://www.usbr.gov/uc/rm/crsp/fg/index.html>

⁴¹ “Aspinall Unit.” U.S. Bureau of Reclamation. <https://www.usbr.gov/uc/rm/crsp/fg/index.html>

continuing water and power facility development and operations.⁴² Other partners include water and power users, tribes, and environmental organizations.

These cooperative agreements led to the creation of the Upper Colorado and San Juan Recovery Implementation Programs (Programs) to help provide ESA compliance for over 2,500 water and power projects that withdraw more than 3.7-million-acre feet of water.⁴³ The Programs' goals are to recover the humpback chub, razorback sucker, bonytail, and the Colorado pikeminnow while continuing facility operations to meet current and future human needs, with the ultimate goals of species delisting. Furthermore, genetically diverse, hatchery-based fish are raised at federal, state, and tribal hatcheries. These hatchery-raised fish help establish sustainable species populations since the hatchery-produced fish are counted as part of the recovery criteria under the ESA once they reach adult status.⁴⁴

Federal participation and non-federal cost-sharing for the Programs were authorized in 2000 with the enactment of the Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Act.⁴⁵ The law also cost share between the impacted states, water and power users, and the federal government. The Cooperative Agreements that implement both programs were scheduled to sunset in FY 2023. In 2019, the John D. Dingell, Jr. Conservation, Management, and Recreation Act⁴⁶ (Dingell Act) made several changes to the Programs' federal authorizations. These changes included an authorization of appropriations of \$10 million per year for fiscal years 2020 through 2023 for the implementation of the Programs. These funds were deemed non-reimbursable, which means the American taxpayer pays for the Programs. The Dingell Act required the Secretary of the Interior to submit a Report to Congress by September 30, 2021, on recommendations for the programs post-2023.

The Consolidated Appropriations Act of 2023 extended the authorities until FY 2024 and gave the USFWS until September 30, 2022, to submit its report to Congress. That report was submitted to Congress on March 13, 2023, and stated that “two of the species have shown documented progress towards recovery, but progress is slower than originally anticipated and is compounded by increasing stresses in the system.”⁴⁷

On January 21, 2020, the FWS proposed to reclassify the humpback chub from endangered to threatened under the ESA.⁴⁸ On October 18, 2021, FWS published the final rule to reclassify the humpback chub in the Federal Register with the rule being effective on November 17, 2021.⁴⁹ In addition, on July 6, 2021, FWS proposed to downlist the razorback sucker from endangered to threatened under the ESA.⁵⁰ This rule has not yet been finalized.

⁴² “The Upper Colorado Endangered Fish Recovery Program.” The Nature Conservancy. 8/30/2019. <https://www.nature.org/en-us/about-us/where-we-work/priority-landscapes/colorado-river/endangered-fish-recovery-program/#:~:text=Established%20in%201988%20and%20managed,Colorado%20pikeminnow%20and%20razorback%20sucker>.

⁴³ “2023-23 Highlights.” Upper Colorado River Endangered Fish Recovery Program. 2023. [Briefing-Book-2022-2023.pdf \(coloradoriverrecovery.org\)](#)

⁴⁴ Id.

⁴⁵ P.L. 106-392

⁴⁶ P.L. 116-9

⁴⁷ “Report to Congress on the Upper Colorado and San Juan River Basins Endangered Fish Recovery Program.” U.S. Fish and Wildlife Service. March 2023. Page 5. https://naturalresources.house.gov/uploadedfiles/reporttocongress_ucsjrip_2023_03.pdf

⁴⁸ [85 FR 3586](#)

⁴⁹ [86 FR 57588](#)

⁵⁰ [86 FR 35708](#)

The report also called for a 15 percent increase in annual funding for the program and for it to remain at that level for the next 15 years. The accomplishments listed in the report are the achievement of two goals: consistent ESA compliance and implementation of recovery actions. In discussing the implementation of recovery actions, the report states:

“When the recovery programs were initiated in 1988 and 1992, the trajectory of all four listed species was toward extinction. The implementation of these recovery elements not only prevented extinctions, but substantially improved the prospect for recovering the listed fishes.”⁵¹

H.R. 4596 has six Republican cosponsors, Representatives Ken Buck (R-CO), John Duarte (R-CA), Paul Gosar (R-AZ), Harriet Hageman (R-WY), Doug Lamborn (R-CO), and Troy Nehls (R-TX). A similar bill has been introduced in the Senate by Senator John Hickenlooper (D-CO), which is cosponsored by four senators (3 Democrats and 1 Republican). The only difference being that H.R. 4596 retains a provision in current law that prevents USFWS employees from using taxpayer dollars to lobby on the program.

IV. MAJOR PROVISIONS & ANALYSIS

H.R. 1437 (Rep. John Rose, R-TN), Black Vulture Relief Act of 2023

- Notwithstanding any provision of the MBTA, the bill would allow livestock producers or an employee of a livestock producer to take or attempt to take a black vulture that is causing, or if that person has a reasonable belief will cause death, injury, or destruction to livestock.
- Requires livestock producers to report to the U.S. Fish and Wildlife Service (USFWS) no later than January 31st each year on if they have killed or injured a black vulture in the preceding year.
- The USFWS is required to make available on its website, no later than 180 days after the enactment of the bill, a reporting form for livestock producers.

H.R. 1792 (Rep. Amata Radewagen, R-AS), South Pacific Tuna Treaty Act of 2023

- Enacts the amendments to the South Pacific Tuna Treaty that were formally adopted on December 3, 2016.

H.R. 2950 (Rep. Jared Huffman, D-CA), Coastal Habitat Conservation Act of 2023

- Legislatively authorizes the USFWS Coastal Program until FY 2028.
- Discretionary funding varies by year but totals \$112.75 million.
- Funding above FY 2023 levels would need pay-for, which is not included in bill.

H.R. 2982 (Rep. Paul Tonko, D-NY), New York-New Jersey Watershed Protection Act

- Creates a \$120 million (over 6 years) New York-New Jersey Watershed Restoration Program administered by the USFWS.

⁵¹ “Report to Congress on the Upper Colorado and San Juan River Basins Endangered Fish Recovery Program.” U.S. Fish and Wildlife Service. March 2023. Page 11. https://naturalresources.house.gov/uploadedfiles/reporttocongress_ucsjrip_2023_03.pdf

- 75 percent of these discretionary funds must be used for grants.
- Funding would need a pay-for under Houser floor protocols.

H.R. 4051 (Rep. Rob Wittman, R-VA), SHARKED Act

- Creates a task force to address shark depredation in fishing.

H.R. 4094 (Rep. John Curtis, R-UT), Great Salt Lake Stewardship Act

- Allows current funds for the Central Utah Project Completion Act to conduct water conservation measures in the Great Salt Lake Basin.

H.R. 4587 (Rep. John Rutherford, R-FL), Red Snapper Act

- Prevents NOAA from implementing area closures in the South Atlantic until the South Atlantic Great Red Snapper Count study is complete and the findings are integrated into the fishery's stock assessment.

H.R. 4596 (Rep. Lauren Boebert, R-CO) Upper Colorado and San Juan River Basins Endangered Fish Recovery Program Reauthorization Act of 2023

- Extends authorizations for the Upper Colorado River and San Juan River Basins Endangered Fish Recovery Programs through FY 2031, at current funding levels.

V. CBO COST ESTIMATE

Unknown.

VI. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 1792](#) [H.R. 4051](#) [H.R. 4094](#) [H.R. 4596](#)