

117TH CONGRESS
2D SESSION

S. 4542

To establish the Dolores River National Conservation Area and the Dolores River Special Management Area in the State of Colorado, to protect private water rights in the State, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2022

Mr. BENNET (for himself and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the Dolores River National Conservation Area and the Dolores River Special Management Area in the State of Colorado, to protect private water rights in the State, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Dolores River National Conservation Area and Special
6 Management Area Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—DOLORES RIVER NATIONAL CONSERVATION AREA

Sec. 101. Establishment of Dolores River National Conservation Area.

Sec. 102. Management of Conservation Area.

Sec. 103. Dolores River National Conservation Area Advisory Council.

TITLE II—DOLORES RIVER SPECIAL MANAGEMENT AREA

Sec. 201. Designation of Dolores River Special Management Area.

Sec. 202. Management of Special Management Area.

TITLE III—TECHNICAL MODIFICATIONS TO POTENTIAL
ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM

Sec. 301. Purpose.

Sec. 302. Release of Dolores River study area.

Sec. 303. Applicability of continuing consideration provision.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Management of covered land.

Sec. 402. Protection of water rights and other interests.

Sec. 403. Effect on private property and regulatory authority.

Sec. 404. Tribal rights and traditional uses.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CONSERVATION AREA.—The term “Con-
4 servation Area” means the Dolores River National
5 Conservation Area established by section 101(a).

6 (2) COUNCIL.—The term “Council” means the
7 Dolores River National Conservation Area Advisory
8 Council established under section 103(a).

9 (3) COVERED LAND.—The term “covered land”
10 means—

11 (A) the Conservation Area; and

12 (B) the Special Management Area.

13 (4) DOLORES PROJECT.—The term “Dolores
14 Project” has the meaning given the term in section

1 3 of the Colorado Ute Indian Water Rights Settle-
2 ment Act of 1988 (Public Law 100–585; 102 Stat.
3 2974).

4 (5) MAP.—The term “Map” means the map
5 prepared by the Bureau of Land Management enti-
6 tled “Proposed Dolores River National Conservation
7 Area and Special Management Area” and dated July
8 13, 2022.

9 (6) PUBLIC LAND.—The term “public land”
10 has the meaning given the term “public lands” in
11 section 103 of the Federal Land Policy and Manage-
12 ment Act of 1976 (43 U.S.C. 1702).

13 (7) SECRETARY.—The term “Secretary”
14 means—

15 (A) in title I, the Secretary of the Interior;

16 (B) in title II, the Secretary of Agri-
17 culture; and

18 (C) in title IV—

19 (i) the Secretary of the Interior, with
20 respect to land under the jurisdiction of
21 the Secretary of the Interior; and

22 (ii) the Secretary of Agriculture, with
23 respect to land under the jurisdiction of
24 the Secretary of Agriculture.

1 (8) SPECIAL MANAGEMENT AREA.—The term
2 “Special Management Area” means the Dolores
3 River Special Management Area established by sec-
4 tion 201(a).

5 (9) STATE.—The term “State” means the State
6 of Colorado.

7 (10) UNREASONABLY DIMINISH.—The term
8 “unreasonably diminish” is within the meaning of
9 the term used in section 7(a) of the Wild and Scenic
10 Rivers Act (16 U.S.C. 1278(a)) and has the mean-
11 ing of the term as applied in appendix D of the
12 Technical Report of the Interagency Wild and Scenic
13 Rivers Coordinating Council entitled “Wild & Scenic
14 Rivers: Section 7” and dated October 2004.

15 (11) WATER RESOURCE PROJECT.—The term
16 “water resource project” means any dam, irrigation
17 and pumping facility, reservoir, water conservation
18 work, aqueduct, canal, ditch, pipeline, well, hydro-
19 power project, and transmission and other ancillary
20 facility, and other water diversion, storage, and car-
21 riage structure.

1 **TITLE I—DOLORES RIVER NA-**
2 **TIONAL CONSERVATION AREA**

3 **SEC. 101. ESTABLISHMENT OF DOLORES RIVER NATIONAL**
4 **CONSERVATION AREA.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—Subject to valid existing
7 rights, there is established the Dolores River Na-
8 tional Conservation Area in the State.

9 (2) AREA INCLUDED.—The Conservation Area
10 shall consist of approximately 53,187 acres of Bu-
11 reau of Land Management land in the State, as gen-
12 erally depicted on the Map.

13 (b) PURPOSE.—The purpose of the Conservation
14 Area is to conserve, protect, and enhance the native fish,
15 whitewater boating, recreational, scenic, cultural, archae-
16 ological, natural, geological, historical, ecological, water-
17 shed, wildlife, educational, and scientific resources of the
18 Conservation Area.

19 (c) MAP AND LEGAL DESCRIPTION.—

20 (1) IN GENERAL.—As soon as practicable after
21 the date of enactment of this Act, the Secretary
22 shall file a map and legal description of the Con-
23 servation Area with the Committee on Natural Re-
24 sources of the House of Representatives and the

1 Committee on Energy and Natural Resources of the
2 Senate.

3 (2) EFFECT.—The map and legal description
4 prepared under paragraph (1) shall have the same
5 force and effect as if included in this title, except
6 that the Secretary may correct minor errors in the
7 map or legal description.

8 (3) PUBLIC AVAILABILITY.—A copy of the map
9 and legal description shall be on file and available
10 for public inspection in the appropriate offices of the
11 Bureau of Land Management.

12 **SEC. 102. MANAGEMENT OF CONSERVATION AREA.**

13 (a) IN GENERAL.—The Secretary shall manage the
14 Conservation Area in accordance with—

15 (1) this Act;

16 (2) the Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1701 et seq.); and

18 (3) other applicable laws.

19 (b) USES.—Subject to the provisions of this Act, the
20 Secretary shall allow only such uses of the Conservation
21 Area as are consistent with the purpose described in sec-
22 tion 101(b).

23 (c) MANAGEMENT PLAN.—

24 (1) PLAN REQUIRED.—

1 (A) IN GENERAL.—Not later than 3 years
2 after the date of enactment of this Act, the Sec-
3 retary shall develop a management plan for the
4 long-term protection, management, and moni-
5 toring of the Conservation Area.

6 (B) REVIEW AND REVISION.—The manage-
7 ment plan under subparagraph (A) shall, from
8 time to time, be subject to review and revision,
9 in accordance with—

10 (i) this Act;

11 (ii) the Federal Land Policy and Man-
12 agement Act of 1976 (43 U.S.C. 1701 et
13 seq.); and

14 (iii) other applicable laws.

15 (2) CONSULTATION AND COORDINATION.—The
16 Secretary shall prepare and revise the management
17 plan under paragraph (1)—

18 (A) in consultation with—

19 (i) the State;

20 (ii) units of local government;

21 (iii) the public;

22 (iv) the Council; and

23 (v) the Native Fish Monitoring and
24 Recommendation Team, as described in
25 section 402(b)(1); and

1 (B) in coordination with the Secretary of
2 Agriculture, with respect to the development of
3 the separate management plan for the Special
4 Management Area, as described in section
5 202(c).

6 (3) RECOMMENDATIONS.—In preparing and re-
7 vising the management plan under paragraph (1),
8 the Secretary shall take into consideration any rec-
9 ommendations from the Council.

10 (4) TREATY RIGHTS.—In preparing and revis-
11 ing the management plan under paragraph (1), tak-
12 ing into consideration the rights and obligations de-
13 scribed in section 402, the Secretary shall ensure
14 that the management plan does not alter or dimin-
15 ish—

16 (A) the treaty rights of any Indian Tribe;

17 (B) any rights described in the Colorado
18 Ute Indian Water Rights Settlement Act of
19 1988 (Public Law 100–585; 102 Stat. 2973);
20 or

21 (C) the operation or purposes of the Dolo-
22 res Project.

23 (d) INCORPORATION OF ACQUIRED LAND AND IN-
24 TERESTS.—Any land or interest in land located within the
25 boundary of the Conservation Area that is acquired by the

1 United States in accordance with section 401(c) after the
2 date of enactment of this Act shall—

3 (1) become part of the Conservation Area; and

4 (2) be managed as provided in this section.

5 (e) DEPARTMENT OF ENERGY LEASES.—

6 (1) IN GENERAL.—Nothing in this title affects
7 valid leases or lease tracts existing on the date of en-
8 actment of this Act issued under the uranium leas-
9 ing program of the Department of Energy within the
10 boundaries of the Conservation Area.

11 (2) MANAGEMENT.—

12 (A) IN GENERAL.—Subject to subpara-
13 graph (B), land designated for the program de-
14 scribed in paragraph (1) shall be—

15 (i) exempt from section 401(b); and

16 (ii) managed in a manner that allow
17 the leases to fulfill the purposes of the pro-
18 gram, consistent with the other provisions
19 of this title and title IV.

20 (B) DESIGNATION.—Land subject to a
21 lease described in paragraph (1) shall be con-
22 sidered part of the Conservation Area and man-
23 aged in accordance with other provisions of this
24 title on a finding by the Secretary that—

25 (i)(I) the lease has expired; and

1 (II) the applicable lease tract has been
2 removed from the leasing program by the
3 Secretary of Energy; and

4 (ii) the land that was subject to the
5 lease is suitable for inclusion in the Con-
6 servation Area.

7 (C) EFFECT.—Nothing in subparagraph
8 (B) prevents the Secretary of Energy from ex-
9 tending any lease described in paragraph (1).

10 **SEC. 103. DOLORES RIVER NATIONAL CONSERVATION AREA**

11 **ADVISORY COUNCIL.**

12 (a) ESTABLISHMENT.—Not later than 180 days after
13 the date of enactment of this Act, the Secretary shall es-
14 tablish an advisory council, to be known as the “Dolores
15 River National Conservation Area Advisory Council”.

16 (b) DUTIES.—The Council shall advise—

17 (1) the Secretary with respect to the prepara-
18 tion, implementation, and monitoring of the manage-
19 ment plan prepared under section 102(c); and

20 (2) the Secretary of Agriculture with respect to
21 the preparation, implementation, and monitoring of
22 the management plan prepared under section 202(c).

23 (c) APPLICABLE LAW.—The Council shall be subject
24 to—

1 (1) the Federal Advisory Committee Act (5
2 U.S.C. App.);

3 (2) the Federal Land Policy and Management
4 Act of 1976 (43 U.S.C. 1701 et seq.); and

5 (3) this Act.

6 (d) MEMBERSHIP.—

7 (1) IN GENERAL.—The Council shall include 13
8 members to be appointed by the Secretary, of whom,
9 to the extent practicable—

10 (A) 2 members shall represent agricultural
11 water user interests in the Conservation Area
12 or the Dolores River watershed, of whom 1
13 shall represent the Dolores Water Conservancy
14 District;

15 (B) 2 members shall represent conserva-
16 tion interests in the Conservation Area;

17 (C) 2 members shall represent recreation
18 interests in the Conservation Area, 1 of whom
19 shall represent whitewater boating interests;

20 (D) 1 member shall be a representative of
21 Dolores County, Colorado;

22 (E) 1 member shall be a representative of
23 San Miguel County, Colorado;

24 (F) 1 member shall be a representative of
25 Montezuma County, Colorado;

1 (G) 1 member shall be a private landowner
2 that owns land in immediate proximity to the
3 Conservation Area;

4 (H) 1 member shall be a representative of
5 Colorado Parks and Wildlife;

6 (I) 1 member shall be a holder of a graz-
7 ing-allotment permit in the Conservation Area;
8 and

9 (J) 1 member shall be a representative of
10 the Ute Mountain Ute Tribe.

11 (2) REPRESENTATION.—

12 (A) IN GENERAL.—The Secretary shall en-
13 sure that the membership of the Council is fair-
14 ly balanced in terms of the points of view rep-
15 resented and the functions to be performed by
16 the Council.

17 (B) REQUIREMENTS.—

18 (i) IN GENERAL.—The members of
19 the Council described in subparagraphs
20 (B) and (C) of paragraph (1) shall be resi-
21 dents that live within reasonable proximity
22 to the Conservation Area.

23 (ii) COUNTY REPRESENTATIVES.—The
24 members of the Council described in sub-

1 paragraphs (D) and (E) of paragraph (1)
2 shall be—

3 (I) residents of the respective
4 counties referred to in those subpara-
5 graphs; and

6 (II) capable of representing the
7 interests of the applicable board of
8 county commissioners.

9 (e) TERMS OF OFFICE.—

10 (1) IN GENERAL.—The term of office of a
11 member of the Council shall be 5 years.

12 (2) REAPPOINTMENT.—A member may be re-
13 appointed to the Council on completion of the term
14 of office of the member.

15 (f) COMPENSATION.—A member of the Council—

16 (1) shall serve without compensation for service
17 on the Council; but

18 (2) may be reimbursed for qualified expenses of
19 the member.

20 (g) CHAIRPERSON.—The Council shall elect a chair-
21 person from among the members of the Council.

22 (h) MEETINGS.—

23 (1) IN GENERAL.—The Council shall meet at
24 the call of the chairperson—

1 (A) not less frequently than quarterly until
2 the management plan under section 102(c) is
3 developed; and

4 (B) thereafter, at the call of the Secretary.

5 (2) PUBLIC MEETINGS.—Each meeting of the
6 Council shall be open to the public.

7 (3) NOTICE.—A notice of each meeting of the
8 Council shall be published in advance of the meeting.

9 (i) TECHNICAL ASSISTANCE.—The Secretary shall
10 provide, to the maximum extent practicable in accordance
11 with applicable law, any information and technical services
12 requested by the Council to assist in carrying out the du-
13 ties of the Council.

14 (j) RENEWAL.—The Secretary shall ensure that the
15 Council charter is renewed as required under applicable
16 law.

17 (k) DURATION.—The Council—

18 (1) shall continue to function for the duration
19 of existence of the Conservation Area; but

20 (2) on completion of the management plan,
21 shall only meet—

22 (A) at the call of the Secretary; or

23 (B) in the case of a review or proposed re-
24 vision to the management plan.

1 **TITLE II—DOLORES RIVER**
2 **SPECIAL MANAGEMENT AREA**

3 **SEC. 201. DESIGNATION OF DOLORES RIVER SPECIAL MAN-**
4 **AGEMENT AREA.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—Subject to valid existing
7 rights, there is established the Dolores River Special
8 Management Area in the State.

9 (2) AREA INCLUDED.—The Special Manage-
10 ment Area shall consist of approximately 15,664
11 acres of Federal land in the San Juan National For-
12 est in the State, as generally depicted on the Map.

13 (b) PURPOSE.—The purpose of the Special Manage-
14 ment Area is to conserve, protect, and enhance the native
15 fish, whitewater boating, recreational, scenic, cultural, ar-
16 chaeological, natural, geological, historical, ecological, wa-
17 tershed, wildlife, educational, and scientific resources of
18 the Special Management Area.

19 (c) MAP AND LEGAL DESCRIPTION.—

20 (1) IN GENERAL.—As soon as practicable after
21 the date of enactment of this Act, the Secretary
22 shall file a map and legal description of the Special
23 Management Area with the Committee on Natural
24 Resources of the House of Representatives and the

1 Committee on Energy and Natural Resources of the
2 Senate.

3 (2) EFFECT.—The map and legal description
4 prepared under paragraph (1) shall have the same
5 force and effect as if included in this title, except
6 that the Secretary may correct minor errors in the
7 map or legal description.

8 (3) PUBLIC AVAILABILITY.—A copy of the map
9 and legal description shall be on file and available
10 for public inspection in the appropriate offices of the
11 Forest Service.

12 **SEC. 202. MANAGEMENT OF SPECIAL MANAGEMENT AREA.**

13 (a) IN GENERAL.—The Secretary shall manage the
14 Special Management Area in accordance with—

15 (1) this Act;

16 (2) the National Forest Management Act of
17 1976 (16 U.S.C. 1600 et seq.); and

18 (3) other applicable laws.

19 (b) USES.—The Secretary shall allow only such uses
20 of the Special Management Area as the Secretary deter-
21 mines would further the purpose of the Special Manage-
22 ment Area, as described in section 201(b).

23 (c) MANAGEMENT PLAN.—

24 (1) PLAN REQUIRED.—

1 (A) IN GENERAL.—Not later than 3 years
2 after the date of enactment of this Act, the Sec-
3 retary shall develop a management plan for the
4 long-term protection, management, and moni-
5 toring of the Special Management Area.

6 (B) REVIEW AND REVISION.—The manage-
7 ment plan under subparagraph (A) shall, from
8 time to time, be subject to review and revision
9 in accordance with—

- 10 (i) this Act;
11 (ii) the National Forest Management
12 Act of 1976 (16 U.S.C. 1600 et seq.); and
13 (iii) other applicable laws.

14 (2) CONSULTATION AND COORDINATION.—The
15 Secretary shall prepare and revise the management
16 plan under paragraph (1)—

- 17 (A) in consultation with—
18 (i) the State;
19 (ii) units of local government;
20 (iii) the public;
21 (iv) the Council; and
22 (v) the Native Fish Monitoring and
23 Recommendation Team, as described in
24 section 402(b)(1); and

1 (B) in coordination with the Secretary of
2 the Interior, with respect to the development of
3 the separate management plan for the Con-
4 servation Area, as described in section 102(c).

5 (3) RECOMMENDATIONS.—In preparing and re-
6 vising the management plan under paragraph (1),
7 the Secretary shall take into consideration any rec-
8 ommendations from the Council.

9 (4) TREATY RIGHTS.—In preparing and revis-
10 ing the management plan under paragraph (1), tak-
11 ing into consideration the rights and obligations de-
12 scribed in section 402, the Secretary shall ensure
13 that the management plan does not alter or dimin-
14 ish—

15 (A) the treaty rights of any Indian Tribe;

16 (B) any rights described in the Colorado
17 Ute Indian Water Rights Settlement Act of
18 1988 (Public Law 100–585; 102 Stat. 2973);

19 or

20 (C) the operation or purposes of the Dolo-
21 res Project.

22 (d) INCORPORATION OF ACQUIRED LAND AND IN-
23 TERESTS.—Any land or interest in land located within the
24 boundary of the Special Management Area that is ac-

1 quired by the United States in accordance with section
2 401(c) after the date of enactment of this Act shall—

3 (1) become part of the Special Management
4 Area; and

5 (2) be managed as provided in this section.

6 **TITLE III—TECHNICAL MODI-**
7 **FICATIONS TO POTENTIAL**
8 **ADDITIONS TO NATIONAL**
9 **WILD AND SCENIC RIVERS**
10 **SYSTEM**

11 **SEC. 301. PURPOSE.**

12 The purpose of this title is to release portions of the
13 Dolores River and certain tributaries from designation for
14 potential addition under the Wild and Scenic Rivers Act
15 (16 U.S.C. 1271 et seq.) or from further study under that
16 Act.

17 **SEC. 302. RELEASE OF DOLORES RIVER STUDY AREA.**

18 Section 5(a)(56) of the Wild and Scenic Rivers Act
19 (16 U.S.C. 1276(a)(56)) is amended by inserting “and the
20 segments of the Dolores River located in the Dolores River
21 National Conservation Area designated by the Dolores
22 River National Conservation Area and Special Manage-
23 ment Area Act” before the period at the end.

1 **SEC. 303. APPLICABILITY OF CONTINUING CONSIDERATION**
 2 **PROVISION.**

3 Section 5(d)(1) of the Wild and Scenic Rivers Act
 4 (16 U.S.C. 1276(d)(1)) shall not apply to—

- 5 (1) the Conservation Area; or
 6 (2) the Special Management Area.

7 **TITLE IV—GENERAL**
 8 **PROVISIONS**

9 **SEC. 401. MANAGEMENT OF COVERED LAND.**

10 (a) **MOTORIZED VEHICLES.—**

11 (1) **IN GENERAL.—**Except in cases in which
 12 motorized vehicles are needed for administrative pur-
 13 poses or to respond to an emergency, the use of mo-
 14 torized vehicles in the covered land shall be per-
 15 mitted only on designated routes.

16 (2) **ROAD CONSTRUCTION.—**Except as nec-
 17 essary for administrative purposes, protection of
 18 public health and safety, or providing reasonable ac-
 19 cess to private property, the Secretary shall not con-
 20 struct any permanent or temporary road within the
 21 covered land after the date of enactment of this Act.

22 (b) **WITHDRAWALS.—**Subject to valid existing rights,
 23 all public land within the covered land, including any land
 24 or interest in land that is acquired by the United States
 25 within the covered land after the date of enactment of this
 26 Act, is withdrawn from—

1 (1) entry, appropriation or disposal under the
2 public land laws;

3 (2) location, entry, and patent under the mining
4 laws; and

5 (3) operation of the mineral leasing, mineral
6 materials, and geothermal leasing laws, except as
7 provided in section 102(e).

8 (c) WILLING SELLERS.—Any acquisition of land or
9 interests in land under this Act shall be only by purchase
10 from willing sellers, donation, or exchange.

11 (d) GRAZING.—The Secretary shall issue and admin-
12 ister any grazing leases or permits and trailing permits
13 and administer allotments in the covered land in accord-
14 ance with the laws (including regulations) applicable to the
15 issuance and administration of leases and permits on other
16 land under the jurisdiction of the Bureau of Land Man-
17 agement or Forest Service, as applicable.

18 (e) ACCESS TO PRIVATE LAND.—To ensure reason-
19 able use and enjoyment of private property (whether in
20 existence on the date of enactment of this Act or in an
21 improved state), the Secretary shall grant reasonable and
22 feasible access through the covered land to any private
23 property that is located within or adjacent to the covered
24 land, if other routes to the private property are blocked

1 by physical barriers, such as the Dolores River or the cliffs
2 of the Dolores River.

3 (f) EASEMENTS.—The Secretary may lease or ac-
4 quire easements on private land from willing lessors, do-
5 nors, or sellers for recreation, access, conservation, or
6 other permitted uses, to the extent necessary to fulfill the
7 purposes of the Conservation Area or Special Management
8 Area, as applicable.

9 (g) WILDFIRE, INSECT, AND DISEASE MANAGE-
10 MENT.—The Secretary may take any measures that the
11 Secretary determines to be necessary to control fire, in-
12 sects, and diseases in the covered land, (including, as the
13 Secretary determines to be appropriate, the coordination
14 of the measures with the State or a local agency).

15 (h) MANAGEMENT OF PONDEROSA GORGE.—

16 (1) IN GENERAL.—The Secretary shall manage
17 the areas of the Conservation Area and Special Man-
18 agement Area identified on the Map as “Ponderosa
19 Gorge” in a manner that maintains the wilderness
20 character of those areas as of the date of enactment
21 of this Act.

22 (2) PROHIBITED ACTIVITIES.—Subject to para-
23 graph (3), in the areas described in paragraph (1),
24 the following activities shall be prohibited:

1 (A) New permanent or temporary road
2 construction or the renovation of nonsystem
3 roads in existence on the date of enactment of
4 this Act.

5 (B) The use of motor vehicles, motorized
6 equipment, or mechanical transport, except as
7 necessary to meet the minimum requirements
8 for the administration of the Federal land, to
9 protect public health and safety, or to conduct
10 ecological restoration activities to improve the
11 aquatic habitat of the Dolores River channel.

12 (C) Projects undertaken for the purpose of
13 harvesting commercial timber (other than ac-
14 tivities relating to the harvest of merchantable
15 products that are byproducts of activities con-
16 ducted for ecological restoration or to further
17 the purposes of this Act).

18 (3) UTILITY CORRIDOR.—Nothing in this sub-
19 section affects the operation, maintenance, or loca-
20 tion of the utility right-of-way within the corridor, as
21 depicted on the Map.

22 (i) EFFECT.—Nothing in this Act prohibits the Sec-
23 retary from issuing a new permit and right-of-way within
24 the covered land for a width of not more than 150 feet
25 for a right-of-way that serves a transmission line in exist-

1 ence on the date of enactment of this Act, on the condition
2 that the Secretary shall relocate the right-of-way in a
3 manner that furthers the purposes of this Act.

4 (j) CLIMATOLOGICAL DATA COLLECTION.—Subject
5 to such terms and conditions as the Secretary may re-
6 quire, nothing in this Act precludes the installation and
7 maintenance of hydrologic, meteorological, or climato-
8 logical collection devices in the covered land if the facilities
9 and access to the facilities are essential to public safety,
10 flood warning, flood control, water reservoir operation ac-
11 tivities, or the collection of hydrologic data for water re-
12 source management purposes.

13 **SEC. 402. PROTECTION OF WATER RIGHTS AND OTHER IN-**
14 **TERESTS.**

15 (a) DOLORES PROJECT.—

16 (1) OPERATION.—The Dolores Project and the
17 operation of McPhee Reservoir shall continue to be
18 the responsibility of, and be operated by, the Sec-
19 retary, in cooperation with the Dolores Water Con-
20 servancy District, in accordance with applicable laws
21 and obligations.

22 (2) EFFECT.—Nothing in this Act affects the
23 Dolores Project or the operation of McPhee Res-
24 ervoir, in accordance with—

25 (A) the reclamation laws;

1 (B) any applicable—

2 (i) Dolores Project water contract,
3 storage contract, or carriage contract; or

4 (ii) allocation of Dolores Project
5 water;

6 (C) the environmental assessment and
7 finding of no significant impact prepared by the
8 Bureau of Reclamation Upper Colorado Region
9 and approved August 2, 1996;

10 (D) the operating agreement entitled “Op-
11 erating Agreement, McPhee Dam and Res-
12 ervoir, Contract No. 99–WC–40–R6100, Dolo-
13 res Project, Colorado” and dated April 25,
14 2000 (or any subsequent renewal or revision of
15 that agreement);

16 (E) mitigation measures for whitewater
17 boating, including any such measure described
18 in—

19 (i) the document entitled “Dolores
20 Project Colorado Definite Plan Report”
21 and dated April 1977;

22 (ii) the Dolores Project final environ-
23 mental statement dated May 9, 1977; or

24 (iii) a document referred to in sub-
25 paragraph (C) or (D);

1 (F) applicable Federal or State laws relat-
2 ing to the protection of the environment, includ-
3 ing—

4 (i) the Endangered Species Act of
5 1973 (16 U.S.C. 1531 et seq.);

6 (ii) the National Environmental Policy
7 Act of 1969 (42 U.S.C. 4321 et seq.); and

8 (iii) the Federal Water Pollution Con-
9 trol Act (33 U.S.C. 1251 et seq.); and

10 (G) the Colorado Ute Indian Water Rights
11 Settlement Act of 1988 (Public Law 100–585;
12 102 Stat. 2973).

13 (b) MANAGEMENT OF FLOWS.—

14 (1) IN GENERAL.—In managing available flows
15 below McPhee Dam to conserve, protect, and en-
16 hance the resources described in sections 101(b) and
17 201(b) of the Dolores River within the covered land,
18 including native fish and whitewater boating re-
19 sources, the Secretary shall seek to provide regular
20 and meaningful consultation and collaboration with
21 interested stakeholders, including the Native Fish
22 Monitoring and Recommendation Team, which in-
23 cludes water management entities, affected counties,
24 conservation interests, whitewater boating interests,

1 Colorado Parks and Wildlife, and the Ute Mountain
2 Ute Tribe, during the process of decisionmaking.

3 (2) ANNUAL REPORT.—Beginning on the date
4 that is 1 year after the date of enactment of this Act
5 and annually thereafter, the Commissioner of Rec-
6 lamation shall prepare and make publically available
7 a report that describes any progress with respect to
8 the conservation, protection, and enhancement of na-
9 tive fish in the Dolores River.

10 (c) WATER RESOURCE PROJECTS.—

11 (1) IN GENERAL.—Subject to valid existing
12 rights and paragraph (2), after the date of enact-
13 ment of this Act, the Secretary or any other officer,
14 employee, or agent of the United States may not as-
15 sist by loan, grant, license, or otherwise in the con-
16 struction or modification of any water resource
17 project—

18 (A) located on the covered land that
19 would—

20 (i) affect the free-flowing character of
21 any stream within the covered land; or

22 (ii) unreasonably diminish the re-
23 source values described in sections 101(b)
24 and 201(b) of the Dolores River within the
25 covered land; or

1 (B) located outside the covered land that
 2 would unreasonably diminish the resource val-
 3 ues described in sections 101(b) and 201(b) of
 4 the Dolores River within the covered land.

5 (2) LIMITATIONS.—Subject to the requirements
 6 of this section, nothing in paragraph (1)—

7 (A) prevents, outside the covered land—

8 (i) the construction of small diversion
 9 dams or stock ponds;

10 (ii) new minor water developments in
 11 accordance with existing decreed water
 12 rights; or

13 (iii) minor modifications to structures;

14 or

15 (B) affects access to, or operation, mainte-
 16 nance, repair, or replacement of, existing water
 17 resource projects.

18 (d) EFFECT.—Nothing in this Act—

19 (1) affects—

20 (A) any water right that is—

21 (i) decreed under the laws of the
 22 State; and

23 (ii) in existence on the date of enact-
 24 ment of this Act;

1 (B) the use, allocation, ownership, or con-
2 trol, in existence on the date of enactment of
3 this Act, of any water or water right;

4 (C) any vested absolute or decreed condi-
5 tional water right in existence on the date of
6 enactment of this Act, including any water
7 right held by the United States;

8 (D) any interstate water compact in exist-
9 ence on the date of enactment of this Act; or

10 (E) State jurisdiction over any water law,
11 water right, or adjudication or administration
12 relating to any water resource;

13 (2) imposes—

14 (A) any mandatory streamflow require-
15 ment within the covered land; or

16 (B) any Federal water quality standard
17 within, or upstream of, the covered land that is
18 more restrictive than would be applicable if the
19 covered land had not been designated as the
20 Conservation Area or Special Management Area
21 under this Act; or

22 (3) constitutes an express or implied reservation
23 by the United States of any reserved or appropria-
24 tive water right within the covered land.

1 **SEC. 403. EFFECT ON PRIVATE PROPERTY AND REGU-**
2 **LATORY AUTHORITY.**

3 (a) **EFFECT.**—Nothing in this Act—

4 (1) affects valid existing rights;

5 (2) requires any owner of private property to
6 bear any costs associated with the implementation of
7 the management plan under this Act;

8 (3) affects the jurisdiction or responsibility of
9 the State with respect to fish and wildlife in the
10 State;

11 (4) requires a change in or affects local zoning
12 laws of the State or a political subdivision of the
13 State; or

14 (5) affects—

15 (A) the jurisdiction over, use, or mainte-
16 nance of county roads in the covered land; or

17 (B) the administration of the portion of
18 the road that is not a county road and that is
19 commonly known as the “Dolores River Road”
20 within the Conservation Area, subject to the
21 condition that the Secretary shall not improve
22 the road beyond the existing primitive condition
23 of the road.

24 (b) **ADJACENT MANAGEMENT.**—

25 (1) **NO BUFFER ZONES.**—The designation of
26 the Conservation Area and the Special Management

1 Area by this Act shall not create any protective pe-
2 rimeter or buffer zone around the Conservation Area
3 or Special Management Area, as applicable.

4 (2) PRIVATE LAND.—Nothing in this Act re-
5 quires the prohibition of any activity on private land
6 outside the boundaries of the Conservation Area or
7 the Special Management Area that can be seen or
8 heard from within such a boundary.

9 **SEC. 404. TRIBAL RIGHTS AND TRADITIONAL USES.**

10 (a) TREATY RIGHTS.—Nothing in this Act affects the
11 treaty rights of any Indian Tribe, including rights under
12 the Agreement of September 13, 1873, ratified by the Act
13 of April 29, 1874 (18 Stat. 36, chapter 136).

14 (b) TRADITIONAL TRIBAL USES.—Subject to any
15 terms and conditions as the Secretary determines to be
16 necessary and in accordance with applicable law, the Sec-
17 retary shall allow for the continued use of the covered land
18 by members of Indian Tribes—

19 (1) for traditional ceremonies; and

20 (2) as a source of traditional plants and other
21 materials.

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