

**Calendar No. 392**118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 636****[Report No. 118–176]**

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.

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**IN THE SENATE OF THE UNITED STATES**

MARCH 2, 2023

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

MAY 16, 2024

Reported by Mr. MANCHIN, with amendments

[Omit the parts struck through and insert the parts printed in italic]

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**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,*

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

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

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 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 designated segments from Dolores River congressional  
 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.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

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

4           (3) COVERED LAND.—The term “covered land”  
5 means—

6                   (A) the Conservation Area; and

7                   (B) the Special Management Area.

8           (4) DOLORES PROJECT.—The term “Dolores  
9 Project” has the meaning given the term in section  
10 3 of the Colorado Ute Indian Water Rights Settle-  
11 ment Act of 1988 (Public Law 100–585; 102 Stat.  
12 2974).

13           (5) MAP.—The term “Map” means the map  
14 prepared by the Bureau of Land Management enti-  
15 tled “Proposed Dolores River National Conservation  
16 Area and Special Management Area” and dated De-  
17 cember 14, 2022.

18           (6) SECRETARY.—The term “Secretary”  
19 means—

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

21                   (B) in title II, the Secretary of Agri-  
22 culture; and

23                   (C) in title IV—

1 (i) the Secretary of the Interior, with  
 2 respect to land under the jurisdiction of  
 3 the Secretary of the Interior; and

4 (ii) the Secretary of Agriculture, with  
 5 respect to land under the jurisdiction of  
 6 the Secretary of Agriculture.

7 (7) SPECIAL MANAGEMENT AREA.—The term  
 8 “Special Management Area” means the Dolores  
 9 River Special Management Area established by sec-  
 10 tion 201(a).

11 (8) STATE.—The term “State” means the State  
 12 of Colorado.

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

21 (9) UNREASONABLY DIMINISH.—The term “un-  
 22 reasonably diminish” has the same meaning as used  
 23 in section 7(a) of the Wild and Scenic Rivers Act (16  
 24 U.S.C. 1278(a)).

1           (10) WATER RESOURCE PROJECT.—The term  
2           “water resource project” means any dam, irrigation  
3           and pumping facility, reservoir, water conservation  
4           work, aqueduct, canal, ditch, pipeline, well, hydro-  
5           power project, and transmission and other ancillary  
6           facility, and other water diversion, storage, and car-  
7           riage structure.

## 8 **TITLE I—DOLORES RIVER NA-** 9 **TIONAL CONSERVATION AREA**

### 10 **SEC. 101. ESTABLISHMENT OF DOLORES RIVER NATIONAL** 11 **CONSERVATION AREA.**

12           (a) ESTABLISHMENT.—

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

16           (2) LAND INCLUDED.—The Conservation Area  
17           shall consist of approximately 52,872 acres of Bu-  
18           reau of Land Management land in the State, as gen-  
19           erally depicted as “Proposed Lower Dolores River  
20           National Conservation Area” on the Map.

21           (b) PURPOSE.—The purpose of the Conservation  
22           Area is to conserve, protect, and enhance the native fish,  
23           whitewater boating, recreational, hunting, fishing, scenic,  
24           cultural, archaeological, natural, geological, historical, eco-

1 logical, watershed, wildlife, educational, and scientific re-  
2 sources of the Conservation Area.

3 (c) MAP AND LEGAL DESCRIPTION.—

4 ~~(1) IN GENERAL.—As soon as practicable after~~  
5 ~~the date of enactment of this Act, the Secretary~~  
6 ~~shall file a map and legal description of the Con-~~  
7 ~~servation Area with the Committee on Natural Re-~~  
8 ~~sources of the House of Representatives and the~~  
9 ~~Committee on Energy and Natural Resources of the~~  
10 ~~Senate.~~

11 *(1) IN GENERAL.—As soon as practicable after*  
12 *the date of enactment of this Act, the Secretary shall*  
13 *prepare a map and legal description of the Conserva-*  
14 *tion Area.*

15 (2) EFFECT.—The map and legal description  
16 prepared under paragraph (1) shall have the same  
17 force and effect as if included in this title, except  
18 that the Secretary may correct minor errors in the  
19 map or legal description.

20 (3) PUBLIC AVAILABILITY.—A copy of the map  
21 and legal description shall be on file and available  
22 for public inspection in the appropriate offices of the  
23 Bureau of Land Management.

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

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

4 (1) this Act;

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

7 (3) other applicable laws.

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

12 (c) MANAGEMENT PLAN.—

13 (1) PLAN REQUIRED.—

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

19 (B) REVIEW AND REVISION.—The manage-  
20 ment plan under subparagraph (A) shall, from  
21 time to time, be subject to review and revision,  
22 in accordance with—

23 (i) this Act;

24 (ii) the Federal Land Policy and Man-  
25 agement Act of 1976 (43 U.S.C. 1701 et  
26 seq.); and

1 (iii) other applicable laws.

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

5 (A) in consultation with—

6 (i) the State;

7 (ii) units of local government;

8 (iii) the public;

9 (iv) the Council; and

10 (v) the Native Fish Monitoring and  
11 Recommendation Team, as described in  
12 section 402(b)(1); and

13 (B) in coordination with the Secretary of  
14 Agriculture, with respect to the development of  
15 the separate management plan for the Special  
16 Management Area, as described in section  
17 202(c).

18 (3) RECOMMENDATIONS.—In preparing and re-  
19 vising the management plan under paragraph (1),  
20 the Secretary shall take into consideration any rec-  
21 ommendations from the Council.

22 (4) TREATY RIGHTS.—In preparing and revis-  
23 ing the management plan under paragraph (1), tak-  
24 ing into consideration the rights and obligations de-  
25 scribed in section 402, the Secretary shall ensure



1 that the management plan does not alter or dimin-  
2 ish—

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

4 (B) any rights described in the Colorado  
5 Ute Indian Water Rights Settlement Act of  
6 1988 (Public Law 100–585; 102 Stat. 2973);

7 or

8 (C) the operation or purposes of the Dolo-  
9 res Project.

10 (d) INCORPORATION OF ACQUIRED LAND AND IN-  
11 TERESTS.—Any land or interest in land located within the  
12 boundary of the Conservation Area that is acquired by the  
13 United States in accordance with section 401(c) after the  
14 date of enactment of this Act shall—

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

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

17 (e) DEPARTMENT OF ENERGY LEASES.—

18 (1) IN GENERAL.—Nothing in this title affects  
19 valid leases or lease tracts existing on the date of en-  
20 actment of this Act issued under the uranium leas-  
21 ing program of the Department of Energy ~~within the~~  
22 ~~boundaries of the Conservation Area.~~

23 (2) MANAGEMENT.—

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

- 4 (i) exempt from section 401(b); and  
5 (ii) managed in a manner that allow  
6 the leases to fulfill the purposes of the pro-  
7 gram, consistent with the other provisions  
8 of this title and title IV.

9 (B) DESIGNATION.—Land subject to a  
10 lease described in paragraph (1) shall be con-  
11 sidered part of the Conservation Area and man-  
12 aged in accordance with other provisions of this  
13 title on a finding by the Secretary that—

- 14 (i)(I) the lease has expired; and  
15 (II) the applicable lease tract has been  
16 removed from the leasing program by the  
17 Secretary of Energy; and  
18 (ii) the land that was subject to the  
19 lease is suitable for inclusion in the Con-  
20 servation Area.

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

1 **SEC. 103. DOLORES RIVER NATIONAL CONSERVATION AREA**  
2 **ADVISORY COUNCIL.**

3 (a) **ESTABLISHMENT.**—Not later than 1 year after  
4 the date of enactment of this Act, the Secretary shall es-  
5 tablish an advisory council, to be known as the “Dolores  
6 River National Conservation Area Advisory Council”.

7 (b) **DUTIES.**—The Council shall advise—

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

11 (2) the Secretary of Agriculture with respect to  
12 the preparation, implementation, and monitoring of  
13 the management plan prepared under section 202(c).

14 (c) **APPLICABLE LAW.**—The Council shall be subject  
15 to—

16 (1) chapter 10 of title 5, United States Code  
17 (commonly referred to as the “Federal Advisory  
18 Committee Act”);

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

21 (3) this Act.

22 (d) **MEMBERSHIP.**—

23 (1) **IN GENERAL.**—The Council shall include 14  
24 members to be appointed by the Secretary, of whom,  
25 to the extent practicable—

1 (A) 2 members shall represent agricultural  
2 water user interests in the Conservation Area  
3 or the Dolores River watershed, of whom 1  
4 shall represent the Dolores Water Conservancy  
5 District;

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

8 (C) 2 members shall represent recreation  
9 interests in the Conservation Area, 1 of whom  
10 shall represent whitewater boating interests;

11 (D) 1 member shall be a representative of  
12 Dolores County, Colorado;

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

15 (F) 1 member shall be a representative of  
16 Montezuma County, Colorado;

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

20 (H) 1 member shall be a representative of  
21 Colorado Parks and Wildlife;

22 (I) 1 member shall be a holder of a graz-  
23 ing-allotment permit in the Conservation Area;  
24 and

1           (J) 2 members shall be representatives of  
2 Indian Tribes, 1 of whom shall be a representa-  
3 tive of the Ute Mountain Ute Tribe.

4           (2) REPRESENTATION.—

5           (A) IN GENERAL.—The Secretary shall en-  
6 sure that the membership of the Council is fair-  
7 ly balanced in terms of the points of view rep-  
8 resented and the functions to be performed by  
9 the Council.

10           (B) REQUIREMENTS.—

11           (i) IN GENERAL.—The members of  
12 the Council described in subparagraphs  
13 (B) and (C) of paragraph (1) shall be resi-  
14 dents that live within reasonable proximity  
15 to the Conservation Area.

16           (ii) COUNTY REPRESENTATIVES.—The  
17 members of the Council described in sub-  
18 paragraphs (D) and (E) of paragraph (1)  
19 shall be—

20           (I) residents of the respective  
21 counties referred to in those subpara-  
22 graphs; and

23           (II) capable of representing the  
24 interests of the applicable board of  
25 county commissioners.

1 (e) TERMS OF OFFICE.—

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

4 (2) REAPPOINTMENT.—A member may be re-  
5 appointed to the Council on completion of the term  
6 of office of the member.

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

8 (1) shall serve without compensation for service  
9 on the Council; but

10 (2) may be reimbursed for qualified expenses of  
11 the member.

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

14 (h) MEETINGS.—

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

17 (A) not less frequently than quarterly until  
18 the management plan under section 102(c) is  
19 developed; and

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

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

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

1 (i) TECHNICAL ASSISTANCE.—The Secretary shall  
 2 provide, to the maximum extent practicable in accordance  
 3 with applicable law, any information and technical services  
 4 requested by the Council to assist in carrying out the du-  
 5 ties of the Council.

6 (j) RENEWAL.—The Secretary shall ensure that the  
 7 Council charter is renewed as required under applicable  
 8 law.

9 (k) DURATION.—The Council—

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

12 (2) on completion of the management plan,  
 13 shall only meet—

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

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

17 **TITLE II—DOLORES RIVER**  
 18 **SPECIAL MANAGEMENT AREA**

19 **SEC. 201. DESIGNATION OF DOLORES RIVER SPECIAL MAN-**  
 20 **AGEMENT AREA.**

21 (a) ESTABLISHMENT.—

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

1           (2) LAND INCLUDED.—The Special Manage-  
2           ment Area shall consist of approximately 15,452  
3           acres of Federal land in the San Juan National For-  
4           est in the State, including National Forest System  
5           land in the Dolores River segment that extends from  
6           the Dolores Project boundary downstream to the  
7           boundary of the San Juan National Forest, as of the  
8           date of enactment of this Act, as generally depicted  
9           as “Proposed Dolores River Special Management  
10          Area” on the Map.

11          (b) PURPOSE.—The purpose of the Special Manage-  
12          ment Area is to conserve, protect, and enhance the native  
13          fish, whitewater boating, recreational, hunting, fishing,  
14          scenic, cultural, archaeological, natural, geological, histor-  
15          ical, ecological, watershed, wildlife, educational, and sci-  
16          entific resources of the Special Management Area.

17          (c) MAP AND LEGAL DESCRIPTION.—

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



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

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

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

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

13                 (1) this Act;

14                 (2) the National Forest Management Act of  
15 1976 (16 U.S.C. 1600 et seq.); and

16                 (3) other applicable laws.

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

21           (c) MANAGEMENT PLAN.—

22                 (1) PLAN REQUIRED.—

23                         (A) IN GENERAL.—Not later than 3 years  
24 after the date of enactment of this Act, the Sec-  
25 retary shall develop a management plan for the

1 long-term protection, management, and moni-  
2 toring of the Special Management Area.

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

7 (i) this Act;

8 (ii) the National Forest Management  
9 Act of 1976 (16 U.S.C. 1600 et seq.); and

10 (iii) other applicable laws.

11 (2) CONSULTATION AND COORDINATION.—The  
12 Secretary shall prepare and revise the management  
13 plan under paragraph (1)—

14 (A) in consultation with—

15 (i) the State;

16 (ii) units of local government;

17 (iii) the public;

18 (iv) the Council; and

19 (v) the Native Fish Monitoring and  
20 Recommendation Team, as described in  
21 section 402(b)(1); and

22 (B) in coordination with the Secretary of  
23 the Interior, with respect to the development of  
24 the separate management plan for the Con-  
25 servation Area, as described in section 102(c).

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

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

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

12                   (B) any rights described in the Colorado  
13           Ute Indian Water Rights Settlement Act of  
14           1988 (Public Law 100–585; 102 Stat. 2973);

15           or

16                   (C) the operation or purposes of the Dolo-  
17           res Project.

18          (d) INCORPORATION OF ACQUIRED LAND AND IN-  
19          TERESTS.—Any land or interest in land located within the  
20          boundary of the Special Management Area that is ac-  
21          quired by the United States in accordance with section  
22          401(c) after the date of enactment of this Act shall—

23                   (1) become part of the Special Management  
24          Area; and

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

1 **TITLE III—TECHNICAL MODI-**  
2 **FICATIONS TO POTENTIAL**  
3 **ADDITIONS TO NATIONAL**  
4 **WILD AND SCENIC RIVERS**  
5 **SYSTEM**

6 **SEC. 301. PURPOSE.**

7 The purpose of this title is to release portions of the  
8 Dolores River and certain tributaries from designation for  
9 potential addition under the Wild and Scenic Rivers Act  
10 (16 U.S.C. 1271 et seq.) or from further study under that  
11 Act.

12 **SEC. 302. RELEASE OF DESIGNATED SEGMENTS FROM DO-**  
13 **LORES RIVER CONGRESSIONAL STUDY AREA.**

14 Section 5(a)(56) of the Wild and Scenic Rivers Act  
15 (16 U.S.C. 1276(a)(56)) is amended by inserting “and the  
16 segments of the Dolores River located in the Dolores River  
17 National Conservation Area designated by the Dolores  
18 River National Conservation Area and Special Manage-  
19 ment Area Act” before the period at the end.

20 **SEC. 303. APPLICABILITY OF CONTINUING CONSIDERATION**  
21 **PROVISION.**

22 Section 5(d)(1) of the Wild and Scenic Rivers Act  
23 (16 U.S.C. 1276(d)(1)) shall not apply to—

- 24 (1) the Conservation Area; or  
25 (2) the Special Management Area.

1                   **TITLE IV—GENERAL**  
2                   **PROVISIONS**

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

4           (a) **MOTORIZED VEHICLES.—**

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

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

16           (b) **WITHDRAWALS.—**Subject to valid existing rights,  
17           all covered land, including any land or interest in land that  
18           is acquired by the United States within the covered land  
19           after the date of enactment of this Act, is withdrawn  
20           from—

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

23                   (2) location, entry, and patent under the mining  
24                   laws; and

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

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

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

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

23          (f) EASEMENTS.—The Secretary may lease or ac-  
24          quire easements on private land from willing lessors, do-  
25          nors, or sellers for recreation, access, conservation, or

1 other permitted uses, to the extent necessary to fulfill the  
2 purposes of the Conservation Area or Special Management  
3 Area, as applicable.

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

10 (h) MANAGEMENT OF PONDEROSA GORGE.—

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

17 (2) PROHIBITED ACTIVITIES.—Subject to para-  
18 graphs (3) and (4), in the areas described in para-  
19 graph (1), the following activities shall be prohibited:

20 (A) New permanent or temporary road  
21 construction or the renovation of nonsystem  
22 roads in existence on the date of enactment of  
23 this Act.

24 (B) The use of motor vehicles, motorized  
25 equipment, or mechanical transport, except as

1           necessary to meet the minimum requirements  
2           for the administration of the Federal land, to  
3           protect public health and safety, or to conduct  
4           ecological restoration activities to improve the  
5           aquatic habitat of the Dolores River channel.

6                   (C) Projects undertaken for the purpose of  
7           harvesting commercial timber.

8           (3) UTILITY CORRIDOR.—Nothing in this sub-  
9           section affects the operation, maintenance, or loca-  
10          tion of the utility right-of-way within the corridor, as  
11          depicted on the Map.

12           (4) EFFECT ON CERTAIN VEGETATION MANAGE-  
13          MENT PROJECTS.—Nothing in this subsection—

14                   (A) affects the implementation of the Lone  
15          Pine Vegetation Management Project author-  
16          ized by the Forest Service in a decision notice  
17          dated January 23, 2020; or

18                   (B) prohibits activities relating to the har-  
19          vest of merchantable products that are byprod-  
20          ucts of activities conducted—

21                           (i) for ecological restoration; or

22                           (ii) to further the purposes of this  
23          Act.

24          (i) EFFECT.—Nothing in this Act prohibits the Sec-  
25          retary from issuing a new permit and right-of-way within



1 the covered land for a width of not more than 150 feet  
2 for a right-of-way that serves a transmission line in exist-  
3 ence on the date of enactment of this Act, on the condition  
4 that the Secretary shall relocate the right-of-way in a  
5 manner that furthers the purposes of this Act.

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

15 **SEC. 402. PROTECTION OF WATER RIGHTS AND OTHER IN-**  
16 **TERESTS.**

17 (a) DOLORES PROJECT.—

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

1           (2) EFFECT.—Nothing in this Act affects the  
2 Dolores Project or the current or future operation of  
3 McPhee Reservoir in accordance with—

4           (A) the reclamation laws;

5           (B) any applicable—

6           (i) Dolores Project water contract,  
7 storage contract, or carriage contract; or

8           (ii) allocation of Dolores Project  
9 water;

10          (C) the environmental assessment and  
11 finding of no significant impact prepared by the  
12 Bureau of Reclamation Upper Colorado Region  
13 and approved August 2, 1996;

14          (D) the operating agreement entitled “Op-  
15 erating Agreement, McPhee Dam and Res-  
16 ervoir, Contract No. 99-WC-40-R6100, Dolores  
17 Project, Colorado” and dated April 25, 2000  
18 (or any subsequent renewal or revision of that  
19 agreement);

20          (E) mitigation measures for whitewater  
21 boating, including any such measure described  
22 in—

23           (i) the document entitled “Dolores  
24 Project Colorado Definite Plan Report”  
25 and dated April 1977;

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

3 (iii) a document referred to in sub-  
4 paragraph (C) or (D);

5 (F) applicable Federal or State laws relat-  
6 ing to the protection of the environment, includ-  
7 ing—

8 (i) the Endangered Species Act of  
9 1973 (16 U.S.C. 1531 et seq.);

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

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

14 (G) the Colorado Ute Indian Water Rights  
15 Settlement Act of 1988 (Public Law 100-585;  
16 102 Stat. 2973).

17 (b) MANAGEMENT OF FLOWS.—

18 (1) IN GENERAL.—In managing available flows  
19 below McPhee Dam to conserve, protect, and en-  
20 hance the resources described in sections 101(b) and  
21 201(b) of the Dolores River within the covered land,  
22 including native fish and whitewater boating re-  
23 sources, the Secretary shall seek to provide regular  
24 and meaningful consultation and collaboration with  
25 interested stakeholders, including the Native Fish

1 Monitoring and Recommendation Team, which in-  
2 cludes water management entities, affected counties,  
3 conservation interests, whitewater boating interests,  
4 Colorado Parks and Wildlife, and the Ute Mountain  
5 Ute Tribe, during the process of decision making.

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

13 (c) WATER RESOURCE PROJECTS.—

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

21 (A) located on the covered land that  
22 would—

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

1                   (ii) unreasonably diminish the re-  
2                   source values described in sections 101(b)  
3                   and 201(b) of the Dolores River within the  
4                   covered land; or

5                   (B) located outside the covered land that  
6                   would unreasonably diminish the resource val-  
7                   ues described in sections 101(b) and 201(b) of  
8                   the Dolores River within the covered land.

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

11                  (A) prevents, outside the covered land—

12                         (i) the construction of small diversion  
13                         dams or stock ponds;

14                         (ii) new minor water developments in  
15                         accordance with existing decreed water  
16                         rights; or

17                         (iii) minor modifications to structures;

18                         or

19                         (B) affects access to, or operation, mainte-  
20                         nance, relicensing, repair, or replacement of, ex-  
21                         isting water resource projects.

22                  (d) EFFECT.—Nothing in this Act—

23                         (1) affects—

24                                 (A) any water right that is—

1 (i) decreed under the laws of the  
2 State; and

3 (ii) in existence on the date of enact-  
4 ment of this Act;

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

8 (C) any vested absolute or decreed condi-  
9 tional water right in existence on the date of  
10 enactment of this Act, including any water  
11 right held by the United States;

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

14 (E) State jurisdiction over any water law,  
15 water right, or adjudication or administration  
16 relating to any water resource;

17 (2) imposes—

18 (A) any mandatory streamflow require-  
19 ment within the covered land; or

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

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

4 **SEC. 403. EFFECT ON PRIVATE PROPERTY AND REGU-**  
5 **LATORY AUTHORITY.**

6           (a) EFFECT.—Nothing in this Act—

7           (1) affects valid existing rights;

8           (2) requires any owner of private property to  
9           bear any costs associated with the implementation of  
10          the management plan under this Act;

11          (3) affects the jurisdiction or responsibility of  
12          the State with respect to fish and wildlife in the  
13          State;

14          (4) requires a change in or affects local zoning  
15          laws of the State or a political subdivision of the  
16          State; or

17          (5) affects—

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

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

1           the road beyond the existing primitive condition  
2           of the road.

3           (b) ADJACENT MANAGEMENT.—

4           (1) NO BUFFER ZONES.—The designation of  
5           the Conservation Area and the Special Management  
6           Area by this Act shall not create any protective pe-  
7           rimeter or buffer zone around the Conservation Area  
8           or Special Management Area, as applicable.

9           (2) PRIVATE LAND.—Nothing in this Act re-  
10          quires the prohibition of any activity on private land  
11          outside the boundaries of the Conservation Area or  
12          the Special Management Area that can be seen or  
13          heard from within such a boundary.

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

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

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

24                 (1) for traditional ceremonies; and



- 1 (2) as a source of traditional plants and other
- 2 materials.

Calendar No. 392

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 636**

[Report No. 118-176]

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**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.

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MAY 16, 2024

Reported with amendments