

117TH CONGRESS
1ST SESSION

S. _____

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

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on _____

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
8 June 22, 2021.

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

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

11 (a) ESTABLISHMENT.—

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

15 (2) AREA INCLUDED.—The Conservation Area
16 shall consist of approximately 45,455 acres of Bu-
17 reau of Land Management land in the State, as gen-
18 erally depicted on the Map.

19 (b) PURPOSE.—The purpose of the Conservation
20 Area is to conserve, protect, and enhance the native fish,
21 whitewater boating, recreational, scenic, cultural, archae-
22 ological, natural, geological, historical, ecological, water-
23 shed, wildlife, educational, and scientific resources of the
24 Conservation Area.

25 (c) MAP AND LEGAL DESCRIPTION.—

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

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

13 (3) PUBLIC AVAILABILITY.—A copy of the map
14 and legal description shall be on file and available
15 for public inspection in the appropriate offices of the
16 Bureau of Land Management.

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

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

20 (1) this Act;

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

23 (3) other applicable laws.

24 (b) USES.—The Secretary shall allow only such uses
25 of the Conservation Area as the Secretary determines

1 would further the purpose of the Conservation Area, as
2 described in section 101(b).

3 (c) MANAGEMENT PLAN.—

4 (1) PLAN REQUIRED.—

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

10 (B) REVIEW AND REVISION.—The manage-
11 ment plan under subparagraph (A) shall, from
12 time to time, be subject to review and revision,
13 in accordance with—

14 (i) this Act;

15 (ii) the Federal Land Policy and Man-
16 agement Act of 1976 (43 U.S.C. 1701 et
17 seq.); and

18 (iii) other applicable laws.

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

22 (A) in consultation with—

23 (i) the State;

24 (ii) units of local government;

25 (iii) the public; and

1 (iv) the Council; and

2 (B) in coordination with the Secretary of
3 Agriculture, with respect to the development of
4 the separate management plan for the Special
5 Management Area, as described in section
6 202(c).

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

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

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

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

21 or

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

24 (d) INCORPORATION OF ACQUIRED LAND AND IN-
25 TERESTS.—Any land or interest in land located within the

1 boundary of the Conservation Area that is acquired by the
2 United States in accordance with section 401(c) after the
3 date of enactment of this Act shall—

- 4 (1) become part of the Conservation Area; and
- 5 (2) be managed as provided in this section.

6 (e) DEPARTMENT OF ENERGY LEASES.—

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

12 (2) MANAGEMENT.—

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

- 16 (i) exempt from section 401(b); and
- 17 (ii) managed in a manner that allow
18 the leases to fulfill the purposes of the pro-
19 gram, consistent with the other provisions
20 of this title and title IV.

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

- 1 (i)(I) the lease has expired; and
2 (II) the applicable lease tract has been
3 removed from the leasing program by the
4 Secretary of Energy; and
5 (ii) the land that was subject to the
6 lease is suitable for inclusion in the Con-
7 servation Area.
8 (C) EFFECT.—Nothing in subparagraph
9 (B) prevents the Secretary of Energy from ex-
10 tending any lease described in paragraph (1).

11 **SEC. 103. DOLORES RIVER NATIONAL CONSERVATION AREA**
12 **ADVISORY COUNCIL.**

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

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

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

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

24 (c) APPLICABLE LAW.—The Council shall be subject
25 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 11
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 (B) 2 members shall represent conserva-
13 tion interests in the Conservation Area;

14 (C) 2 members shall represent recreation
15 interests in the Conservation Area, 1 of whom
16 shall represent whitewater boating interests;

17 (D) 1 member shall be a representative of
18 Dolores County, Colorado;

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

21 (F) 1 member shall be a private landowner
22 that owns land in immediate proximity to the
23 Conservation Area;

1 (G) 1 member shall be a holder of a graz-
2 ing-allotment permit in the Conservation Area;
3 and

4 (H) 1 member shall be a representative of
5 the Ute Mountain Ute Tribe.

6 (2) REPRESENTATION.—

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

12 (B) REQUIREMENTS.—

13 (i) IN GENERAL.—The members of
14 the Council described in subparagraphs
15 (A), (B), (C), (F), and (G) of paragraph
16 (1) shall be residents of Dolores, San
17 Miguel, Montezuma, Montrose, or La Plata
18 County in the State.

19 (ii) COUNTY REPRESENTATIVES.—The
20 members of the Council described in sub-
21 paragraphs (D) and (E), of paragraph (1)
22 shall be—

23 (I) residents of the respective
24 counties referred to in those subpara-
25 graphs; and

1 (II) capable of representing the
2 interests of the applicable board of
3 county commissioners.

4 (e) TERMS OF OFFICE.—

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

7 (2) REAPPOINTMENT.—A member may be re-
8 appointed to the Council on completion of the term
9 of office of the member.

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

11 (1) shall serve without compensation for service
12 on the Council; but

13 (2) may be reimbursed for qualified expenses of
14 the member.

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

17 (h) MEETINGS.—

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

20 (A) not less frequently than quarterly until
21 the management plan under section 102(c) is
22 developed; and

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

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

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

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

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

11 (k) DURATION.—The Council—

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

14 (2) on completion of the management plan,
15 shall only meet—

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

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

19 **TITLE II—DOLORES RIVER**
20 **SPECIAL MANAGEMENT AREA**

21 **SEC. 201. DESIGNATION OF DOLORES RIVER SPECIAL MAN-**
22 **AGEMENT AREA.**

23 (a) ESTABLISHMENT.—

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

4 (2) AREA INCLUDED.—The Special Manage-
5 ment Area shall consist of approximately 10,828
6 acres of Federal land in the San Juan National For-
7 est in the State, as generally depicted on the Map.

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

14 (c) MAP AND LEGAL DESCRIPTION.—

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

22 (2) EFFECT.—The map and legal description
23 prepared under paragraph (1) shall have the same
24 force and effect as if included in this title, except

1 that the Secretary may correct minor errors in the
2 map or legal description.

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

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

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

10 (1) this Act;

11 (2) the National Forest Management Act of
12 1976 (16 U.S.C. 1600 et seq.); and

13 (3) other applicable laws.

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

18 (c) MANAGEMENT PLAN.—

19 (1) PLAN REQUIRED.—

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

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

5 (i) this Act;

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

8 (iii) other applicable laws.

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

12 (A) in consultation with—

13 (i) the State;

14 (ii) units of local government;

15 (iii) the public; and

16 (iv) the Council; and

17 (B) in coordination with the Secretary of
18 the Interior, with respect to the development of
19 the separate management plan for the Con-
20 servation Area, as described in section 102(c).

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

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

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

8 (B) any rights described in the Colorado
9 Ute Indian Water Rights Settlement Act of
10 1988 (Public Law 100–585; 102 Stat. 2973);
11 or

12 (C) the operation or purposes of the Dolo-
13 res Project.

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

19 (1) become part of the Special Management
20 Area; and

21 (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 DOLORES RIVER STUDY AREA.**

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

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

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

- 23 (1) the Conservation Area; or
24 (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 public land within the covered land, including any land
18 or interest in land that is acquired by the United States
19 within the covered land after the date of enactment of this
20 Act, is withdrawn 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 graph (3), in the areas described in paragraph (1),
19 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 and
3 to protect public health and safety.

4 (C) Projects undertaken for the purpose of
5 harvesting commercial timber (other than ac-
6 tivities relating to the harvest of merchantable
7 products that are byproducts of activities con-
8 ducted for ecological restoration or to further
9 the purposes of this Act).

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

14 (i) EFFECT.—Nothing in this Act prohibits the Sec-
15 retary from issuing a new permit and right-of-way within
16 the covered land for a width of not more than 150 feet
17 for a right-of-way that serves a transmission line in exist-
18 ence on the date of enactment of this Act, on the condition
19 that the Secretary shall relocate the right-of-way in a
20 manner that furthers the purposes of this Act.

21 **SEC. 402. PROTECTION OF WATER RIGHTS AND OTHER IN-**
22 **TERESTS.**

23 (a) DOLORES PROJECT.—

24 (1) OPERATION.—The Dolores Project and the
25 operation of McPhee Reservoir shall continue to be

1 the responsibility of, and be operated by, the Sec-
2 retary, in cooperation with the Dolores Water Con-
3 servancy District, in accordance with applicable laws
4 and obligations.

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

8 (A) the reclamation laws;

9 (B) any applicable—

10 (i) Dolores Project water contract,
11 storage contract, or carriage contract; or

12 (ii) allocation of Dolores Project
13 water;

14 (C) the environmental assessment and
15 finding of no significant impact prepared by the
16 Bureau of Reclamation Upper Colorado Region
17 and approved August 2, 1996;

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

1 (E) mitigation measures for whitewater
2 boating, including any such measure described
3 in—

4 (i) the document entitled “Dolores
5 Project Colorado Definite Plan Report”
6 and dated April 1977;

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

9 (iii) a document referred to in sub-
10 paragraph (C) or (D);

11 (F) applicable Federal or State laws relat-
12 ing to the protection of the environment, includ-
13 ing—

14 (i) the Endangered Species Act of
15 1973 (16 U.S.C. 1531 et seq.);

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

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

20 (G) the Colorado Ute Indian Water Rights
21 Settlement Act of 1988 (Public Law 100–585;
22 102 Stat. 2973).

23 (b) MANAGEMENT OF FLOWS.—

24 (1) IN GENERAL.—In managing available flows
25 below McPhee Dam for the native fish and white-

1 water boating resources in the Conservation Area,
2 the Secretary shall seek to provide regular and
3 meaningful consultation and collaboration with inter-
4 ested stakeholders in the initial phase of, and
5 throughout, the process of decisionmaking with re-
6 spect to managing flows below McPhee Dam.

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

14 (c) LARGE-SCALE WATER DEVELOPMENT.—Subject
15 to valid existing rights and subsection (e), the Secretary
16 shall ensure that any new large-scale water development
17 located outside the Conservation Area or Special Manage-
18 ment Area with the potential to affect any portion of the
19 Dolores River in the Conservation Area or Special Man-
20 agement Area would not unreasonably diminish (as that
21 term is used in section 7(a) of the Wild and Scenic Rivers
22 Act (16 U.S.C. 1278(a)) and as that term is applied in
23 Appendix D of the Technical Report of the Interagency
24 Wild and Scenic Rivers Coordinating Council entitled
25 “Wild & Scenic Rivers: Section 7” and dated October

1 2004) the scenic, recreational, and fish and wildlife values
2 of the Conservation Area or Special Management Area.

3 (d) PROHIBITION OF NEW DAMS.—Subject to sub-
4 section (e), no new dams shall be constructed on the cov-
5 ered land.

6 (e) LIMITATION.—Subject to the requirements of this
7 section, nothing in subsection (c) or (d) prevents the con-
8 struction of small diversion dams or stock ponds, new
9 minor water developments according to existing decreed
10 water rights, or modifications to existing structures on the
11 covered land.

12 (f) EXISTING WATER RESOURCE FACILITIES.—
13 Nothing in this Act—

14 (1) affects any existing water resource facilities
15 on the covered land, including irrigation and pump-
16 ing facilities, pumps, equipment, mobile pumps or
17 pumping equipment, reservoirs, water conservation
18 works, aqueducts, canals, ditches, pipelines, wells,
19 hydropower projects, and transmission and other an-
20 cillary facilities including power lines, and other
21 water diversion, storage, and carriage structures; or

22 (2) impedes or restricts access to facilities de-
23 scribed in paragraph (1) for operation, maintenance,
24 repair, or replacement.

25 (g) EFFECT.—Nothing in this Act—

1 (1) affects—

2 (A) any water right that is—

3 (i) decreed under the laws of the
4 State; and

5 (ii) in existence on the date of enact-
6 ment of this Act;

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

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

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

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

19 (2) imposes—

20 (A) any mandatory streamflow require-
21 ment within the covered land; or

22 (B) any Federal water quality standard
23 within, or upstream of, the covered land that is
24 more restrictive than would be applicable if the
25 covered land had not been designated as the

1 Conservation Area or Special Management Area
2 under this Act; or

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

6 **SEC. 403. EFFECT ON PRIVATE PROPERTY AND REGU-**
7 **LATORY AUTHORITY.**

8 (a) EFFECT.—Nothing in this Act—

9 (1) affects valid existing rights;

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

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

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

19 (5) affects—

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

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

1 condition that the Secretary shall not improve
2 the road beyond the existing primitive condition
3 of the road.

4 (b) ADJACENT MANAGEMENT.—

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

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

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

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

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

25 (1) for traditional ceremonies; and

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