

108TH CONGRESS
1ST SESSION

H. R. 2955

To establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mr. McINNIS (for himself, Mr. TANCREDI, and Mr. HEFLEY) introduced the following bill; which was referred to the Committee on Resources

A BILL

To establish the Rio Grande Outstanding Natural Area in the State of Colorado, 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.**

4 This Act may be cited as the “Rio Grande Out-
5 standing Natural Area Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds as follows:

8 (1) Preservation and restoration of the land in
9 the Area are required to preserve the Area’s unique
10 scientific, scenic, educational, and environmental val-

1 ues, including unique land forms, scenic beauty, cul-
2 tural sites, and habitats used by various species of
3 raptors and other birds, mammals, reptiles, and am-
4 phibians.

5 (2) There are archeological and historic sites in
6 the Area resulting from at least 10,000 years of use
7 for subsistence and commerce.

8 (3) The archeological sites represent regional
9 ancestry, including Paleo-Indian and nomadic bands
10 of Ute and Apache.

11 (4) The Area contains exceptional scenic values
12 and opportunities for wildlife viewing.

13 (5) Approximately 2,771 acres of land within
14 the Area are owned by the United States and admin-
15 istered by the Secretary, acting through the Director
16 of the Bureau of Land Management, and approxi-
17 mately 7,885 acres of land within the Area are
18 owned by private landowners.

19 (6) The Area is located downstream from areas
20 in Colorado of significant and longstanding water
21 development and use.

22 (7) The availability of water for use in Colorado
23 is governed, in significant part, by the Compact,
24 which obligates the State of Colorado to deliver cer-
25 tain quantities of water to the Colorado-New Mexico

1 State line for the benefit of the States of New Mex-
2 ico and Texas in accordance with the terms of the
3 Compact.

4 (8) Because of the allocations of water made by
5 the Compact to downstream States, the levels of use
6 and development of water in Colorado, and the un-
7 predictable and seasonal nature of the water supply,
8 the Secretary shall manage the land within the Area
9 to accomplish the purposes of this Act without as-
10 serting reserved water rights for instream flows or
11 appropriating or acquiring water rights for that pur-
12 pose.

13 (b) PURPOSES.—The purposes of this Act are to con-
14 serve, restore, and protect for future generations the nat-
15 ural, ecological, historic, scenic, recreational, wildlife, and
16 environmental resources of the Area.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) AREA.—The term “Area” means the Rio
20 Grande Outstanding Natural Area established under
21 section 4.

22 (2) AREA MANAGEMENT PLAN.—The term
23 “Area Management Plan” means the plan developed
24 by the Commission in cooperation with Federal,

1 State, and local agencies and approved by the Sec-
2 retary.

3 (3) COMMISSION.—The term “Commission”
4 means the Rio Grande Outstanding Natural Area
5 Commission as established in this Act.

6 (4) COMPACT.—The term “Compact” means
7 the Rio Grande Compact, consented to by Congress
8 in the Act of May 31, 1939 (53 Stat. 785, chapter
9 155).

10 (5) MAP.—The term “Map” means the map en-
11 titled “____”, dated ____, and numbered ____.

12 (6) PUBLIC LANDS.—The term “public lands”
13 has the meaning given that term in section 103 of
14 the Federal Land Policy and Management Act of
15 1976 (43 U.S.C. 1702).

16 (7) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior.

18 (8) STATE.—The term “State” means the State
19 of Colorado.

20 **SEC. 4. ESTABLISHMENT OF AREA.**

21 (a) IN GENERAL.—There is established the Rio
22 Grande Outstanding Natural Area.

23 (b) BOUNDARIES.—The Area shall consist of approxi-
24 mately 10,656 acres extending for a distance of 33.3 miles
25 along the Rio Grande River in southern Colorado from the

1 southern boundary of the Alamosa National Wildlife Ref-
2 uge to the Colorado-New Mexico State line, encompassing
3 the Rio Grande River and its adjacent riparian areas ex-
4 tending not more than 1,320 feet on either side of the
5 river.

6 (c) MAP AND LEGAL DESCRIPTION.—

7 (1) LEGAL DESCRIPTION.—As soon as prac-
8 ticable after the date of enactment of this Act, the
9 Secretary shall file a legal description of the Area in
10 the office of the Director of the Bureau of Land
11 Management, Department of the Interior, in Wash-
12 ington, District of Columbia, and the Office of the
13 Colorado State Director of the Bureau of Land
14 Management.

15 (2) FORCE AND EFFECT.—The Map and legal
16 description of the Area shall have the same force
17 and effect as if they were included in this Act, ex-
18 cept that the Secretary may correct clerical and ty-
19 pographical errors in such legal description as they
20 may appear from time to time.

21 (3) PUBLIC AVAILABILITY.—The Map and legal
22 description of the Area shall be available for public
23 inspection in the office of the Colorado State Direc-
24 tor of the Bureau of Land Management, Depart-
25 ment of the Interior in Denver, Colorado.

1 **SEC. 5. COMMISSION.**

2 (a) ESTABLISHMENT.—There is hereby established
3 the Rio Grande Outstanding Natural Area Commission.

4 (b) PURPOSE.—The Commission shall assist appro-
5 priate Federal, State, and local authorities in the develop-
6 ment and implementation of an integrated resource man-
7 agement plan for the Area called the Area Management
8 Plan.

9 (c) MEMBERSHIP.—The Commission shall be com-
10 posed of 9 members, designated or appointed not later
11 than 6 months after the date of the enactment of this Act
12 as follows:

13 (1) 2 officials of Department of the Interior
14 designated by the Secretary, 1 of whom shall rep-
15 resent the Federal agency responsible for the man-
16 agement of the Area and 1 of whom shall be the
17 manager of the Alamosa National Wildlife Refuge.

18 (2) 2 individuals appointed by the Secretary, 1
19 of whom shall be based on the recommendation of
20 the State Governor, representing the Colorado Divi-
21 sion of Wildlife, and 1 representing the Colorado Di-
22 vision of Water Resources responsible for the Rio
23 Grande drainage.

24 (3) 1 representative of the Rio Grande Water
25 Conservation District appointed by the Secretary
26 based on the recommendation of the State Governor,

1 representing the local region in which the Area is es-
2 tablished.

3 (4) 4 individuals appointed by the Secretary
4 based on recommendations of the State Governor,
5 representing the general public who are citizens of
6 the State and of the local region in which the Area
7 is established, who have knowledge and experience in
8 the appropriate fields of interest relating to the pres-
9 ervation and restoration and use of the Area. 2 ap-
10 pointees from the local area shall represent non-
11 governmental agricultural interests and 2 appointees
12 from the local area shall represent nonprofit non-
13 governmental environmental interests.

14 (d) TERMS.—Members shall be appointed for terms
15 of 5 years and may be reappointed.

16 (e) COMPENSATION.—Members of the Commission
17 shall receive no pay on account of their service on the
18 Commission.

19 (f) CHAIRPERSON.—The chairperson of the Commis-
20 sion shall be elected by the members of the Commission.

21 (g) MEETINGS.—The Commission shall hold its first
22 meeting not later than 90 days after the date on which
23 the last of its initial members is appointed, and shall meet
24 at least quarterly at the call of the chairperson.

1 **SEC. 6. POWERS OF THE COMMISSION.**

2 (a) HEARINGS.—The Commission may hold such
3 hearings, sit and act at such times and places, take such
4 testimony, and receive such evidence, as the Commission
5 considers appropriate.

6 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
7 ber or agent of the Commission, if so authorized by the
8 Commission, may take any action which the Commission
9 is authorized to take by this Act.

10 (c) ACQUISITION OF REAL PROPERTY.—Except as
11 provided in section 12, the Commission may not acquire
12 any real property or interest in real property.

13 (d) COOPERATIVE AGREEMENTS.—For purposes of
14 carrying out the Area Management Plan, the Commission
15 may enter into cooperative agreements with the State,
16 with any political subdivision of the State, or with any per-
17 son. Any such cooperative agreement shall, at a minimum,
18 establish procedures for providing notice to the Commis-
19 sion of any action proposed by the State, a political sub-
20 division, or a person which may affect the implementation
21 of the Area Management Plan.

22 **SEC. 7. DUTIES OF THE COMMISSION.**

23 (a) PREPARATION OF PLAN.—Not later than 2 years
24 after the Commission conducts its first meeting, it shall
25 submit to the Secretary an Area Management Plan. The
26 Area Management Plan shall be—

1 (1) based on existing Federal, State, and local
2 plans, but shall coordinate those plans and present
3 a unified preservation, restoration, and conservation
4 plan for the Area;

5 (2) developed in accordance with the provisions
6 of section 202 of the Federal Land Policy and Man-
7 agement Act of 1976 (43 U.S.C. 1712); and

8 (3) consistent, to the extent possible, with the
9 management plans adopted by the Director of the
10 Bureau of Land Management for adjacent properties
11 in Colorado and New Mexico.

12 (b) CONTENTS.—The Area Management Plan shall
13 include the following:

14 (1) An inventory which includes any property in
15 the Area which should be preserved, restored, man-
16 aged, developed, maintained, or acquired because of
17 its natural, scientific, scenic, or environmental sig-
18 nificance.

19 (2) Recommended policies for resource manage-
20 ment which consider and detail the application of
21 appropriate land and water management techniques,
22 including the development of intergovernmental co-
23 operative agreements, that will protect the Area's
24 natural, scenic, and wildlife resources and environ-
25 ment.

1 (3) Recommended policies for resource manage-
2 ment to provide for protection of the Area for soli-
3 tude, quiet use, and pristine natural values.

4 (c) IMPLEMENTATION OF THE PLAN.—Upon ap-
5 proval of the Area Management Plan by the Secretary,
6 as provided in section 9, the Commission shall assist the
7 Secretary in implementing the Area Management Plan by
8 taking appropriate steps to preserve and interpret the nat-
9 ural resources of the Area and its surrounding area. These
10 steps may include the following:

11 (1) Assisting the State in preserving the Area.

12 (2) Assisting the State and local governments,
13 and political subdivisions of the State in increasing
14 public awareness of and appreciation for the natural,
15 historical, and wildlife resources in the Area.

16 (3) Encouraging local governments and political
17 subdivisions of the State to adopt land use policies
18 consistent with the management of the Area and the
19 goals of the Area Management Plan, and to take ac-
20 tions to implement those policies.

21 (4) Encouraging and assisting private land-
22 owners within the Area in understanding and accept-
23 ing the provisions of the Area Management Plan and
24 cooperating in its implementation.

1 **SEC. 8. TERMINATION OF THE COMMISSION.**

2 (a) TERMINATION.—Except as provided in subsection
3 (b), the Commission shall terminate 10 years and 6
4 months after the date of the enactment of this Act.

5 (b) EXTENSIONS.—The Commission may be extended
6 for a period of not more than 5 years beginning on the
7 day of termination specified in subsection (a) if, not later
8 than 180 days before that day, the Commission—

9 (1) determines that such an extension is nec-
10 essary in order to carry out the purpose of this Act;
11 and

12 (2) submits such proposed extension to the
13 Committee on Resources of the House of Represent-
14 atives and the Committee on Energy and Natural
15 Resources of the Senate.

16 **SEC. 9. ADMINISTRATION BY SECRETARY.**

17 (a) PLAN APPROVAL; PUBLICATION.—Not later than
18 60 days after the Secretary receives a proposed manage-
19 ment plan from the Commission, the Secretary, with the
20 assistance of the Commission, shall initiate the environ-
21 mental compliance activities which the Secretary deter-
22 mines to be appropriate in order to allow the review of
23 the proposed plan and any alternatives thereto and to
24 allow public participation in the environmental compliance
25 activities. Thereafter, the Secretary shall approve an Area
26 Management Plan for the Area consistent with the Com-

1 mission's proposed plan to the extent possible, that re-
2 flects the results of the environmental compliance activi-
3 ties undertaken. Not later than 18 months after the Sec-
4 retary receives the proposed management plan, the Sec-
5 retary shall publish the Area Management Plan in the
6 Federal Register.

7 (b) ADMINISTRATION.—The Secretary shall admin-
8 ister the lands owned by the United States within the Area
9 in accordance with the laws and regulations applicable to
10 public lands and the Area Management Plan in such a
11 manner as shall provide for the following:

12 (1) The conservation, restoration, and protec-
13 tion of the Area's unique scientific, scenic, edu-
14 cational, recreational, and wildlife values.

15 (2) The continued use of the Area for purposes
16 of education, scientific study, and limited public
17 recreation in a manner that does not substantially
18 impair the purposes for which the Area is estab-
19 lished.

20 (3) The protection of the wildlife habitat of the
21 Area.

22 (4) The elimination of opportunities to con-
23 struct water storage facilities within the Area.

1 (5) The reduction or elimination of roads and
2 motorized vehicles from the public lands to the
3 greatest extent possible within the Area.

4 (6) The elimination of roads and motorized use
5 on the public lands within the area on the western
6 side of the river from Lobatos Bridge south to the
7 State line.

8 (c) NO RESERVATION OF WATER RIGHTS.—Public
9 lands affected by this Act shall not be subject to reserved
10 water rights for any Federal purpose.

11 (d) CHANGES IN STREAMFLOW REGIME.—To the ex-
12 tent that changes to the streamflow regime beneficial to
13 the Area can be accommodated through negotiation with
14 the State of Colorado, the Rio Grande Water Conservation
15 District, and water users within Colorado, such changes
16 should be encouraged, but may not be imposed as a re-
17 quirement.

18 (e) PRIVATE LANDS.—Private lands within the Area
19 will be affected by the designation and management of the
20 Area only to the extent that the private landowner agrees
21 in writing to be bound by the Area Management Plan.

22 **SEC. 10. MANAGEMENT.**

23 (a) AREA MANAGEMENT PLAN.—

24 (1) IN GENERAL.—The Secretary shall imple-
25 ment the Area Management Plan for all of the land

1 within the Area that accomplishes the purposes of
2 and is consistent with the provisions of this Act.

3 (2) NON-FEDERAL LAND.—The Area Manage-
4 ment Plan shall apply to all land within the Area
5 owned by the United States and may be made to
6 apply to non-Federal land within the Area only when
7 written acceptance of the Area Management Plan is
8 given by the owners of such land.

9 (b) COORDINATION WITH STATE AND LOCAL GOV-
10 ERNMENTS.—The Area Management Plan shall be devel-
11 oped and adopted in coordination with the appropriate
12 State agencies and local governments in Colorado.

13 (c) COOPERATION BY PRIVATE LANDOWNERS.—In
14 implementing the Area Management Plan, the Secretary
15 shall encourage full public participation and seek the co-
16 operation of all private landowners within the Area, re-
17 gardless of whether the landowners are directly or indi-
18 rectly affected by the Area Management Plan. If accepted
19 by private landowners, in writing, the provisions of the
20 Area Management Plan may be applied to the individual
21 parcels of private land.

22 (d) NEW IMPOUNDMENTS.—In managing the Area,
23 neither the Secretary nor any other Federal agency or offi-
24 cer may approve or issue any permit for, or provide any
25 assistance for, the construction of any new dam, reservoir,

1 or impoundment on any segment of the Rio Grande River
2 or its tributaries within the exterior boundaries of the
3 Area.

4 **SEC. 11. RESTORATION TO PUBLIC LANDS STATUS.**

5 (a) EXISTING RESERVATIONS.—All reservations of
6 public lands within the Area for Federal purposes that
7 have been made by an Act of Congress or Executive order
8 prior to the date of enactment of this Act are revoked.

9 (b) PUBLIC LANDS.—Subject to subsection (c), pub-
10 lic lands within the Area that were subject to a reservation
11 described in subsection (a)—

12 (1) are restored to the status of public lands;
13 and

14 (2) shall be administered in accordance with the
15 Area Management Plan.

16 (c) WITHDRAWAL.—All public lands within the Area
17 are withdrawn from settlement, sale, location, entry, or
18 disposal under the laws applicable to public lands, includ-
19 ing the following:

20 (1) Sections 910, 2318 through 2340, and 2343
21 through 2346 of the Revised Statutes (commonly
22 known as the “General Mining Law of 1872”) (30
23 U.S.C. 21, 22, 23, 24, 26 through 30, 33 through
24 43, 46 through 48, 50 through 53).

1 (2) The Mining and Minerals Policy Act of
2 1970 (30 U.S.C. 21a).

3 (3) The Act of April 26, 1882 (22 Stat. 49,
4 chapter 106; 30 U.S.C. 25, 31).

5 (4) Public Law 85–876 (30 U.S.C. 28–1, 28–
6 2).

7 (5) The Act of June 21, 1949 (63 Stat. 214,
8 chapter 232; 30 U.S.C. 28b through 28e, 54).

9 (6) The Act of March 3, 1991 (21 Stat. 505,
10 chapter 140; 30 U.S.C. 32).

11 (7) The Act of May 5, 1876 (19 Stat. 52, chap-
12 ter 91; 30 U.S.C. 49).

13 (8) Sections 15, 16, and 26 of the Act of June
14 6, 1990 (31 Stat. 327, 328, 329, chapter 786; 30
15 U.S.C. 49a, 49c, 49d).

16 (9) Section 2 of the Act of May 4, 1934 (48
17 Stat. 1243, chapter 2559; 30 U.S.C. 49e, 49f).

18 (10) The Act entitled “An Act to promote the
19 mining of coal, phosphate, oil, oil shale, gas, and so-
20 dium on the public domain”, approved February 25,
21 1920 (commonly known as the “Mineral Lands
22 Leasing Act of 1920”; 30 U.S.C. 181 et seq.).

23 (11) The Act entitled “An Act to provide for
24 the disposal of materials on public lands of the
25 United States”, approved July 31, 1947 (commonly

1 known as the “Materials Act of 1947”; 30 U.S.C.
2 601 et seq.).

3 (d) WILD AND SCENIC RIVERS.—No land or water
4 within the Area shall be designated as a wild, scenic, or
5 recreational river under section 2 of the Wild and Scenic
6 Rivers Act (16 U.S.C. 1273).

7 **SEC. 12. ACQUISITION OF NONFEDERAL LANDS.**

8 (a) ACQUISITION OF LANDS NOT CURRENTLY IN
9 FEDERAL OWNERSHIP.—The Secretary, with the coopera-
10 tion and assistance of the Commission, may acquire by
11 purchase, exchange, or donation all or any part of the land
12 and interests in land, including conservation easements,
13 within the Area from willing sellers only.

14 (b) ADMINISTRATION.—Any lands and interests in
15 lands acquired under this section—

16 (1) shall be administered in accordance with the
17 Area Management Plan;

18 (2) shall not be subject to reserved water rights
19 for any Federal purpose, nor shall the acquisition of
20 the land authorize the Secretary or any Federal
21 agency to acquire instream flows in the Rio Grande
22 River at any place within the Area;

23 (3) shall become public lands; and

24 (4) shall upon acquisition be immediately with-
25 drawn as provided in section 11.

1 **SEC. 13. STATE INSTREAM FLOW PROTECTION AUTHOR-**
2 **IZED.**

3 Nothing in this Act shall be construed to prevent the
4 State from acquiring an instream flow through the Area
5 pursuant to the terms, conditions, and limitations of Colo-
6 rado law to assist in protecting the natural environment
7 to the extent and for the purposes authorized by Colorado
8 law.

9 **SEC. 14. RULE OF CONSTRUCTION.**

10 Nothing in this Act shall be construed to—

11 (1) authorize, expressly or by implication, the
12 appropriation or reservation of water by any Federal
13 agency, or any other entity or individual other than
14 the State of Colorado, for any instream flow purpose
15 associated with the Area;

16 (2) affect the rights or jurisdiction of the
17 United States, a State, or any other entity over wa-
18 ters of any river or stream or over any ground water
19 resource;

20 (3) alter, amend, repeal, interpret, modify, or
21 be in conflict with the Compact;

22 (4) alter or establish the respective rights of
23 any State, the United States, or any person with re-
24 spect to any water or water-related right;

25 (5) impede the maintenance of the free-flowing
26 nature of the waters in the Area so as to protect—

1 (A) the ability of the State of Colorado to
2 fulfill its obligations under the Compact; or

3 (B) the riparian habitat within the Area;

4 (6) allow the conditioning of Federal permits,
5 permissions, licenses, or approvals to require the by-
6 pass or release of waters appropriated pursuant to
7 State law to protect, enhance, or alter the water
8 flows through the Area;

9 (7) affect the continuing use and operation, re-
10 pair, rehabilitation, expansion, or new construction
11 of water supply facilities, water and wastewater
12 treatment facilities, stormwater facilities, public util-
13 ities, and common carriers along the Rio Grande
14 River and its tributaries upstream of the Area;

15 (8) impose any Federal or State water use des-
16 ignation or water quality standard upon uses of, or
17 discharges to, waters of the State or waters of the
18 United States, within or upstream of the Area, that
19 is more restrictive than those that would be applica-
20 ble had the Area not been established; or

21 (9) modify, alter, or amend title I of the Rec-
22 lamation Project Authorizing Act of 1972, as
23 amended (Public Law 92–514, 86 Stat. 964; Public
24 Law 96–375, 94 Stat. 1507; Public Law 98–570, 98
25 Stat. 2941; and Public Law 100–516, 100 Stat.

1 257), or to authorize the Secretary to acquire water
2 from other sources for delivery to the Rio Grande
3 River pursuant to section 102(c) of such title.

○