

112TH CONGRESS  
2D SESSION

# S. 3400

To designate certain Federal land in the San Juan National Forest in the State of Colorado as wilderness, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 18, 2012

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

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## A BILL

To designate certain Federal land in the San Juan National Forest in the State of Colorado as wilderness, 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 “Hermosa Creek Water-  
5       shed Protection Act of 2012”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) the ecological health and integrity of the  
9       Hermosa Creek Watershed and the economic health

1 of the surrounding communities that rely on the Wa-  
2 tershed are connected;

3 (2) the Watershed—

4 (A) is the only area in the State that is not  
5 a unit of National Wilderness Preservation Sys-  
6 tem to achieve a designation of outstanding  
7 waters by the State;

8 (B) provides a crucial source of clean  
9 drinking water for the residents of the Animas  
10 River Valley and the city of Durango, Colorado;  
11 and

12 (C) provides high quality agricultural  
13 water supplies from Hermosa Creek and the  
14 Animas River;

15 (3) the Watershed helps ensure the economic  
16 prosperity of local communities in the area that de-  
17 pend on the Watershed for water supplies, recre-  
18 ation, hunting, fishing, hiking, biking, camping, ski-  
19 ing and related winter activities, off-road vehicle  
20 travel for the conduct of scientific activities, sci-  
21 entific research, mineral extraction, and sustainable  
22 natural resource development;

23 (4) the world-class Hermosa Creek trail net-  
24 work contains outstanding single track mountain

1 bike riding, backcountry hiking, equestrian riding,  
2 and motorcycle riding;

3 (5) the Watershed provides visitors the oppor-  
4 tunity to enjoy the tremendous scenic, natural, cul-  
5 tural, and recreational resources of the area;

6 (6) ecologically sustainable grazing has been  
7 conducted in a manner that has preserved the high  
8 quality of the Watershed;

9 (7) the native Colorado River cutthroat trout  
10 fishery located in the Watershed—

11 (A) is one of the most important fisheries  
12 in the State;

13 (B) is crucial for the long-term survival of  
14 the cutthroat trout; and

15 (C) provides an opportunity for anglers to  
16 have a catch and release fishery for the cut-  
17 throat trout;

18 (8) the work of the State Division of Wildlife to  
19 enhance the fishery referred to in paragraph (7) has  
20 been a tremendous success and a great example of  
21 cooperative conservation efforts to recover an imper-  
22 iled species of fish;

23 (9) the Watershed—

24 (A) provides some of the best backcountry  
25 elk habitat in the State; and

1 (B) supports outstanding hunting opportu-  
2 nities;

3 (10) the large areas of undisturbed forest in the  
4 Watershed (including some of the best stands of old  
5 growth ponderosa pine in the State) provide excel-  
6 lent wildlife habitat and excellent opportunities for  
7 solitude and backcountry recreation; and

8 (11) designation of the Hermosa Creek Wilder-  
9 ness Area, Watershed Protection Area, and Special  
10 Management Area would protect those areas in per-  
11 petuity for the benefit of the people of the United  
12 States.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) MAP.—The term “Map” means the map en-  
16 titled “Hermosa Creek Proposed Watershed Protec-  
17 tion Area, 2012” and dated March 28, 2012.

18 (2) SECRETARY.—The term “Secretary” means  
19 the Secretary of Agriculture.

20 (3) SPECIAL MANAGEMENT AREA.—The term  
21 “Special Management Area” means the Hermosa  
22 Creek Special Management Area designated by sec-  
23 tion 5(a).

24 (4) STATE.—The term “State” means the State  
25 of Colorado.

1           (5) WATERSHED PROTECTION AREA.—The  
2 term “Watershed Protection Area” means the  
3 Hermosa Creek Watershed Protection Area des-  
4 ignated by section 4(a).

5 **SEC. 4. DESIGNATION OF HERMOSA CREEK WATERSHED**  
6 **PROTECTION AREA.**

7           (a) DESIGNATION.—Certain Federal land in the San  
8 Juan National Forest comprising approximately 107,886  
9 acres, as generally depicted on the Map, is designated as  
10 the “Hermosa Creek Watershed Protection Area”.

11           (b) PURPOSES.—The purposes of the Watershed Pro-  
12 tection Area are—

13           (1) to maintain the cultural, economic, and eco-  
14 logical health of the Hermosa Creek Watershed and  
15 the surrounding communities that rely on the Wa-  
16 tershed;

17           (2) to protect the purity of water that comes  
18 from the Hermosa Creek Watershed and supplies  
19 residents of the Animas River Valley and the city of  
20 Durango, Colorado, with clean drinking water;

21           (3) to protect the purity of, and water supply  
22 from, the Hermosa Creek Watershed for agricultural  
23 purposes, including irrigation and stockwater uses;

24           (4) to enhance the economic prosperity of local  
25 communities in the area who depend on the area for

1 water, recreation, and sustainable natural resource  
2 uses;

3 (5) to protect and provide visitors the oppor-  
4 tunity to enjoy the recreational, geological, cultural,  
5 natural, scientific, recreational, wildlife, riparian,  
6 historical, educational, and scenic resources of the  
7 Watershed;

8 (6) to provide world class opportunities for ski-  
9 ing, biking, hiking, fishing, hunting, horseback  
10 riding, snowmobiling, motorcycle riding,  
11 snowshoeing, and camping;

12 (7) to provide for economic and natural re-  
13 source development (including sustainable grazing,  
14 vegetation management, beneficial uses of water,  
15 and mineral extraction) in a manner consistent with  
16 protecting the overall integrity of the Watershed;

17 (8) to protect the native Colorado River cut-  
18 throat trout fishery located in the Watershed;

19 (9) to designate the Hermosa Creek Wilderness  
20 Area and the Special Management Area; and

21 (10) to conserve, protect, and manage for a  
22 healthy Hermosa Creek Watershed for the long-term  
23 ecological integrity of the Watershed and the long-  
24 term economic health of surrounding communities  
25 by allowing sustainable economic development and

1 traditional natural resource development in a matter  
2 consistent with the purposes described in paragraphs  
3 (1) through (9).

4 **SEC. 5. DESIGNATION OF HERMOSA CREEK SPECIAL MAN-**  
5 **AGEMENT AREA.**

6 (a) DESIGNATION.—Subject to valid existing rights,  
7 certain Federal land in the San Juan National Forest  
8 comprising approximately 68,289 acres, as generally de-  
9 picted on the Map, is designated as the “Hermosa Creek  
10 Special Management Area”.

11 (b) PURPOSE.—The purpose of the Special Manage-  
12 ment Area is to conserve and protect for the benefit of  
13 present and future generations the watershed, geological,  
14 cultural, natural, scientific, recreational, wildlife, riparian,  
15 historical, educational, and scenic resources and values of  
16 the Special Management Area.

17 (c) ADMINISTRATION.—

18 (1) IN GENERAL.—The Secretary shall admin-  
19 ister the Special Management Area—

20 (A) in a manner that—

21 (i) conserves, protects, and enhances  
22 the resources and values of the Special  
23 Management Area described in subsection  
24 (b); and

1 (ii) protects a viable population of  
2 Colorado River Cutthroat Trout; and

3 (B) in accordance with—

4 (i) the National Forest Management  
5 Act of 1976 (16 U.S.C. 1600 et seq.);

6 (ii) this Act; and

7 (iii) any other applicable laws.

8 (2) USES.—

9 (A) IN GENERAL.—The Secretary shall  
10 allow only such uses of the Special Management  
11 Area that the Secretary determines would fur-  
12 ther the purposes described in subsection (b).

13 (B) MOTORIZED VEHICLES.—

14 (i) IN GENERAL.—Except as provided  
15 in clause (ii) and as needed for administra-  
16 tive purposes or to respond to an emer-  
17 gency, the use of motorized vehicles in the  
18 Special Management Area shall be per-  
19 mitted only on roads and trails designated  
20 for use by such vehicles by the Secretary.

21 (ii) OVER-SNOW VEHICLES.—The Sec-  
22 retary may authorize the use of snowmo-  
23 biles and other over-snow vehicles within  
24 the Special Management Area—



1 (I) during periods of adequate  
2 snow cover during the winter season;  
3 and

4 (II) subject to such terms and  
5 conditions as the Secretary may re-  
6 quire.

7 (C) GRAZING.—The Secretary shall permit  
8 grazing within the Special Management Area,  
9 where established before the date of enactment  
10 of this Act—

11 (i) subject to all applicable laws (in-  
12 cluding regulations) and Executive orders;  
13 and

14 (ii) consistent with the purpose de-  
15 scribed in subsection (b).

16 (D) PROHIBITED ACTIVITIES.—Within the  
17 area of the Special Management Area identified  
18 on the Map as “East Hermosa Area” the fol-  
19 lowing activities shall be prohibited:

20 (i) New road construction or the ren-  
21 ovation of existing nonsystem roads, except  
22 as necessary to protect public health and  
23 safety.

24 (ii) Projects undertaken for the pur-  
25 pose of harvesting commercial timber

1 (other than activities relating to the har-  
2 vest of merchantable products that are by-  
3 products of activities conducted for ecologi-  
4 cal restoration or to further the purposes  
5 described in this Act).

6 (d) MAP AND LEGAL DESCRIPTION.—

7 (1) IN GENERAL.—As soon as practicable after  
8 the date of enactment of this Act, the Secretary  
9 shall prepare a map and a legal description of the  
10 Special Management Area.

11 (2) FORCE OF LAW.—The map and legal de-  
12 scription prepared under paragraph (1) shall have  
13 the same force and effect as if included in this Act,  
14 except that the Secretary may correct clerical and  
15 typographical errors in the map and legal descrip-  
16 tion.

17 (3) PUBLIC AVAILABILITY.—The map and legal  
18 description prepared under paragraph (1) shall be  
19 on file and available for public inspection in the ap-  
20 propriate offices of the Forest Service.

21 (e) INCORPORATION OF ACQUIRED LAND AND INTER-  
22 ESTS IN LAND.—Any land or interest in land that is ac-  
23 quired by the United States within the boundary of the  
24 Special Management Area shall—

1           (1) become part of the Special Management  
2 Area;

3           (2) be withdrawn in accordance with subsection  
4 (h); and

5           (3) be managed in accordance with—

6                 (A) this Act; and

7                 (B) any other applicable laws.

8           (f) FISH AND WILDLIFE.—Nothing in this Act af-  
9 fects the jurisdiction or responsibility of the State with  
10 respect to fish and wildlife in the State.

11          (g) STATE AND FEDERAL WATER MANAGEMENT.—  
12 Nothing in this section affects the potential development  
13 of a water storage reservoir at the site in the Special Man-  
14 agement Area that is identified in—

15           (1) pages 17 through 20 of the Statewide  
16 Water Supply Initiative studies prepared by the Col-  
17 orado Water Conservation Board and issued by the  
18 State in November 2004; and

19           (2) page 27 of the Colorado Dam Site Inven-  
20 tory prepared by the Colorado Water Conservation  
21 Board and dated August 1996.

22          (h) WITHDRAWAL.—Subject to valid rights in exist-  
23 ence on the date of enactment of this Act, the Federal  
24 land within the Special Management Area is withdrawn  
25 from—

1           (1) all forms of entry, appropriation, and dis-  
2           posal under the public land laws;

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

5           (3) operation of the mineral leasing, mineral  
6           materials, and geothermal leasing laws.

7           (i) ADJACENT MANAGEMENT.—

8           (1) IN GENERAL.—Congress does not intend for  
9           the designation of the Special Management Area by  
10          subsection (a) or the wilderness designated by sec-  
11          tion 2(a)(22) of the Colorado Wilderness Act of  
12          1993 (16 U.S.C. 1132 note; Public Law 103–77;  
13          107 Stat. 756, 114 Stat. 1955, 116 Stat. 1055) (as  
14          added by section 6(a)) to create a protective perim-  
15          eter or buffer zone around the Special Management  
16          Area or wilderness.

17          (2) NONWILDERNESS ACTIVITIES.—The fact  
18          that nonwilderness activities or uses can be seen or  
19          heard from areas within the wilderness designated  
20          by section 2(a)(22) of the Colorado Wilderness Act  
21          of 1993 (16 U.S.C. 1132 note; Public Law 103–77;  
22          107 Stat. 756, 114 Stat. 1955, 116 Stat. 1055) (as  
23          added by section 6(a)) shall not preclude the con-  
24          duct of the activities or uses outside the boundary  
25          of the wilderness.

1 (j) WINTER SKIING AND RELATED WINTER ACTIVI-  
2 TIES.—Nothing in this Act alters or limits—

3 (1) a permit held by a ski area;

4 (2) the implementation of the activities gov-  
5 erned by a ski area permit; or

6 (3) the authority of the Secretary to modify or  
7 expand an existing ski area permit.

8 (k) VEGETATION MANAGEMENT.—Nothing in this  
9 section prevents the Secretary from conducting vegetation  
10 management projects within the Special Management  
11 Area—

12 (1) subject to—

13 (A) such reasonable regulations, policies,  
14 and practices as the Secretary determines ap-  
15 propriate; and

16 (B) all applicable laws (including regula-  
17 tions); and

18 (2) in a manner consistent with—

19 (A) the purposes described in subsection  
20 (b); and

21 (B) this section.

22 (l) WILDFIRE, INSECT, AND DISEASE MANAGE-  
23 MENT.—Consistent with this section, the Secretary may  
24 take any measures that the Secretary determines to be  
25 necessary to control fire, insects, and diseases in the Spe-

1 cial Management Area, including, as the Secretary deter-  
2 mines to be appropriate, the coordination of the measures  
3 with the State or a local agency.

4 (m) MANAGEMENT PLAN.—Not later than 3 years  
5 after the date of enactment of this Act, the Secretary shall  
6 develop a management plan for the long-term protection  
7 and management of the Special Management Area that  
8 takes into account public input.

9 **SEC. 6. ADDITIONS TO THE NATIONAL WILDERNESS PRES-**  
10 **ERVATION SYSTEM.**

11 (a) DESIGNATION OF WILDERNESS.—Section 2(a) of  
12 the Colorado Wilderness Act of 1993 (16 U.S.C. 1132  
13 note; Public Law 103–77; 107 Stat. 756, 114 Stat. 1955,  
14 116 Stat. 1055) is amended by adding at the end the fol-  
15 lowing:

16 “(22) Certain land within the San Juan Na-  
17 tional Forest which comprise approximately 37,236  
18 acres, as generally depicted on the map entitled  
19 ‘Hermosa Creek Proposed Watershed Protection  
20 Area, 2012’ and dated March 28, 2012, and which  
21 shall be known as the ‘Hermosa Creek Wilder-  
22 ness’.”.

23 (b) EFFECTIVE DATE.—Any reference in the Wilder-  
24 ness Act (16 U.S.C. 1131 et seq.) to the effective date  
25 of that Act shall be considered to be a reference to the

1 date of enactment of this Act for purposes of admin-  
 2 istering the wilderness area designated by section 2(a)(22)  
 3 of the Colorado Wilderness Act of 1993 (16 U.S.C. 1132  
 4 note; Public Law 103–77; 107 Stat. 756, 114 Stat. 1955,  
 5 116 Stat. 1055) (as added by subsection (a)).

6 (c) FIRE, INSECTS, AND DISEASES.—As provided in  
 7 section 4(d)(1) of the Wilderness Act (16 U.S.C.  
 8 1133(d)(1)), within the wilderness areas designated by  
 9 section 2(a)(22) of the Colorado Wilderness Act of 1993  
 10 (16 U.S.C. 1132 note; Public Law 103–77; 107 Stat. 756,  
 11 114 Stat. 1955, 116 Stat. 1055) (as added by subsection  
 12 (a)), the Secretary may take any measure that the Sec-  
 13 retary determines to be necessary to control fire, insects,  
 14 and diseases, subject to such terms and conditions as the  
 15 Secretary determines to be appropriate.

16 **SEC. 7. PERINS PEAK AND ANIMAS CITY MOUNTAIN MIN-**  
 17 **ERAL WITHDRAWAL.**

18 (a) WITHDRAWAL.—Subject to valid existing rights,  
 19 the land and mineral interests described in subsection (b)  
 20 are withdrawn from all forms of—

- 21 (1) entry, appropriation, or disposal under pub-  
 22 lic land laws;
- 23 (2) location, entry, and patent under the mining  
 24 laws; and

1           (3) disposition under all laws relating to min-  
2           eral leasing, geothermal leasing, or mineral mate-  
3           rials.

4           (b) DESCRIPTION OF LAND AND MINERAL INTER-  
5           ESTS.—The land and mineral interests referred to in sub-  
6           section (a) are—

7           (1) the approximately 8,549 acres of Federal  
8           land depicted on the map entitled “Perins Peak and  
9           Animas City Mountain mineral withdrawal” and  
10          dated May 3, 2012; and

11          (2) all Federal mineral interests contained with-  
12          in the boundaries of the map described in paragraph  
13          (1).

○