

116TH CONGRESS  
2D SESSION

# S. 4288

To establish the Badger-Two Medicine Cultural Heritage Area in the State of Montana, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To establish the Badger-Two Medicine Cultural Heritage Area in the State of Montana, 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 “Badger-Two Medicine  
5 Protection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **CULTURAL HERITAGE AREA.**—The term  
9 “Cultural Heritage Area” means the Badger-Two

1 Medicine Cultural Heritage Area established by sec-  
 2 tion 5(a).

3 (2) EXISTING USE.—The term “existing use”  
 4 means a use that is occurring within the Cultural  
 5 Heritage Area as of the date of enactment of this  
 6 Act.

7 (3) MANAGEMENT PLAN.—The term “manage-  
 8 ment plan” means the management plan for the  
 9 Cultural Heritage Area required by section 5(d)(1).

10 (4) MAP.—The term “map” means the map en-  
 11 titled “Badger-Two Medicine Cultural Heritage Area  
 12 Map” and dated July 21, 2020.

13 (5) NATIVE KNOWLEDGE.—The term “Native  
 14 knowledge” has the meaning given the term in sec-  
 15 tion 219.19 of title 36, Code of Federal Regulations  
 16 (as in effect on the date of enactment of this Act).

17 (6) NEW USE.—

18 (A) IN GENERAL.—The term “new use”  
 19 means—

20 (i) a use that—

21 (I) involves a surface disturb-  
 22 ance; and

23 (II) is not occurring within the  
 24 Cultural Heritage Area as of the date  
 25 of enactment of this Act; or

1 (ii) an existing use that is being modi-  
2 fied—

3 (I) to create a surface disturb-  
4 ance; or

5 (II) to significantly expand or  
6 alter impacts on the land, water, air,  
7 fish, wildlife, or cultural resources of  
8 the Cultural Heritage Area.

9 (B) EXCLUSION.—The term “new use”  
10 does not include a use that is—

11 (i) determined by the Secretary not  
12 to, individually or cumulatively, have a sig-  
13 nificant effect on the human environment;

14 (ii) necessary to maintain a road,  
15 trail, structure, or facility within the Cul-  
16 tural Heritage Area in existence as of the  
17 date of enactment of this Act; or

18 (iii) carried out to comply with the  
19 Endangered Species Act of 1973 (16  
20 U.S.C. 1531 et seq.).

21 (7) SECRETARY.—The term “Secretary” means  
22 the Secretary of Agriculture.

23 (8) STATE.—The term “State” means the State  
24 of Montana.

1           (9) TRIBAL BUSINESS COUNCIL.—The term  
2           “Tribal Business Council” means the Blackfeet  
3           Tribal Business Council.

4           (10) TRIBE.—The term “Tribe” means the  
5           Blackfeet Nation.

6 **SEC. 3. FINDINGS.**

7           Congress finds that—

8           (1) the Badger-Two Medicine is sacred land, a  
9           living cultural landscape, a hunting ground, a ref-  
10          uge, a wildlife sanctuary, a place of refuge for wild  
11          nature, and an important part of both Tribal and  
12          non-Tribal community values;

13          (2) the Badger-Two Medicine is a stronghold  
14          for wild nature, isolated from and unmarred by de-  
15          velopment, where natural processes continue to func-  
16          tion and relatively uncommon plant and animal com-  
17          munities continue to exist;

18          (3) the people of the Tribe have been present  
19          in the Badger-Two Medicine area for time immemo-  
20          rial, using the plant, mineral, and animal resources  
21          and landforms of that area for sustenance and cul-  
22          tural, medicinal, and ceremonial activities, purposes  
23          for which the people of the Tribe continue to use  
24          that area today;

1           (4) a community of Tribal and non-Tribal peo-  
2           ple have used the Badger-Two Medicine for multiple  
3           generations for hunting, fishing, camping, horse-  
4           packing, and wilderness solitude, purposes for which  
5           the community continues to use the area today;

6           (5) the Badger-Two Medicine contains—

7                 (A) several important headwater streams  
8                 of the Missouri River basin, which provide crit-  
9                 ical clean water for ecological, agricultural, and  
10                domestic purposes; and

11               (B) abundant fish and wildlife, spectacular  
12                natural scenery, and outstanding recreational  
13                opportunities;

14           (6) the Badger-Two Medicine provides impor-  
15           tant ecological connectivity to Glacier National Park,  
16           the Bob Marshall Wilderness Complex, the Blackfeet  
17           Indian Reservation, and other public lands;

18           (7) through treaties and agreements with the  
19           Federal Government, the Tribe retains rights to con-  
20           duct various activities within the Badger-Two Medi-  
21           cine region; and

22           (8) the establishment of the Badger-Two Medi-  
23           cine Cultural Heritage Area is vital to the continu-  
24           ation and revitalization of the Blackfeet culture,  
25           while continuing to serve the heritage of the broader

1 public as a place of recreation, traditional use, and  
2 sanctuary.

3 **SEC. 4. PURPOSES.**

4 The purposes of this Act are—

5 (1) to protect the cultural, ecological, scenic,  
6 and recreational resources of the Badger-Two Medi-  
7 cine area for the benefit, use, and enjoyment of  
8 present and future generations;

9 (2) to permanently protect the cultural values,  
10 attributes, and integrity of the Badger-Two Medicine  
11 Traditional Cultural District;

12 (3) to protect the ability of the Tribe—

13 (A) to exercise their treaty rights; and

14 (B) to enhance the opportunity for the  
15 Blackfeet people to continue to use the Badger-  
16 Two Medicine area, as they have since time im-  
17 memorial;

18 (4) to protect the ability of Tribal and non-  
19 Tribal people to use the Badger-Two Medicine area  
20 for traditional activities, including hunting, fishing,  
21 hiking, horsepacking, and camping, as they have for  
22 generations;

23 (5)(A) to protect and enhance the ecological in-  
24 tegrity of the Badger-Two Medicine, including fish  
25 and wildlife habitat; and

1 (B) to ensure that the Badger-Two Medicine  
 2 area continues to serve as an ecological corridor con-  
 3 necting adjacent lands;

4 (6) to maintain the water quality and free-flow-  
 5 ing character of the rivers and streams within the  
 6 Badger-Two Medicine area; and

7 (7) to establish a management framework for  
 8 the Badger-Two Medicine area that recognizes—

9 (A) the treaty rights of the Tribe; and

10 (B) the historical and contemporary con-  
 11 nection of the Tribe with the natural and cul-  
 12 tural world of the area.

13 **SEC. 5. BADGER-TWO MEDICINE CULTURAL HERITAGE**  
 14 **AREA.**

15 (a) ESTABLISHMENT.—Subject to valid existing  
 16 rights, there is established the Badger-Two Medicine Cul-  
 17 tural Heritage Area in the State.

18 (b) AREA INCLUDED.—The Cultural Heritage Area  
 19 shall consist of 127,447 acres of Federal land managed  
 20 by the Forest Service, as generally depicted on the map.

21 (c) PURPOSES.—The purposes of the Cultural Herit-  
 22 age Area are—

23 (1) to preserve for the benefit and enjoyment of  
 24 present and future generations the cultural, ecologi-

1 cal, scenic, and recreational values of the Cultural  
2 Heritage Area; and

3 (2) to enable the people of the Tribe to continue  
4 to carry out traditional cultural practices in the Cul-  
5 tural Heritage Area.

6 (d) MANAGEMENT PLAN.—

7 (1) IN GENERAL.—Not later than 3 years after  
8 the date of enactment of this Act and in accordance  
9 with paragraph (2), the Secretary shall develop, as  
10 an amendment to the land and resource manage-  
11 ment plan for the Helena-Lewis and Clark National  
12 Forest, a comprehensive plan for the long-term pro-  
13 tection and management of the Cultural Heritage  
14 Area.

15 (2) REQUIREMENTS.—In developing the man-  
16 agement plan, the Secretary shall—

17 (A) consult with—

18 (i) appropriate State, Tribal, and local  
19 governmental entities;

20 (ii) the Tribe;

21 (iii) the Badger-Two Medicine Advi-  
22 sory Council established by section 7(a);

23 and

24 (iv) members of the public;



1 (B) at the request of the Tribe, include the  
2 Tribe as a cooperating agency in the develop-  
3 ment of the management plan;

4 (C) incorporate Native knowledge into the  
5 management plan to the maximum extent prac-  
6 ticable;

7 (D) include public education and interpre-  
8 tation regarding—

9 (i) the cultural significance of the  
10 Badger-Two Medicine region to the Tribe;  
11 and

12 (ii) traditional uses and place names  
13 within the region; and

14 (E) provide for recreational opportunities  
15 to occur within the Cultural Heritage Area, in-  
16 cluding hiking, fishing, hunting, horseback  
17 riding, and camping.

18 (3) INCORPORATION OF EXISTING PLAN.—In  
19 developing the management plan, to the extent con-  
20 sistent with this section, the Secretary may incor-  
21 porate any provision of the land and resource man-  
22 agement plan for the Helena-Lewis and Clark Na-  
23 tional Forest.

24 (e) MANAGEMENT.—

1           (1) IN GENERAL.—The Secretary shall manage  
2 the Cultural Heritage Area—

3           (A) in a manner that conserves, protects,  
4 and enhances the resources of the Cultural Her-  
5 itage Area; and

6           (B) in accordance with—

7           (i) the laws (including regulations)  
8 and rules applicable to the National Forest  
9 System;

10           (ii) this Act; and

11           (iii) any other applicable laws (includ-  
12 ing regulations).

13           (2) USES.—The Secretary shall only allow such  
14 uses of the Cultural Heritage Area that the Sec-  
15 retary determines, in consultation with the Tribe,  
16 would further the purposes described in subsection  
17 (c).

18           (f) PROHIBITIONS.—Subject to valid existing rights,  
19 the following activities shall be prohibited on National  
20 Forest System land within the Cultural Heritage Area:

21           (1) Construction of new or temporary roads, ex-  
22 cept temporary roads necessary to protect public  
23 health and safety.

24           (2) The use of motorized or mechanized vehi-  
25 cles, except—

1 (A) for administrative purposes authorized  
2 in relation to an existing permit, agreement, or  
3 lease; or

4 (B) to respond to an emergency.

5 (3) Commercial timber harvest.

6 (4) Construction of permanent structures, ex-  
7 cept as necessary to meet minimum requirements for  
8 the administration of the Cultural Heritage Area  
9 (including pursuant to special use permits and  
10 leases).

11 (g) VEGETATION MANAGEMENT.—Nothing in this  
12 section prevents the Secretary from conducting non-  
13 commercial vegetation management projects within the  
14 Cultural Heritage Area—

15 (1) subject to—

16 (A) such reasonable regulations, policies,  
17 and practices as the Secretary determines to be  
18 appropriate; and

19 (B) all applicable laws (including regula-  
20 tions); and

21 (2) in a manner consistent with the purposes  
22 described in subsection (c).

23 (h) GRAZING.—The Secretary shall permit grazing  
24 within the Cultural Heritage Area, if established on the  
25 date of enactment of this Act—

1 (1) subject to—

2 (A) such reasonable regulations, policies,  
3 and practices as the Secretary determines ap-  
4 propriate; and

5 (B) all applicable laws; and

6 (2) in a manner consistent with the purposes  
7 described in subsection (c).

8 (i) WILDFIRE.—Wildfire suppression within the Cul-  
9 tural Heritage Area shall be conducted—

10 (1) in a manner consistent with the purposes  
11 described in subsection (c); and

12 (2) using such means as the Secretary deter-  
13 mines to be appropriate.

14 (j) NATIVE AMERICAN CULTURAL AND RELIGIOUS  
15 USES.—

16 (1) IN GENERAL.—Nothing in this section di-  
17 minishes any rights of the Tribe regarding access to  
18 the Cultural Heritage Area for Tribal activities, in-  
19 cluding spiritual, cultural, and traditional food-gath-  
20 ering activities.

21 (2) NATIVE AMERICAN USES AND INTERESTS.—

22 (A) ACCESS AND USE.—In accordance with  
23 applicable law, the Secretary shall ensure access  
24 to the Cultural Heritage Area by members of  
25 the Tribe for traditional cultural purposes.

1 (B) TEMPORARY CLOSURE.—

2 (i) IN GENERAL.—In carrying out  
3 subparagraph (A), the Secretary, on re-  
4 quest of the Tribe, may temporarily close  
5 to the general public use of one or more  
6 specific portions of the Cultural Heritage  
7 Area for the purpose of protecting the pri-  
8 vacy of traditional cultural activities in the  
9 Cultural Heritage Area by members of the  
10 Tribe.

11 (ii) LIMITED EFFECT.—A closure  
12 under clause (i) shall be made—

13 (I) to affect the smallest prac-  
14 ticable area; and

15 (II) for the minimum period of  
16 time necessary for the purpose de-  
17 scribed in that clause.

18 (C) PURPOSE OF ACCESS.—Access de-  
19 scribed in subparagraph (A) shall be consistent  
20 with the purpose and intent of Public Law 95-  
21 341 (42 U.S.C. 1996) (commonly known as the  
22 “American Indian Religious Freedom Act”) and  
23 other applicable laws.

24 (k) ADJACENT MANAGEMENT.—

1           (1) IN GENERAL.—The designation of the Cul-  
2 tural Heritage Area shall not create a protective pe-  
3 rimeter or buffer zone around the Cultural Heritage  
4 Area.

5           (2) EFFECT.—The fact that activities or uses  
6 can be seen or heard from areas within the Cultural  
7 Heritage Area shall not preclude the conduct of the  
8 activities or uses outside the boundary of the Cul-  
9 tural Heritage Area.

10          (l) LAW ENFORCEMENT.—The Secretary, in coordi-  
11 nation with the Tribe, shall ensure adequate law enforce-  
12 ment presence to maintain the integrity of the Cultural  
13 Heritage Area.

14          (m) COOPERATIVE AGREEMENTS.—The Secretary  
15 may enter into cooperative agreements with the Tribe to  
16 further the protection, management, or public interpreta-  
17 tion of the Cultural Heritage Area.

18          (n) WATER RESOURCE FACILITIES.—

19           (1) DEFINITIONS.—In this subsection:

20           (A) RESERVATION.—The term “Reserva-  
21 tion” means the Blackfeet Indian Reservation  
22 located in the State.

23           (B) WATER RESOURCE FACILITY.—The  
24 term “water resource facility” means a dam, ir-  
25 rigation or pumping facility, reservoir, water

1 conservation works, aqueduct, canal, ditch,  
2 pipeline, well, hydropower project, transmission  
3 or other ancillary facility of a hydropower  
4 project, and other water diversion, storage, or  
5 carriage structure.

6 (2) PROHIBITION ON NEW WATER RESOURCE  
7 FACILITIES.—After the date of enactment of this  
8 Act, the President or any other officer, employee, or  
9 agent of the United States shall not fund, assist, au-  
10 thorize, or issue a license or permit for the develop-  
11 ment of any new water resource facility within the  
12 Cultural Heritage Area.

13 (3) EFFECT.—Nothing in this subsection pre-  
14 vents—

15 (A) the development, maintenance, or oper-  
16 ation of any water resource facility located on—

17 (i) the Reservation;

18 (ii) Federal land outside the Cultural  
19 Heritage Area; or

20 (iii) non-Federal land; or

21 (B) the maintenance or repair of any water  
22 resource facility within the Cultural Heritage  
23 Area in existence on the date of enactment of  
24 this Act.

25 (o) 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 submit a map and a legal description of the  
4 Cultural Heritage Area to—

5                   (A) the Committee on Energy and Natural  
6 Resources of the Senate; and

7                   (B) the Committee on Natural Resources  
8 of the House of Representatives.

9           (2) FORCE OF LAW.—The map and legal de-  
10 scription submitted under paragraph (1) shall have  
11 the same force and effect as if included in this sec-  
12 tion, except that the Secretary may correct typo-  
13 graphical errors in the map and legal description.

14           (3) PUBLIC AVAILABILITY.—The map and legal  
15 description submitted under paragraph (1) shall be  
16 on file and available for public inspection in the ap-  
17 appropriate offices of the Forest Service.

18 **SEC. 6. TRIBAL COORDINATION.**

19           (a) CONSULTATION.—

20                   (1) IN GENERAL.—The Secretary shall consult  
21 with the Tribe not less than twice each year, unless  
22 otherwise mutually agreed, regarding—

23                           (A) the protection, preservation, and man-  
24 agement of the Cultural Heritage Area;

25                           (B) proposed new uses;



1 (C) whether management is compatible  
2 with the values and attributes of the Badger-  
3 Two Medicine Traditional Cultural District; and

4 (D) management actions within the Cul-  
5 tural Heritage Area necessary—

6 (i) to fulfill the purposes of this Act;

7 (ii) to ensure management decisions  
8 reflect Native knowledge; and

9 (iii) to protect the off-reservation  
10 rights of the Tribe.

11 (2) PROCESS FOR CONSULTATION.—

12 (A) EXISTING REGULATIONS.—The Sec-  
13 retary shall carry out consultation under this  
14 section in accordance with this Act and chapter  
15 1560 of the Forest Service Manual (or suc-  
16 cessor regulations).

17 (B) SCHEDULE.—As soon as practicable  
18 after the date of enactment of this Act, the Sec-  
19 retary shall establish, in consultation with the  
20 Tribal Business Council, a schedule for con-  
21 sultation.

22 (C) INITIATION.—To initiate consultation,  
23 the Secretary shall request, in writing, to con-  
24 sult with the Tribal Business Council.

1 (D) IN-PERSON CONSULTATION.—The Sec-  
2 retary shall carry out consultations, in person,  
3 with the Tribal Business Council.

4 (E) SUMMARY.—Within 30 days after the  
5 completion of each consultation, the Secretary  
6 shall send a written summary of the consulta-  
7 tion to the Tribal Business Council.

8 (F) REOPENING CONSULTATION.—If the  
9 Tribal Business Council disagrees with the  
10 summary of consultation, the Tribal Business  
11 Council may, within 30 days, request to reopen  
12 the consultation.

13 (3) TRIBAL MANAGEMENT PROPOSALS.—The  
14 Secretary shall—

15 (A) consider proposals for management ac-  
16 tions within the Cultural Heritage Area sub-  
17 mitted by the Tribe; and

18 (B) respond to the Tribe, in writing, with-  
19 in 90 days if a management action proposed by  
20 the Tribe is rejected.

21 (b) NEW USES.—

22 (1) IN GENERAL.—

23 (A) REQUEST FOR CONSENT AFTER CON-  
24 SULTATION.—

1 (i) DENIAL OF CONSENT.—If the  
2 Tribe denies consent for a new use within  
3 the Cultural Heritage Area within 30 days  
4 after completion of the consultation proc-  
5 ess under subsection (a), the Secretary  
6 shall not proceed with the new use.

7 (ii) GRANTING OF CONSENT.—If the  
8 Tribe consents to a new use within the  
9 Cultural Heritage Area in writing or fails  
10 to respond within 30 days after completion  
11 of the consultation process under sub-  
12 section (a), the Secretary may proceed  
13 with the notice and comment process and  
14 the environmental analysis with respect to  
15 the new use.

16 (B) FINAL REQUEST FOR CONSENT.—

17 (i) REQUEST.—Before the Secretary  
18 signs a record of decision or decision notice  
19 for a proposed new use within the Cultural  
20 Heritage Area, the Secretary shall again  
21 request the consent of the Tribe.

22 (ii) DENIAL OF CONSENT.—If the  
23 Tribe denies consent for a new use within  
24 30 days after receipt of the proposed  
25 record of decision or decision notice under

1 clause (i), the new use shall not be author-  
2 ized.

3 (2) PUBLIC INVOLVEMENT.—With respect to a  
4 proposed new use within the Cultural Heritage Area,  
5 the public shall be provided notice of—

6 (A) the purpose and need for the proposed  
7 new use;

8 (B) the role of the Tribe in the decision-  
9 making process; and

10 (C) the position of the Tribe on the pro-  
11 posal.

12 (c) EMERGENCIES AND EMERGENCY CLOSURE OR-  
13 DERS.—

14 (1) AUTHORITY.—The Secretary shall retain  
15 the authority of the Secretary to manage emergency  
16 situations within the Cultural Heritage Area—

17 (A) to provide for public safety; and

18 (B) by issuing emergency closure orders in  
19 the Cultural Heritage Area subject to applicable  
20 law.

21 (2) NOTICE.—The Secretary shall notify the  
22 Tribe regarding emergencies, public safety issues,  
23 and emergency closure orders that apply to the Cul-  
24 tural Heritage Area as soon as practicable.

1 **SEC. 7. BADGER-TWO MEDICINE ADVISORY COUNCIL.**

2 (a) ESTABLISHMENT.—Not later than 180 days after  
3 the date of enactment of this Act, the Secretary shall es-  
4 tablish an advisory council, to be known as the “Badger-  
5 Two Medicine Advisory Council” (referred to in this sec-  
6 tion as the “Council”).

7 (b) DUTIES.—The Council shall advise the Secretary  
8 with respect to the preparation and implementation of the  
9 management plan.

10 (c) APPLICABLE LAW.—The Council shall be subject  
11 to the Federal Advisory Committee Act (5 U.S.C. App.).

12 (d) MEMBERS.—The Council shall include 9 mem-  
13 bers, to be appointed by the Secretary, with backgrounds  
14 that reflect—

15 (1) the purposes for which the Cultural Herit-  
16 age Area was established; and

17 (2) the interests of the stakeholders that are af-  
18 fected by the planning and management of the Cul-  
19 tural Heritage Area.

20 (e) REPRESENTATION.—

21 (1) IN GENERAL.—The Secretary shall ensure  
22 that the membership of the Council is fairly bal-  
23 anced in terms of the points of view represented and  
24 the functions to be performed by the Council.

25 (2) TRIBAL REPRESENTATION.—The Council  
26 shall include a representative of the Tribe, who shall

1 be recommended to the Secretary by the Tribal  
2 Business Council.

3 (f) DURATION.—The Council shall terminate on the  
4 date that is 1 year after the date on which the manage-  
5 ment plan is adopted by the Secretary.

6 **SEC. 8. SELF-DETERMINATION CONTRACTS.**

7 (a) IN GENERAL.—The Secretary may contract with  
8 the Tribe to perform administrative or management func-  
9 tions within the Cultural Heritage Area through contracts  
10 entered into under the Indian Self-Determination and  
11 Education Assistance Act (25 U.S.C. 5301 et seq.).

12 (b) REQUIREMENTS.—With respect to any contract  
13 carried out under subsection (a)—

14 (1) the Secretary shall carry out all functions  
15 delegated to the Secretary of the Interior under the  
16 Indian Self-Determination and Education Assistance  
17 Act (25 U.S.C. 5301 et seq.); and

18 (2) the contract or project shall be entered into  
19 under, and in accordance with, section 403(b)(2) of  
20 the Indian Self-Determination and Education Assist-  
21 ance Act (25 U.S.C. 5363(b)(2)).

22 (c) EFFECT ON ENVIRONMENTAL AND OTHER RE-  
23 QUIREMENTS.—

24 (1) IN GENERAL.—Nothing in this section al-  
25 ters or abridges the application of—

1 (A) the National Environmental Policy Act  
2 of 1969 (42 U.S.C. 4321 et seq.); or

3 (B) any other Federal environmental law  
4 (including regulations).

5 (2) ENVIRONMENTAL ANALYSES.—Nothing in  
6 this section allows the Secretary or the Tribe to  
7 waive completion of any necessary environmental  
8 analysis under applicable Federal law.

9 (3) RETENTION OF NEPA RESPONSIBILITIES.—  
10 The Secretary shall make any decision required to  
11 be made under the National Environmental Policy  
12 Act of 1969 (42 U.S.C. 4321 et seq.) or other appli-  
13 cable Federal law (including regulations) with re-  
14 spect to any activity to be carried out on Federal  
15 land under this section.

16 (4) APPLICABILITY OF THE ADMINISTRATIVE  
17 PROCEDURE ACT.—Nothing in this section alters or  
18 abridges the application of subchapter II of chapter  
19 5 or chapter 7 of title 5, United States Code, with  
20 respect to this section.

21 **SEC. 9. LEGAL EFFECT.**

22 (a) FISH AND WILDLIFE.—Nothing in this Act af-  
23 fects the jurisdiction or responsibilities of the State with  
24 respect to fish and wildlife.

1 (b) PUBLIC ACCESS.—Except as otherwise provided  
2 in this Act, nothing in this Act affects public access to  
3 the Cultural Heritage Area.

4 (c) WATER RIGHTS.—

5 (1) IN GENERAL.—Nothing in this Act—

6 (A) constitutes an express or implied res-  
7 ervation by the United States of water or water  
8 rights for any purpose; or

9 (B) modifies or otherwise affects any water  
10 rights existing on the date of enactment of this  
11 Act, including any water rights held by the  
12 United States.

13 (2) STATE WATER LAW.—The Secretary shall  
14 follow the procedural and substantive requirements  
15 of the applicable State and Federal law to obtain  
16 and hold any water rights not in existence on the  
17 date of enactment of this Act with respect to the  
18 Cultural Heritage Area.

19 (d) TREATY RIGHTS; TRIBAL LAND.—

20 (1) TREATY RIGHTS.—Nothing in this Act al-  
21 ters, modifies, enlarges, diminishes, or abrogates the  
22 treaty rights of any Indian Tribe, including the off-  
23 reservation reserved rights secured by the Treaty  
24 with the Blackfoot Indians on October 17, 1855,



1 and the Agreement with the Indians of the Blackfeet  
2 Indian Reservation on September 26, 1895.

3 (2) TRIBAL LAND.—Nothing in this Act affects  
4 any land or interest in land held in trust by the Sec-  
5 retary of the Interior for the Tribe or individual  
6 members of the Tribe.

7 (e) NO EFFECT ON JURISDICTION.—Nothing in this  
8 Act limits or otherwise affects the civil or criminal regu-  
9 latory jurisdiction, including law enforcement, for issues  
10 under the jurisdiction of the Tribe.

11 (f) EXISTING STRUCTURES.—The maintenance of  
12 structures within the Cultural Heritage Area in existence  
13 as of the date of enactment of this Act may be permitted  
14 to continue—

15 (1) in accordance with—

16 (A) this Act; and

17 (B) applicable law;

18 (2) in a manner consistent with the purposes  
19 described in section 5(e); and

20 (3) subject to such reasonable regulations, poli-  
21 cies, and practices as the Secretary considers nec-  
22 essary.

23 **SEC. 10. NONDISCLOSURE OF CULTURAL SITES.**

24 (a) IN GENERAL.—The Secretary shall not disclose  
25 to the public information regarding the nature and loca-

1 tion of cultural sites where the Secretary determines, in  
2 consultation with the Tribe, that the disclosure may—

3 (1) risk harm to cultural resources of the site;

4 (2) cause a significant invasion of privacy; or

5 (3) impede the use of the site for traditional

6 cultural activities by the Tribe or members of the

7 Tribe.

8 (b) EFFECT.—Information withheld from the public  
9 under subsection (a) shall not be considered to be a Fed-  
10 eral record for purposes of section 552 of title 5, United  
11 States Code (commonly known as the “Freedom of Infor-  
12 mation Act”).

○