

118TH CONGRESS
1ST SESSION

H. R. 1534

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 HOUSE OF REPRESENTATIVES

MARCH 10, 2023

Mrs. BOEBERT (for herself, Mr. LAMBORN, and Mr. BUCK) introduced the following bill; which was referred to the Committee on Natural Resources

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 designated segments from Dolores River congressional study area.

Sec. 303. Applicability of continuing consideration provision.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Management of covered land.

Sec. 402. Protection of water rights and other interests.

Sec. 403. Effect on private property and regulatory authority.

Sec. 404. Tribal rights and traditional uses.

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.

1 (4) DOLORES PROJECT.—The term “Dolores
2 Project” has the meaning given the term in section
3 3 of the Colorado Ute Indian Water Rights Settle-
4 ment Act of 1988 (Public Law 100–585; 102 Stat.
5 2974).

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

11 (6) SECRETARY.—The term “Secretary”
12 means—

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

14 (B) in title II, the Secretary of Agri-
15 culture; and

16 (C) in title IV—

17 (i) the Secretary of the Interior, with
18 respect to land under the jurisdiction of
19 the Secretary of the Interior; and

20 (ii) the Secretary of Agriculture, with
21 respect to land under the jurisdiction of
22 the Secretary of Agriculture.

23 (7) SPECIAL MANAGEMENT AREA.—The term
24 “Special Management Area” means the Dolores

1 River Special Management Area established by sec-
2 tion 201(a).

3 (8) STATE.—The term “State” means the State
4 of Colorado.

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

13 (10) WATER RESOURCE PROJECT.—The term
14 “water resource project” means any dam, irrigation
15 and pumping facility, reservoir, water conservation
16 work, aqueduct, canal, ditch, pipeline, well, hydro-
17 power project, and transmission and other ancillary
18 facility, and other water diversion, storage, and car-
19 riage structure.

20 **TITLE I—DOLORES RIVER NA-** 21 **TIONAL CONSERVATION AREA**

22 **SEC. 101. ESTABLISHMENT OF DOLORES RIVER NATIONAL** 23 **CONSERVATION AREA.**

24 (a) ESTABLISHMENT.—

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

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

9 (b) PURPOSE.—The purpose of the Conservation
10 Area is to conserve, protect, and enhance the native fish,
11 whitewater boating, recreational, hunting, fishing, scenic,
12 cultural, archaeological, natural, geological, historical, eco-
13 logical, watershed, wildlife, educational, and scientific re-
14 sources of the Conservation Area.

15 (c) MAP AND LEGAL DESCRIPTION.—

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

23 (2) EFFECT.—The map and legal description
24 prepared under paragraph (1) shall have the same
25 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 Bureau of Land Management.

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

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

10 (1) this Act;

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

13 (3) other applicable laws.

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

(B) REVIEW AND REVISION.—The management plan under subparagraph (A) shall, from time to time, be subject to review and revision, in accordance with—

(i) this Act;

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

(iii) other applicable laws.

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

(A) in consultation with—

(i) the State;

(ii) units of local government;

(iii) the public;

(iv) the Council; and

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

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

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

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

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

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

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

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

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

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

25 (e) DEPARTMENT OF ENERGY LEASES.—

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

6 (2) MANAGEMENT.—

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

- 10 (i) exempt from section 401(b); and
11 (ii) managed in a manner that allow
12 the leases to fulfill the purposes of the pro-
13 gram, consistent with the other provisions
14 of this title and title IV.

15 (B) DESIGNATION.—Land subject to a
16 lease described in paragraph (1) shall be con-
17 sidered part of the Conservation Area and man-
18 aged in accordance with other provisions of this
19 title on a finding by the Secretary that—

- 20 (i)(I) the lease has expired; and
21 (II) the applicable lease tract has been
22 removed from the leasing program by the
23 Secretary of Energy; and

1 (ii) the land that was subject to the
2 lease is suitable for inclusion in the Con-
3 servation Area.

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

7 **SEC. 103. DOLORES RIVER NATIONAL CONSERVATION AREA**
8 **ADVISORY COUNCIL.**

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

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

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

17 (2) the Secretary of Agriculture with respect to
18 the preparation, implementation, and monitoring of
19 the management plan prepared under section 202(c).

20 (c) APPLICABLE LAW.—The Council shall be subject
21 to—

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

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

3 (3) this Act.

4 (d) MEMBERSHIP.—

5 (1) IN GENERAL.—The Council shall include 14
6 members to be appointed by the Secretary, of whom,
7 to the extent practicable—

8 (A) 2 members shall represent agricultural
9 water user interests in the Conservation Area
10 or the Dolores River watershed, of whom 1
11 shall represent the Dolores Water Conservancy
12 District;

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

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

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

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

22 (F) 1 member shall be a representative of
23 Montezuma County, Colorado;

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

4 (H) 1 member shall be a representative of
5 Colorado Parks and Wildlife;

6 (I) 1 member shall be a holder of a graz-
7 ing-allotment permit in the Conservation Area;
8 and

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

12 (2) REPRESENTATION.—

13 (A) IN GENERAL.—The Secretary shall en-
14 sure that the membership of the Council is fair-
15 ly balanced in terms of the points of view rep-
16 resented and the functions to be performed by
17 the Council.

18 (B) REQUIREMENTS.—

19 (i) IN GENERAL.—The members of
20 the Council described in subparagraphs
21 (B) and (C) of paragraph (1) shall be resi-
22 dents that live within reasonable proximity
23 to the Conservation Area.

24 (ii) COUNTY REPRESENTATIVES.—The
25 members of the Council described in sub-

1 paragraphs (D) and (E) of paragraph (1)
2 shall be—

3 (I) residents of the respective
4 counties referred to in those subpara-
5 graphs; and

6 (II) capable of representing the
7 interests of the applicable board of
8 county commissioners.

9 (e) TERMS OF OFFICE.—

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

12 (2) REAPPOINTMENT.—A member may be re-
13 appointed to the Council on completion of the term
14 of office of the member.

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

16 (1) shall serve without compensation for service
17 on the Council; but

18 (2) may be reimbursed for qualified expenses of
19 the member.

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

22 (h) MEETINGS.—

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

1 (A) not less frequently than quarterly until
2 the management plan under section 102(c) is
3 developed; and

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

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

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

9 (i) TECHNICAL ASSISTANCE.—The Secretary shall
10 provide, to the maximum extent practicable in accordance
11 with applicable law, any information and technical services
12 requested by the Council to assist in carrying out the du-
13 ties of the Council.

14 (j) RENEWAL.—The Secretary shall ensure that the
15 Council charter is renewed as required under applicable
16 law.

17 (k) DURATION.—The Council—

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

20 (2) on completion of the management plan,
21 shall only meet—

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

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

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

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

(a) ESTABLISHMENT.—

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

(2) LAND INCLUDED.—The Special Management Area shall consist of approximately 15,452 acres of Federal land in the San Juan National Forest in the State, including National Forest System land in the Dolores River segment that extends from the Dolores Project boundary downstream to the boundary of the San Juan National Forest, as of the date of enactment of this Act, as generally depicted as “Proposed Dolores River Special Management Area” on the Map.

(b) PURPOSE.—The purpose of the Special Management Area is to conserve, protect, and enhance the native fish, whitewater boating, recreational, hunting, fishing, scenic, cultural, archaeological, natural, geological, historical, ecological, watershed, wildlife, educational, and scientific resources of the Special Management Area.

(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 Special
4 Management Area with the Committee on Natural
5 Resources 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 Forest Service.

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

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

20 (1) this Act;

21 (2) the National Forest Management Act of
22 1976 (16 U.S.C. 1600 et seq.); and

23 (3) other applicable laws.

24 (b) USES.—The Secretary shall allow only such uses
25 of the Special Management Area as the Secretary deter-

1 mines would further the purpose of the Special Manage-
2 ment Area, as described in section 201(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 Special Management 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 National Forest Management
16 Act of 1976 (16 U.S.C. 1600 et seq.); and

17 (iii) other applicable laws.

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

21 (A) in consultation with—

22 (i) the State;

23 (ii) units of local government;

24 (iii) the public;

25 (iv) the Council; and

1 (v) the Native Fish Monitoring and
2 Recommendation Team, as described in
3 section 402(b)(1); and

4 (B) in coordination with the Secretary of
5 the Interior, with respect to the development of
6 the separate management plan for the Con-
7 servation Area, as described in section 102(c).

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

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

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

19 (B) any rights described in the Colorado
20 Ute Indian Water Rights Settlement Act of
21 1988 (Public Law 100–585; 102 Stat. 2973);
22 or

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

1 (d) INCORPORATION OF ACQUIRED LAND AND IN-
 2 TERESTS.—Any land or interest in land located within the
 3 boundary of the Special Management Area that is ac-
 4 quired by the United States in accordance with section
 5 401(c) after the date of enactment of this Act shall—

6 (1) become part of the Special Management
 7 Area; and

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

9 **TITLE III—TECHNICAL MODI-**
 10 **FICATIONS TO POTENTIAL**
 11 **ADDITIONS TO NATIONAL**
 12 **WILD AND SCENIC RIVERS**
 13 **SYSTEM**

14 **SEC. 301. PURPOSE.**

15 The purpose of this title is to release portions of the
 16 Dolores River and certain tributaries from designation for
 17 potential addition under the Wild and Scenic Rivers Act
 18 (16 U.S.C. 1271 et seq.) or from further study under that
 19 Act.

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

22 Section 5(a)(56) of the Wild and Scenic Rivers Act
 23 (16 U.S.C. 1276(a)(56)) is amended by inserting “and the
 24 segments of the Dolores River located in the Dolores River
 25 National Conservation Area designated by the Dolores

1 River National Conservation Area and Special Manage-
2 ment Area Act” before the period at the end.

3 **SEC. 303. APPLICABILITY OF CONTINUING CONSIDERATION**
4 **PROVISION.**

5 Section 5(d)(1) of the Wild and Scenic Rivers Act
6 (16 U.S.C. 1276(d)(1)) shall not apply to—

7 (1) the Conservation Area; or

8 (2) the Special Management Area.

9 **TITLE IV—GENERAL**
10 **PROVISIONS**

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

12 (a) **MOTORIZED VEHICLES.**—

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

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

24 (b) **WITHDRAWALS.**—Subject to valid existing rights,
25 all covered land, including any land or interest in land that

1 is acquired by the United States within the covered land
2 after the date of enactment of this Act, is withdrawn
3 from—

4 (1) entry, appropriation or disposal under the
5 public land laws;

6 (2) location, entry, and patent under the mining
7 laws; and

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

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

14 (d) GRAZING.—The Secretary shall issue and admin-
15 ister any grazing leases or permits and trailing permits
16 and administer allotments in the covered land in accord-
17 ance with the laws (including regulations) applicable to the
18 issuance and administration of leases and permits on other
19 land under the jurisdiction of the Bureau of Land Man-
20 agement or Forest Service, as applicable.

21 (e) ACCESS TO PRIVATE LAND.—To ensure reason-
22 able use and enjoyment of private property (whether in
23 existence on the date of enactment of this Act or in an
24 improved state), the Secretary shall grant reasonable and
25 feasible access through the covered land to any private

1 property that is located within or adjacent to the covered
2 land, if other routes to the private property are blocked
3 by physical barriers, such as the Dolores River or the cliffs
4 of the Dolores River.

5 (f) EASEMENTS.—The Secretary may lease or ac-
6 quire easements on private land from willing lessors, do-
7 nors, or sellers for recreation, access, conservation, or
8 other permitted uses, to the extent necessary to fulfill the
9 purposes of the Conservation Area or Special Management
10 Area, as applicable.

11 (g) WILDFIRE, INSECT, AND DISEASE MANAGE-
12 MENT.—The Secretary may take any measures that the
13 Secretary determines to be necessary to control fire, in-
14 sects, and diseases in the covered land, (including, as the
15 Secretary determines to be appropriate, the coordination
16 of the measures with the State or a local agency).

17 (h) MANAGEMENT OF PONDEROSA GORGE.—

18 (1) IN GENERAL.—The Secretary shall manage
19 the areas of the Conservation Area and Special Man-
20 agement Area identified on the Map as “Ponderosa
21 Gorge” in a manner that maintains the wilderness
22 character of those areas as of the date of enactment
23 of this Act.

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

4 (A) New permanent or temporary road
5 construction or the renovation of nonsystem
6 roads in existence on the date of enactment of
7 this Act.

8 (B) The use of motor vehicles, motorized
9 equipment, or mechanical transport, except as
10 necessary to meet the minimum requirements
11 for the administration of the Federal land, to
12 protect public health and safety, or to conduct
13 ecological restoration activities to improve the
14 aquatic habitat of the Dolores River channel.

15 (C) Projects undertaken for the purpose of
16 harvesting commercial timber.

17 (3) UTILITY CORRIDOR.—Nothing in this sub-
18 section affects the operation, maintenance, or loca-
19 tion of the utility right-of-way within the corridor, as
20 depicted on the Map.

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

23 (A) affects the implementation of the Lone
24 Pine Vegetation Management Project author-

1 ized by the Forest Service in a decision notice
2 dated January 23, 2020; or

3 (B) prohibits activities relating to the har-
4 vest of merchantable products that are byprod-
5 ucts of activities conducted—

6 (i) for ecological restoration; or

7 (ii) to further the purposes of this
8 Act.

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

16 (j) CLIMATOLOGICAL DATA COLLECTION.—Subject
17 to such terms and conditions as the Secretary may re-
18 quire, nothing in this Act precludes the installation and
19 maintenance of hydrologic, meteorological, or climato-
20 logical collection devices in the covered land if the facilities
21 and access to the facilities are essential to public safety,
22 flood warning, flood control, water reservoir operation ac-
23 tivities, or the collection of hydrologic data for water re-
24 source management purposes.

1 **SEC. 402. PROTECTION OF WATER RIGHTS AND OTHER IN-**
2 **TERESTS.**

3 (a) DOLORES PROJECT.—

4 (1) OPERATION.—The Dolores Project and the
5 operation of McPhee Reservoir shall continue to be
6 the responsibility of, and be operated by, the Sec-
7 retary, in cooperation with the Dolores Water Con-
8 servancy District, in accordance with applicable laws
9 and obligations.

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

13 (A) the reclamation laws;

14 (B) any applicable—

15 (i) Dolores Project water contract,
16 storage contract, or carriage contract; or

17 (ii) allocation of Dolores Project
18 water;

19 (C) the environmental assessment and
20 finding of no significant impact prepared by the
21 Bureau of Reclamation Upper Colorado Region
22 and approved August 2, 1996;

23 (D) the operating agreement entitled “Op-
24 erating Agreement, McPhee Dam and Res-
25 ervoir, Contract No. 99-WC-40-R6100, Dolores
26 Project, Colorado” and dated April 25, 2000

1 (or any subsequent renewal or revision of that
2 agreement);

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

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

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

11 (iii) a document referred to in sub-
12 paragraph (C) or (D);

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

16 (i) the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.);

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

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

22 (G) the Colorado Ute Indian Water Rights
23 Settlement Act of 1988 (Public Law 100–585;
24 102 Stat. 2973).

25 (b) MANAGEMENT OF FLOWS.—

1 (1) IN GENERAL.—In managing available flows
2 below McPhee Dam to conserve, protect, and en-
3 hance the resources described in sections 101(b) and
4 201(b) of the Dolores River within the covered land,
5 including native fish and whitewater boating re-
6 sources, the Secretary shall seek to provide regular
7 and meaningful consultation and collaboration with
8 interested stakeholders, including the Native Fish
9 Monitoring and Recommendation Team, which in-
10 cludes water management entities, affected counties,
11 conservation interests, whitewater boating interests,
12 Colorado Parks and Wildlife, and the Ute Mountain
13 Ute Tribe, during the process of decision making.

14 (2) ANNUAL REPORT.—Beginning on the date
15 that is 1 year after the date of enactment of this Act
16 and annually thereafter, the Commissioner of Rec-
17 lamation shall prepare and make publically available
18 a report that describes any progress with respect to
19 the conservation, protection, and enhancement of na-
20 tive fish in the Dolores River.

21 (c) WATER RESOURCE PROJECTS.—

22 (1) IN GENERAL.—Subject to valid existing
23 rights and paragraph (2), after the date of enact-
24 ment of this Act, the Secretary or any other officer,
25 employee, or agent of the United States may not as-

1 sist by loan, grant, license, or otherwise in the con-
2 struction or modification of any water resource
3 project—

4 (A) located on the covered land that
5 would—

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

8 (ii) unreasonably diminish the re-
9 source values described in sections 101(b)
10 and 201(b) of the Dolores River within the
11 covered land; or

12 (B) located outside the covered land that
13 would unreasonably diminish the resource val-
14 ues described in sections 101(b) and 201(b) of
15 the Dolores River within the covered land.

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

18 (A) prevents, outside the covered land—

19 (i) the construction of small diversion
20 dams or stock ponds;

21 (ii) new minor water developments in
22 accordance with existing decreed water
23 rights; or

24 (iii) minor modifications to structures;
25 or

1 (B) affects access to, or operation, mainte-
2 nance, relicensing, repair, or replacement of, ex-
3 isting water resource projects.

4 (d) EFFECT.—Nothing in this Act—

5 (1) affects—

6 (A) any water right that is—

7 (i) decreed under the laws of the
8 State; and

9 (ii) in existence on the date of enact-
10 ment of this Act;

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

14 (C) any vested absolute or decreed condi-
15 tional water right in existence on the date of
16 enactment of this Act, including any water
17 right held by the United States;

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

20 (E) State jurisdiction over any water law,
21 water right, or adjudication or administration
22 relating to any water resource;

23 (2) imposes—

24 (A) any mandatory streamflow require-
25 ment within the covered land; or

1 (B) any Federal water quality standard
2 within, or upstream of, the covered land that is
3 more restrictive than would be applicable if the
4 covered land had not been designated as the
5 Conservation Area or Special Management Area
6 under this Act; or

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

10 **SEC. 403. EFFECT ON PRIVATE PROPERTY AND REGU-**
11 **LATORY AUTHORITY.**

12 (a) EFFECT.—Nothing in this Act—

13 (1) affects valid existing rights;

14 (2) requires any owner of private property to
15 bear any costs associated with the implementation of
16 the management plan under this Act;

17 (3) affects the jurisdiction or responsibility of
18 the State with respect to fish and wildlife in the
19 State;

20 (4) requires a change in or affects local zoning
21 laws of the State or a political subdivision of the
22 State; or

23 (5) affects—

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

1 (B) the administration of the portion of
2 the road that is not a county road and that is
3 commonly known as the “Dolores River Road”
4 within the Conservation Area, subject to the
5 condition that the Secretary shall not improve
6 the road beyond the existing primitive condition
7 of the road.

8 (b) ADJACENT MANAGEMENT.—

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

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

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

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

24 (b) TRADITIONAL TRIBAL USES.—Subject to any
25 terms and conditions as the Secretary determines to be

1 necessary and in accordance with applicable law, the Sec-
2 retary shall allow for the continued use of the covered land
3 by members of Indian Tribes—

4 (1) for traditional ceremonies; and

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

