

water rights required to fulfill the purposes of the Wilderness.

(D) Required determination

The Secretary shall not pursue adjudication for any instream flow water rights unless the Secretary makes a determination pursuant to subparagraph (E)(ii) or (F).

(E) Cooperative enforcement

(i) In general

The Secretary shall not pursue adjudication of any Federal instream flow water rights established under this paragraph if—

(I) the Secretary determines, upon adjudication of the water rights by the Colorado Water Conservation Board, that the Board holds water rights sufficient in priority, amount, and timing to fulfill the purposes of the Wilderness; and

(II) the Secretary has entered into a perpetual agreement with the Colorado Water Conservation Board to ensure the full exercise, protection, and enforcement of the State water rights within the Wilderness to reliably fulfill the purposes of the Wilderness.

(ii) Adjudication

If the Secretary determines that the provisions of clause (i) have not been met, the Secretary shall adjudicate and exercise any Federal water rights required to fulfill the purposes of the Wilderness in accordance with this paragraph.

(F) Insufficient water rights

If the Colorado Water Conservation Board modifies the instream flow water rights obtained under subparagraph (E) to such a degree that the Secretary determines that water rights held by the State are insufficient to fulfill the purposes of the Wilderness, the Secretary shall adjudicate and exercise Federal water rights required to fulfill the purposes of the Wilderness in accordance with subparagraph (B).

(G) Failure to comply

The Secretary shall promptly act to exercise and enforce the water rights described in subparagraph (E) if the Secretary determines that—

(i) the State is not exercising its water rights consistent with subparagraph (E)(i)(I); or

(ii) the agreement described in subparagraph (E)(i)(II) is not fulfilled or complied with sufficiently to fulfill the purposes of the Wilderness.

(3) Water resource facility

(A) In general

Notwithstanding any other provision of law and subject to subparagraph (B), beginning on March 30, 2009, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new irrigation and pumping facility, reservoir, water conservation work,

aqueduct, canal, ditch, pipeline, well, hydro-power project, transmission, other ancillary facility, or other water, diversion, storage, or carriage structure in the Wilderness.

(B) Exception

Notwithstanding subparagraph (A), the Secretary may allow construction of new livestock watering facilities within the Wilderness in accordance with—

(i) section 1133(d)(4) of this title; and

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(4) Conservation area water rights

With respect to water within the Conservation Area, nothing in this subchapter—

(A) authorizes any Federal agency to appropriate or otherwise acquire any water right on the mainstem of the Gunnison River; or

(B) prevents the State from appropriating or acquiring, or requires the State to appropriate or acquire, an instream flow water right on the mainstem of the Gunnison River.

(5) Wilderness boundaries along Gunnison River

(A) In general

In areas in which the Gunnison River is used as a reference for defining the boundary of the Wilderness, the boundary shall—

(i) be located at the edge of the river; and

(ii) change according to the river level.

(B) Exclusion from Wilderness

Regardless of the level of the Gunnison River, no portion of the Gunnison River is included in the Wilderness.

(i) Effect

Nothing in this subchapter—

(1) diminishes the jurisdiction of the State with respect to fish and wildlife in the State; or

(2) imposes any Federal water quality standard upstream of the Conservation Area or within the mainstem of the Gunnison River that is more restrictive than would be applicable had the Conservation Area not been established.

(j) Valid existing rights

The designation of the Conservation Area and Wilderness is subject to valid rights in existence on March 30, 2009.

(Pub. L. 111-11, title II, §2405, Mar. 30, 2009, 123 Stat. 1104.)

§ 460zzz-5. Management plan

(a) In general

Not later than 3 years after March 30, 2009, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Conservation Area.

(b) Purposes

The management plan shall—

- (1) describe the appropriate uses and management of the Conservation Area;
- (2) be developed with extensive public input;
- (3) take into consideration any information developed in studies of the land within the Conservation Area; and
- (4) include a comprehensive travel management plan.

(Pub. L. 111-11, title II, §2406, Mar. 30, 2009, 123 Stat. 1107.)

§ 460zzz-6. Advisory Council

(a) Establishment

Not later than 180 days after March 30, 2009, the Secretary shall establish an advisory council, to be known as the “Dominguez-Escalante National Conservation Area Advisory Council”.

(b) Duties

The Council shall advise the Secretary with respect to the preparation and implementation of the management plan.

(c) Applicable law

The Council shall be subject to—

- (1) the Federal Advisory Committee Act (5 U.S.C. App.); and
- (2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) Members

The Council shall include 10 members to be appointed by the Secretary, of whom, to the extent practicable—

- (1) 1 member shall be appointed after considering the recommendations of the Mesa County Commission;
- (2) 1 member shall be appointed after considering the recommendations of the Montrose County Commission;
- (3) 1 member shall be appointed after considering the recommendations of the Delta County Commission;
- (4) 1 member shall be appointed after considering the recommendations of the permittees holding grazing allotments within the Conservation Area or the Wilderness; and
- (5) 5 members shall reside in, or within reasonable proximity to, Mesa County, Delta County, or Montrose County, Colorado, with backgrounds that reflect—
 - (A) the purposes for which the Conservation Area or Wilderness was established; and
 - (B) the interests of the stakeholders that are affected by the planning and management of the Conservation Area and Wilderness.

(e) Representation

The Secretary shall ensure that the membership of the Council is fairly balanced in terms of the points of view represented and the functions to be performed by the Council.

(f) Duration

The Council shall terminate on the date that is 1 year from the date on which the management plan is adopted by the Secretary.

(Pub. L. 111-11, title II, §2407, Mar. 30, 2009, 123 Stat. 1107.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770,

which is set out in the Appendix to Title 5, Government Organization and Employees.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(2), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§ 460zzz-7. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 111-11, title II, §2408, Mar. 30, 2009, 123 Stat. 1108.)

CHAPTER 1A—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

SUBCHAPTER I—GENERAL PROVISIONS

- Sec.
- 461. Declaration of national policy.
- 462. Administration by Secretary of the Interior; powers and duties enumerated.
- 463. National Park System Advisory Board.
- 464. Cooperation with governmental and private agencies.
- 465. Jurisdiction of States in acquired lands.
- 466. Requirement for specific authorization.
- 467. Conflict of laws.
- 467a, 467a-1. Repealed.
- 467b. Survey by Secretary of the Interior of sites for commemoration of former Presidents of the United States.
- 468. National Trust for Historic Preservation in the United States; creation; purpose.
- 468a. Principal office of National Trust Commission.
- 468b. Administration of National Trust; composition of board of trustees; terms of office; compensation; expenses.
- 468c. Powers and duties of National Trust.
- 468d. Consultation with Advisory Board on National Parks, Historic Sites, Buildings, and Monuments.
- 468e. Repealed.
- 469. Preservation of historical and archeological data threatened by dam construction or alterations of terrain.
- 469a. Notice of dam construction to be given Secretary of the Interior by United States agencies.
- 469a-1. Threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects; notice to Secretary of the Interior; survey; recovery, preservation, and protection of data.
- 469a-2. Survey by Secretary of the Interior; recovery and preservation of data; compensation for delays in construction and for temporary loss of use of land.
- 469a-3. Progress reports by Secretary of the Interior on surveys and work undertaken as result of surveys; disposition of relics and specimens recovered; coordination of survey and recovery activities; annual report.
- 469b. Administration; contracts or agreements; services of experts, consultants, or organizations; acceptance of funds.
- 469c. Assistance to Secretary of the Interior by Federal agencies responsible for construction projects; authorization of appropriations.
- 469c-1. “State” defined.
- 469c-2. Costs for identification, surveys, evaluation and data recovery with respect to historic properties.