

109TH CONGRESS
1ST SESSION

S. 2102

To amend the Cache La Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2005

Mr. ALLARD (for himself and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Cache La Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, 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 “Cache la Poudre River
5 National Heritage Area Technical Amendments Act of
6 2005”.

1 **SEC. 2. CACHE LA POUFRE RIVER NATIONAL HERITAGE**
 2 **AREA.**

3 (a) PURPOSE.—Section 101 of the Cache La Poudre
 4 River Corridor Act (16 U.S.C. 461 note; Public Law 104–
 5 323) is amended—

6 (1) by striking “Cache La Poudre Corridor”
 7 and inserting “Cache la Poudre River National Her-
 8 itage Area”;

9 (2) by striking “Cache La Poudre River Basin”
 10 and inserting “Cache la Poudre River Basin”; and

11 (3) by striking “the Corridor” and inserting
 12 “the Heritage Area”.

13 (b) DEFINITIONS.—Section 102 of the Cache La
 14 Poudre River Corridor Act (16 U.S.C. 461 note; Public
 15 Law 104–323) is amended—

16 (1) by striking paragraph (1) and inserting the
 17 following:

18 “(1) ALLIANCE.—The term ‘Alliance’ means
 19 the Poudre Heritage Alliance, a nonprofit corpora-
 20 tion incorporated in the State of Colorado.”;

21 (2) by striking paragraphs (2) and (3) and in-
 22 serting the following:

23 “(2) GOVERNOR.—The term ‘Governor’ means
 24 the Governor of the State of Colorado.

1 “(3) HERITAGE AREA.—The term ‘Heritage
2 Area’ means the Cache la Poudre River National
3 Heritage Area established by section 103(a).”;

4 (3) by striking paragraph (4) and inserting the
5 following:

6 “(4) PLAN.—The term ‘Plan’ means the Cache
7 la Poudre River National Heritage Area manage-
8 ment plan prepared by the Alliance under section
9 105.”; and

10 (4) in paragraph (5), by striking “Corridor”
11 and inserting “Heritage Area”.

12 (c) ESTABLISHMENT AND BOUNDARIES; LAND-
13 OWNER WITHDRAWAL AUTHORITY.—Section 103 of the
14 Cache La Poudre River Corridor Act (16 U.S.C. 461 note;
15 Public Law 104–323) is amended—

16 (1) in subsection (a), by striking “Cache La
17 Poudre Corridor” and inserting “Cache la Poudre
18 River National Heritage Area”;

19 (2) in subsection (b)—

20 (A) by striking “the boundaries of the Cor-
21 ridor” and inserting “the boundaries of the
22 Heritage Area”;

23 (B) by striking “Cache La Poudre River”
24 each place it appears and inserting “Cache la
25 Poudre River”; and

1 (C) by striking “and generally depicted”
 2 and all that follows through the period at the
 3 end of the matter following paragraph (19) and
 4 inserting “as generally depicted on the map en-
 5 titled ‘Cache la Poudre River National Heritage
 6 Area’, numbered 960/80,003, and dated April,
 7 2004.”; and

8 (3) by adding at the end the following:

9 “(d) MANAGEMENT ENTITY.—The Alliance shall be
 10 the management entity for the Heritage Area.

11 “(e) LANDOWNER WITHDRAWAL.—On submission to
 12 the Alliance of a written request by an owner of private
 13 property included within the boundary of the Heritage
 14 Area, the private property shall be removed from the Her-
 15 itage Area.”.

16 **SEC. 3. POUDRE HERITAGE ALLIANCE.**

17 Section 104 of the Cache La Poudre River Corridor
 18 Act (16 U.S.C. 461 note; Public Law 104–323) is amend-
 19 ed to read as follows:

20 **“SEC. 104. AUTHORITIES AND DUTIES OF THE ALLIANCE.**

21 “(a) DUTIES OF THE ALLIANCE.—To further the
 22 purposes of the Heritage Area, the Alliance shall—

23 “(1) prepare, obtain approval for, implement,
 24 and support the Plan in accordance with section
 25 105;

1 “(2) administer the Heritage Area;

2 “(3) conduct meetings regarding the develop-
3 ment and implementation of the Plan at least quar-
4 terly that are open to the public;

5 “(4) for any fiscal year in which the Alliance
6 receives Federal funds under this Act—

7 “(A) submit to the Secretary an annual re-
8 port that describes the accomplishments, ex-
9 penses, and income of the Alliance, including
10 grants provided to any other entities during the
11 fiscal year; and

12 “(B)(i) make available for audit all infor-
13 mation relating to the expenditure of the Fed-
14 eral funds and any matching funds; and

15 “(ii) in any agreement authorizing expendi-
16 tures of Federal funds by other organizations,
17 require that the receiving organizations make
18 available for audit all records and other infor-
19 mation relating to the expenditure of the Fed-
20 eral funds;

21 “(5) encourage by appropriate means economic
22 viability that is consistent with the purposes of the
23 Heritage Area; and

24 “(6) carry out other duties of the Alliance as
25 required under this Act.

1 “(b) AUTHORITIES.—The Alliance may, for the pur-
 2 poses of preparing and implementing the Plan, use Fed-
 3 eral funds made available under this Act to—

4 “(1) make grants to the State of Colorado, po-
 5 litical subdivisions of the State, nonprofit organiza-
 6 tions, and other persons;

7 “(2) enter into cooperative agreements with, or
 8 provide technical assistance to, the State of Colo-
 9 rado, political subdivisions of the State, nonprofit or-
 10 ganizations, and other interested persons;

11 “(3) hire and compensate staff, including indi-
 12 viduals with expertise in cultural, historic, and nat-
 13 ural resources protection and heritage programming;

14 “(4) obtain money or services from any source,
 15 including money or services that are provided under
 16 any other Federal law or program;

17 “(5) contract for goods or services; and

18 “(6) support activities that—

19 “(A) further the purposes of the Heritage
 20 Area; and

21 “(B) are consistent with the approved
 22 Plan.

23 “(c) ACQUISITION OF LAND AND REAL PROPERTY.—

24 “(1) ACQUISITION OF REAL PROPERTY.—

1 “(A) PROHIBITION ON USE OF FEDERAL
2 FUNDS.—The Alliance shall not use Federal
3 funds received under this Act to acquire real
4 property.

5 “(B) OTHER FUNDS.—Notwithstanding
6 subparagraph (A), the Alliance may acquire
7 real property using any other source of funding,
8 including other Federal funding.

9 “(2) ACQUISITION OF LAND FROM WILLING
10 SELLERS.—No land or interest in land may be ac-
11 quired by the Secretary or the Alliance under this
12 Act without the consent of the owner of the land or
13 interest.”.

14 **SEC. 4. CACHE LA POUFRE RIVER NATIONAL HERITAGE**
15 **AREA MANAGEMENT PLAN.**

16 (a) IN GENERAL.—The Cache La Poudre River Cor-
17 ridor Act (16 U.S.C. 461 note; Public Law 104–323) is
18 amended by striking sections 105 through 109 and insert-
19 ing the following:

20 **“SEC. 105. CACHE LA POUFRE RIVER NATIONAL HERITAGE**
21 **AREA MANAGEMENT PLAN.**

22 “(a) REQUIREMENTS.—The Alliance shall prepare
23 and submit to the Secretary for approval a management
24 plan for the Heritage Area that—

1 “(1) describes comprehensive policies, goals,
2 strategies, and recommendations for—

3 “(A) telling the story of the heritage of the
4 Heritage Area; and

5 “(B) encouraging long-term resource pro-
6 tection, enhancement, interpretation, funding,
7 management, and development of the Heritage
8 Area;

9 “(2) includes a description of actions and com-
10 mitments that State and local governments, private
11 organizations, and citizens in the Heritage Area will
12 take to protect, enhance, and interpret the cultural,
13 historic, natural, and scenic resources of the Herit-
14 age Area;

15 “(3) specifies existing and potential sources of
16 funding or economic development strategies to pro-
17 tect, enhance, interpret, fund, manage, and develop
18 the Heritage Area;

19 “(4) includes an inventory of the cultural, edu-
20 cational, historical, natural, recreational, and scenic
21 resources of the Heritage Area and associated sites
22 relating to the stories and themes of the region that
23 should be protected, enhanced, managed or devel-
24 oped;

1 “(5) recommends policies and strategies for re-
2 source management, including the development of
3 intergovernmental and interagency agreements to
4 protect the cultural, educational, historic, natural,
5 recreational, and scenic resources of the Heritage
6 Area;

7 “(6) describes a program of implementation for
8 the Plan, including—

9 “(A) performance goals;

10 “(B) plans for resource protection, en-
11 hancement, and interpretation; and

12 “(C) specific commitments for implementa-
13 tion that have been made by the Alliance or any
14 government, organization, business, or indi-
15 vidual in the Heritage Area;

16 “(7) includes an analysis of, and recommenda-
17 tions for, ways in which Federal, State, and local
18 programs may best be coordinated to further the
19 purposes of this Act, including an analysis of the
20 role of the National Park Service and other Federal
21 agencies associated with the Heritage Area; and

22 “(8) includes a business plan that—

23 “(A) describes the role, operation, financ-
24 ing, and functions of—

25 “(i) the Alliance; and

1 “(ii) each of the major activities in-
2 cluded in the Plan; and

3 “(B) provides adequate assurances that
4 the Alliance has the partnerships and financial
5 and other resources necessary to implement the
6 Plan.

7 “(b) TERMINATION OF FUNDING.—If the Plan is not
8 submitted to the Secretary in accordance with this section,
9 the Secretary shall not provide to the Alliance any addi-
10 tional financial assistance under this Act until the Plan
11 is submitted to and approved by the Secretary under this
12 section.

13 “(c) APPROVAL OF PLAN.—

14 “(1) REVIEW.—Not later than 180 days after
15 the date of receipt of the management plan under
16 subsection (a), the Secretary, in consultation with
17 the Governor, shall review and approve or disapprove
18 the Plan.

19 “(2) CRITERIA.—In determining whether to ap-
20 prove the Plan, the Secretary shall consider wheth-
21 er—

22 “(A) the Alliance is representing the di-
23 verse interests of the Heritage Area, includ-
24 ing—

25 “(i) governments;

1 “(ii) natural and historic resource
2 protection organizations;

3 “(iii) educational institutions;

4 “(iv) businesses;

5 “(v) recreational organizations;

6 “(vi) community residents; and

7 “(vii) private property owners;

8 “(B) the Alliance provided adequate oppor-
9 tunity, workshops, and hearings for public and
10 governmental involvement in the preparation of
11 the Plan;

12 “(C) the Alliance includes provisions for at
13 least semiannual public meetings to ensure ade-
14 quate implementation of the Plan;

15 “(D) the resource protection and interpre-
16 tation strategies in the Plan would adequately
17 protect, enhance, and interpret the cultural, his-
18 toric, natural, and scenic resources of the Her-
19 itage Area;

20 “(E) the Plan would adversely affect any
21 activities authorized on Federal land under pub-
22 lic land laws or land use plans;

23 “(F) the Alliance has demonstrated finan-
24 cial capability, in partnership with others, to
25 carry out the Plan;

1 “(G) the Secretary has received adequate
2 assurances from the appropriate State and local
3 officials, the support of which is needed to en-
4 sure the effective implementation of the State
5 and local aspects of the Plan; and

6 “(H) the Plan demonstrates partnerships
7 among the Alliance, Federal, State, and local
8 governments, regional planning organizations,
9 nonprofit organizations, or private-sector par-
10 ties for implementation of the Plan.

11 “(3) ACTION FOLLOWING DISAPPROVAL.—If the
12 Secretary disapproves the Plan under paragraph (1),
13 the Secretary shall—

14 “(A) advise the Alliance in writing of the
15 reasons for the disapproval;

16 “(B) make recommendations for revisions
17 to the Plan; and

18 “(C) not later than 180 days after the date
19 of receipt of a proposed revision to the Plan,
20 approve or disapprove the proposed revision.

21 “(4) AMENDMENTS.—

22 “(A) IN GENERAL.—The Secretary shall
23 review and approve or disapprove each amend-
24 ment to the Plan that the Secretary determines

1 may substantially alter the purposes of the Her-
2 itage Area.

3 “(B) USE OF FUNDS.—Funds made avail-
4 able under this Act shall not be expended by
5 the management entity to implement an amend-
6 ment described in subparagraph (A) until the
7 Secretary approves the amendment.”.

8 (b) CONFORMING AMENDMENTS.—The Cache La
9 Poudre River Corridor Act (16 U.S.C. 461 note; Public
10 Law 104–323) is amended by redesignating sections 110,
11 111, 112, and 113 as sections 106, 107, 108, and 109,
12 respectively.

13 **SEC. 5. DUTIES AND AUTHORITIES OF THE SECRETARY OF**
14 **THE INTERIOR.**

15 Section 106 of the Cache La Poudre River Corridor
16 Act (16 U.S.C. 461 note; Public Law 104–323) (as red-
17 esignated by section 4(b)) is amended—

18 (1) by striking the heading and inserting the
19 following:

20 **“SEC. 106. DUTIES AND AUTHORITIES OF THE SECRETARY.”;**

21 (2) by striking subsections (a) and (c);

22 (3) by redesignating subsection (b) as sub-
23 section (a);

24 (4) in subsection (a) (as redesignated by para-
25 graph (2))—

1 (A) by striking “Commission” each place it
 2 appears and inserting “Alliance”; and

3 (B) by striking “section 108” and insert-
 4 ing “section 105”; and

5 (5) by adding at the end the following:

6 “(b) COOPERATIVE AGREEMENTS.—

7 “(1) IN GENERAL.—The Secretary may enter
 8 into cooperative agreements with the Alliance for the
 9 purpose of carrying out the Plan.

10 “(2) REQUIREMENTS.—Any cooperative agree-
 11 ment shall, at a minimum, establish procedures for
 12 providing notice to the Alliance of any action that
 13 may affect the implementation of the Plan.”.

14 **SEC. 6. OTHER FEDERAL ENTITIES.**

15 Section 107 of the Cache La Poudre River Corridor
 16 Act (16 U.S.C. 461 note; Public Law 104–323) (as redes-
 17 ignated by section 4(b)) is amended—

18 (1) in subsection (a), by striking “section 112”
 19 and inserting “section 108”;

20 (2) by striking “Corridor” each place it appears
 21 and inserting “Heritage Area”;

22 (3) by striking “Commission” each place it ap-
 23 pears and inserting “Alliance”; and

24 (4) by striking “Cache La Poudre” each place
 25 it appears and inserting “Cache la Poudre”.

1 **SEC. 7. EFFECT ON ENVIRONMENTAL AND OTHER STAND-**
 2 **ARDS, RESTRICTIONS, AND SAVINGS PROVI-**
 3 **SIONS.**

4 Section 108 of the Cache La Poudre River Corridor
 5 Act (16 U.S.C. 461 note; Public Law 104–323) (as redes-
 6 ignated by section 4(b)) is amended—

7 (1) by striking subsections (c) and (d) and in-
 8 serting the following:

9 “(c) PRESERVATION, CONSERVATION, AND PRO-
 10 MOTION OF PRIVATE PROPERTY.—No private property
 11 shall be preserved, conserved, or promoted under the Plan
 12 until—

13 “(1) the Alliance notifies the owner of the pri-
 14 vate property in writing; and

15 “(2) the owner of the private property provides
 16 to the management entity written consent for the
 17 preservation, conservation, or promotion.

18 “(d) SAVINGS PROVISION.—Nothing in this Act—

19 “(1) diminishes, enlarges, or modifies a right of
 20 a Federal agency, State agency, or political subdivi-
 21 sion of the State—

22 “(A) to exercise civil and criminal jurisdic-
 23 tion within the Heritage Area; or

24 “(B) to tax persons, corporations, fran-
 25 chises, or property, including minerals and

1 other interests in or on land or water within the
 2 urban portions of the Heritage Area;

3 “(2) authorizes the regulation of private land in
 4 the Heritage Area;

5 “(3) authorizes the imposition of any manda-
 6 tory streamflow requirements in the Heritage Area;

7 “(4) creates an express or implied Federal re-
 8 served water right;

9 “(5) imposes any Federal water quality stand-
 10 ard within or upstream of the Heritage Area that is
 11 more restrictive than would be applicable had the
 12 Heritage Area not been established; or

13 “(6) prevents the State of Colorado from ac-
 14 quiring an instream flow through the Heritage Area
 15 under the terms, conditions, and limitations of State
 16 law to assist in protecting the natural environment
 17 to the extent and for the purposes authorized by
 18 State law.”;

19 (2) by striking “Corridor” each place it appears
 20 and inserting “Heritage Area”; and

21 (3) by striking “Commission” each place it ap-
 22 pears and inserting “Alliance”.

23 **SEC. 8. PRIVATE PROPERTY PROTECTIONS.**

24 The Cache La Poudre River Corridor Act (16 U.S.C.
 25 461 note; Public Law 104–323) is amended by inserting

1 after section 108 (as redesignated by section 4(b)) the fol-
 2 lowing:

3 **“SEC. 109. PRIVATE PROPERTY PROTECTION.**

4 “(a) ACCESS TO PRIVATE PROPERTY.—Nothing in
 5 this Act—

6 “(1) requires any private property owner to
 7 allow public access (including Federal, State, or local
 8 government access) to the private property; or

9 “(2) modifies any provision of Federal, State,
 10 or local law with regard to public access to or use
 11 of private property.

12 “(b) LIABILITY.—Designation of the Heritage Area
 13 does not create any liability, or have any effect on any
 14 liability under any other law, of any private property
 15 owner with respect to any persons injured on the private
 16 property.

17 “(c) RECOGNITION OF AUTHORITY TO CONTROL
 18 LAND USE.—Nothing in this Act modifies the authority
 19 of the Federal Government or State or local governments
 20 to regulate land use.

21 “(d) PARTICIPATION OF PRIVATE PROPERTY OWN-
 22 ERS IN HERITAGE AREA.—Nothing in this Act requires
 23 the owner of any private property located within the
 24 boundaries of the Heritage Area to participate in or be
 25 associated with the Heritage Area.

1 “(e) EFFECT OF ESTABLISHMENT.—

2 “(1) IN GENERAL.—The boundaries designated
3 for the Heritage Area represent the area within
4 which Federal funds made available under section
5 110 may be expended.

6 “(2) REGULATORY AUTHORITY.—The establish-
7 ment of the Heritage Area and the boundaries of the
8 Heritage Area does not provide any regulatory au-
9 thority not in existence on the date of enactment of
10 this subsection on land use within the Heritage Area
11 or the viewshed by the Secretary, the National Park
12 Service, or the Alliance.”.

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14 Section 109 of the Cache La Poudre River Corridor
15 Act (16 U.S.C. 461 note; Public Law 104–323) (as redes-
16 igned by section 4(b)) is amended to read as follows:

17 **“SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

18 “(a) IN GENERAL.—There are authorized to be ap-
19 propriated to carry out this Act—

20 “(1) not more than \$100,000 for any fiscal
21 year, to remain available until expended; and

22 “(2) not more than a total of \$1,000,000.

23 “(b) MATCHING FUNDS.—

24 “(1) IN GENERAL.—As a condition of providing
25 a grant under this Act to the Alliance, the Secretary

1 shall require that the Alliance provide matching
2 funds equal to the amount of the grant.

3 “(2) FORM.—Matching funds—

4 “(A) shall be from non-Federal sources;
5 and

6 “(B) may be made in the form of in-kind
7 contributions of goods or services fairly valued.

8 “(c) ADMINISTRATIVE EXPENSES.—Not more than 5
9 percent of the funds made available under subsection (a)
10 for a fiscal year may be used by the Secretary for technical
11 assistance, oversight, and administrative purposes.”.

12 **SEC. 10. TERMINATION OF AUTHORITY; REFERENCES IN**
13 **LAW.**

14 The Cache La Poudre River Corridor Act (16 U.S.C.
15 461 note; Public Law 104–323) is amended by adding at
16 the end the following:

17 **“SEC. 111. REFERENCES.**

18 “(a) FEDERAL LAWS AND DOCUMENTS.—Any ref-
19 erence in any law (other than this Act), regulation, docu-
20 ment, record, map, or other paper of the United States
21 to ‘Cache La Poudre River Corridor’ or ‘Cache La Poudre
22 Corridor’ shall be considered to be a reference to the
23 ‘Cache la Poudre River National Heritage Area’.

24 “(b) OTHER SIGNS AND NOTICES.—Any directional
25 or official sign or notice relating to ‘Cache La Poudre

1 River Corridor’ or ‘Cache La Poudre Corridor’ shall be
2 considered to be a reference to the ‘Cache la Poudre River
3 National Heritage Area’.

4 **“SEC. 112. TERMINATION OF AUTHORITY.**

5 “The authority of the Secretary to provide financial
6 assistance to the Alliance (excluding technical assistance
7 and administrative oversight) under this Act shall termi-
8 nate 10 years after the date of enactment of the Cache
9 la Poudre River National Heritage Area Technical
10 Amendments Act of 2005.”.

○