

Union Calendar No. 345

111TH CONGRESS
2^D SESSION

H. R. 3914

[Report No. 111-600]

To designate certain lands in San Miguel, Ouray, and San Juan Counties,
Colorado, as wilderness, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2009

Mr. SALAZAR introduced the following bill; which was referred to the
Committee on Natural Resources

SEPTEMBER 16, 2010

Additional sponsors: Ms. MARKEY of Colorado and Ms. DEGETTE

SEPTEMBER 16, 2010

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on October 22, 2009]

A BILL

To designate certain lands in San Miguel, Ouray, and San Juan Counties, Colorado, as wilderness, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “San Juan Mountains*
5 *Wilderness Act of 2010”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *COVERED LAND.*—*The term “covered land”*
9 *means—*

10 (A) *lands designated as wilderness under*
11 *section 3 or section 4; and*

12 (B) *lands designated as a special manage-*
13 *ment area under section 4.*

14 (2) *NONCONFORMING USE.*—*The term “noncon-*
15 *forming use” means any commercial helicopter-as-*
16 *sisted skiing or snowboarding activities within the*
17 *lands designated as a special management area under*
18 *section 4 that have been authorized by the Secretary*
19 *as of the date of enactment of this Act.*

20 (3) *SECRETARY.*—*The term “Secretary” means*
21 *the Secretary of the Interior or the Secretary of Agri-*
22 *culture, as appropriate.*

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

1 **SEC. 3. ADDITIONS TO THE WILDERNESS PRESERVATION**
2 **SYSTEM.**

3 (a) *DESIGNATION.*—In accordance with the Wilderness
4 Act (16 U.S.C. 1131 et seq.), the following areas in the State
5 are designated as wilderness areas and as components of
6 the National Wilderness Preservation System:

7 (1) Certain lands in the Grand Mesa,
8 Uncompahgre, and Gunnison National Forests com-
9 prising approximately 3,170 acres, as generally de-
10 picted on a map titled “Proposed Wilson, Sunshine,
11 Black Face and San Bernardo Additions to the Lizard
12 Head Wilderness”, dated January 26, 2010, and
13 which are hereby incorporated into the Lizard Head
14 Wilderness area.

15 (2) Certain lands in the Grand Mesa,
16 Uncompahgre, and Gunnison National Forests com-
17 prising approximately 8,375 acres, as generally de-
18 picted on a map titled “Proposed Liberty Bell and
19 Last Dollar Additions to the Mt. Sneffels Wilderness”,
20 dated January 26, 2010, and which are hereby incor-
21 porated into the Mt. Sneffels Wilderness area.

22 (3) Certain lands in the Grand Mesa,
23 Uncompahgre, and Gunnison National Forests com-
24 prising approximately 13,224 acres, as generally de-
25 picted on a map titled “Whitehouse Additions to the
26 Mt. Sneffels Wilderness”, dated January 26, 2010,

1 *and which are hereby incorporated into the Mt.*
2 *Sneffels Wilderness area.*

3 *(4)(A) Certain lands in the San Juan Resource*
4 *Area of the Bureau of Land Management comprising*
5 *approximately 8,614 acres, as generally depicted on a*
6 *map titled “McKenna Peak Wilderness”, dated April*
7 *15, 2010, and which shall be known as the McKenna*
8 *Peak Wilderness.*

9 *(B) The lands designated under subparagraph*
10 *(A) shall be administered as a component of the Na-*
11 *tional Landscape Conservation System.*

12 *(b) MAP AND DESCRIPTION.—*

13 *(1) IN GENERAL.—As soon as practicable after*
14 *the date of the enactment of this Act, the Secretary*
15 *shall file a map and a legal description of each wil-*
16 *derness area designated by this Act with—*

17 *(A) the Committee on Natural Resources of*
18 *the House of Representatives; and*

19 *(B) the Committee on Energy and Natural*
20 *Resources of the Senate.*

21 *(2) FORCE OF LAW.—A map and legal descrip-*
22 *tion filed under paragraph (1) shall have the same*
23 *force and effect as if included in this Act, except that*
24 *the Secretary may correct clerical and typographical*
25 *errors in the map and legal description.*

1 (3) *PUBLIC AVAILABILITY.*—Each map and legal
2 description filed under paragraph (1) shall be filed
3 and made available for public inspection in the Office
4 of the Director of the Bureau of Land Management
5 and in the Office of the Chief of the Forest Service,
6 as appropriate.

7 **SEC. 4. SHEEP MOUNTAIN SPECIAL MANAGEMENT AREA.**

8 (a) *DESIGNATION.*—Certain lands in the Grand Mesa,
9 Uncompahgre, and Gunnison and San Juan National For-
10 ests comprising approximately 21,697 acres as generally de-
11 picted on a map titled “Proposed Sheep Mountain Special
12 Management Area” and dated January 26, 2010, are here-
13 by designated as the Sheep Mountain Special Management
14 Area.

15 (b) *MAPS AND DESCRIPTIONS.*—

16 (1) *IN GENERAL.*—As soon as practicable after
17 the date of enactment of this Act, the Secretary shall
18 file maps and legal descriptions of the Federal land
19 described in subsection (a) with—

20 (A) the Committee on Natural Resources of
21 the House of Representatives; and

22 (B) the Committee on Energy and Natural
23 Resources of the Senate.

24 (2) *FORCE OF LAW.*—The maps and legal de-
25 scriptions filed under paragraph (1) shall have the

1 same force and effect as if included in this Act, except
2 that the Secretary may correct typographical errors
3 in the maps and legal descriptions.

4 (3) *PUBLIC AVAILABILITY.*—Each map and legal
5 description filed under paragraph (1) shall be on file
6 and available for public inspection in the appropriate
7 offices of the United States Forest Service.

8 (c) *MANAGEMENT.*—

9 (1) *IN GENERAL.*—Until Congress determines
10 otherwise, activities within the area designated in
11 subsection (a) shall be managed by the Secretary of
12 Agriculture so as to maintain the area's presently ex-
13 isting wilderness character and potential for inclusion
14 in the National Wilderness Preservation System.

15 (2) *PROHIBITIONS.*—The following shall be pro-
16 hibited on the Federal land described in subsection
17 (a):

18 (A) *Permanent roads.*

19 (B) *Except as necessary to meet the min-*
20 *imum requirements for the administration of the*
21 *Federal land and to protect public health and*
22 *safety—*

23 (i) *the use of motor vehicles, motorized*
24 *equipment, or mechanical transport, except*

1 *as described in paragraph (3) or section 5;*

2 *and*

3 *(ii) the establishment of temporary*

4 *roads.*

5 (3) *ALLOWABLE ACTIVITIES.*—*The Secretary*
6 *may allow activities, including helisking, that have*
7 *been authorized as of the date of the enactment of this*
8 *Act to continue within the area designated in sub-*
9 *section (a). The designation under subsection (a) shall*
10 *not impact future permit processes relating to such*
11 *activities.*

12 (4) *APPLICABLE LAW.*—*Any uses of the Federal*
13 *land described in subsection (a), including activities*
14 *described in paragraph (3), shall be in accordance*
15 *with applicable law.*

16 (d) *DESIGNATION AS WILDERNESS.*—*Lands described*
17 *in subsection (a) shall be designated as wilderness on the*
18 *date on which the Secretary publishes in the Federal Reg-*
19 *ister notice that the nonconforming use has terminated.*

20 (e) *ADMINISTRATION AS WILDERNESS.*—*Upon its des-*
21 *ignation as wilderness under subsection (e), the Sheep*
22 *Mountain Special Management Area shall be—*

23 (1) *known as the Sheep Mountain Wilderness;*

24 *and*

1 (2) *administered in accordance with the Wilder-*
2 *ness Act (16 U.S.C. 1133 et seq.) and section 3.*

3 **SEC. 5. ADMINISTRATIVE PROVISIONS.**

4 (a) *IN GENERAL.*—

5 (1) *Subject to valid rights in existence on the*
6 *date of the enactment of this Act, land designated as*
7 *wilderness under section 3 or section 4 shall be ad-*
8 *ministered by the Secretary in accordance with—*

9 (A) *the Wilderness Act (16 U.S.C. 1131 et*
10 *seq.); and*

11 (B) *this Act.*

12 (2) *The Secretary may continue to authorize the*
13 *competitive running event permitted since 1992 in the*
14 *vicinity of the boundaries of the Sheep Mountain Spe-*
15 *cial Management Area designated by section 4(a), the*
16 *Sheep Mountain Wilderness Area designated by sec-*
17 *tion 4(f), and the Liberty Bell addition to the Mt.*
18 *Sneffels Wilderness designated by section 3(a)(2) in a*
19 *manner compatible with the preservation of such*
20 *areas as wilderness.*

21 (b) *EFFECTIVE DATE OF THE WILDERNESS ACT.*—

22 *With respect to land designated as wilderness under section*
23 *3 or section 4, any reference in the Wilderness Act (16*
24 *U.S.C. 1131 et seq.) to the effective date of the Wilderness*
25 *Act shall be deemed to be a reference to the date of the enact-*

1 *ment of this Act or the date of the Secretary designating*
2 *the land as wilderness.*

3 (c) *FISH AND WILDLIFE.*—*Nothing in this Act shall*
4 *affect the jurisdiction or responsibility of the State with re-*
5 *spect to wildlife and fish.*

6 (d) *NO BUFFER ZONES.*—

7 (1) *IN GENERAL.*—*Nothing in this Act shall cre-*
8 *ate a protective perimeter or buffer zone around cov-*
9 *ered land.*

10 (2) *ACTIVITIES OUTSIDE WILDERNESS.*—*The fact*
11 *that a nonwilderness activity or use can be seen or*
12 *heard from within covered land shall not preclude the*
13 *conduct of the activity or use outside the boundary of*
14 *the covered land.*

15 (e) *WITHDRAWAL.*—*Subject to valid rights in existence*
16 *on the date of the enactment of this Act, covered land is*
17 *withdrawn from all forms of—*

18 (1) *entry, appropriation, or disposal under pub-*
19 *lic land laws;*

20 (2) *location, entry, and patent under mining*
21 *laws; and*

22 (3) *disposition under all laws pertaining to min-*
23 *eral and geothermal leasing or mineral materials.*

24 (f) *ACQUISITION OF LAND.*—*The Secretary may ac-*
25 *quire non-Federal land within the boundaries of the Special*

1 *Management Area or the Wilderness only through exchange,*
2 *donation, or purchase from a willing seller.*

3 (g) *ACQUIRED LAND.*—*Any land or interest in land*
4 *located inside the boundaries of covered land that is ac-*
5 *quired by the United States after the date of the enactment*
6 *of this Act shall become part of the relevant wilderness or*
7 *special management area and shall be managed in accord-*
8 *ance with this Act and other applicable law.*

9 (h) *STATE LAND.*—*The Secretary is authorized to ac-*
10 *quire by donation or exchange from the State of Colorado*
11 *the parcel identified as “McKenna Peak Adjacent Parcel”*
12 *on the map titled “McKenna Peak Wilderness” and dated*
13 *April 15, 2010.*

14 (i) *STATE TRUST LAND.*—*Any portion of the State*
15 *Trust land parcel identified as “Proposed McKenna Peak*
16 *Wilderness Addition” on the map titled “McKenna Peak*
17 *Wilderness” and dated April 15, 2010, that is acquired by*
18 *the United States after the date of the enactment of this*
19 *Act shall become part of the McKenna Peak Wilderness and*
20 *shall be managed in accordance with this Act and other*
21 *applicable laws.*

22 (j) *GRAZING.*—*Within the covered lands in which graz-*
23 *ing was established before the date of the enactment of this*
24 *Act, grazing shall be allowed to continue, subject to such*

1 *reasonable regulations, policies, and practices as the Sec-*
2 *retary determines to be necessary, in accordance with—*

3 *(1) section 4(d)(4) of the Wilderness Act (16*
4 *U.S.C. 1131(d)(4));*

5 *(2) with respect to wilderness areas administered*
6 *by the Secretary of Agriculture, the provisions of sec-*
7 *tion 108 of Public Law 96-560; and*

8 *(3) with respect to wilderness areas administered*
9 *by the Secretary of the Interior, the guidelines de-*
10 *scribed in appendix A of House Report 101-405 of the*
11 *101st Congress.*

12 *(k) AMES HYDROELECTRIC PROJECT.—The inclusion*
13 *in the National Wilderness Preservation System or designa-*
14 *tion under section 4 of this Act as a Special Management*
15 *Area as described in section 4 of this Act, shall not be con-*
16 *strued to interfere with the operation and maintenance of*
17 *the Ames Hydroelectric Project, as currently licensed by the*
18 *Federal Energy Regulatory Commission, or as relicensed*
19 *within the project boundaries set forth in the license on the*
20 *date of the enactment of this Act, including reasonable use*
21 *of National Wilderness Preservation System lands or Spe-*
22 *cial Management Area for any necessary repair or replace-*
23 *ment of existing facilities, transport of water and aerial*
24 *or land access. All means of access to the project that are*

1 *currently permitted by the Secretary on the date of enact-*
 2 *ment of this Act shall be maintained.*

3 *(l) PREVENTION OF WILDFIRES.—The inclusion in the*
 4 *National Wilderness Preservation System under section 3*
 5 *or designation under section 4 as a Special Management*
 6 *Area under this Act shall not be construed to interfere with*
 7 *the authority of the Secretary to authorize mechanical*
 8 *thinning of trees or underbrush to prevent or control the*
 9 *spread of wildfires.*

10 *(m) FACILITATION OF RESPONSIBLE SPORT HUNT-*
 11 *ING.—The use of wheeled, muscle-powered carts for the re-*
 12 *moval of shot game is authorized in the areas designated*
 13 *under sections 3 and 4 of this Act.*

14 **SEC. 6. WATER.**

15 *(a) FINDINGS; PURPOSE; DEFINITION.—*

16 *(1) FINDINGS.—Congress finds that—*

17 *(A) the lands designated as wilderness or a*
 18 *Special Management Area by this Act are lo-*
 19 *cated at the headwaters of the streams and rivers*
 20 *on those lands with few, if any, actual or pro-*
 21 *posed water resource facilities located upstream*
 22 *from such lands and few, if any, opportunities*
 23 *for diversion, storage, or other uses of water oc-*
 24 *curring outside such lands that would adversely*
 25 *affect the wilderness values of such lands;*

1 (B) the lands designated as wilderness or
2 Special Management Area by this Act are not
3 suitable for use for development of new water re-
4 source facilities, or for the expansion of existing
5 facilities; and

6 (C) therefore, it is possible to provide for
7 proper management and protection of the wilder-
8 ness value of such lands in ways different from
9 those used in other legislation designating as
10 wilderness lands not sharing the attributes of the
11 lands designated as wilderness or a Special
12 Management Area by this Act.

13 (2) *PURPOSE.*—The purpose of this section is to
14 protect the wilderness values of the lands designated
15 as wilderness or Special Management Area by this
16 Act by means other than those based on a Federal re-
17 served water right.

18 (3) *DEFINITION.*—As used in this section, the
19 term “water resource facility” means irrigation and
20 pumping facilities, reservoirs, water conservation
21 works, aqueducts, canals, ditches, pipelines, wells, hy-
22 dropower projects, and transmission and other ancil-
23 lary facilities, and other water diversion, storage, and
24 carriage structures.

1 **(b) RESTRICTIONS ON RIGHTS AND DISCLAIMER OF**
2 **EFFECT.—**

3 **(1) WATER RIGHTS CLAIMS.—***Neither the Sec-*
4 *retary of Agriculture nor the Secretary of the Interior,*
5 *nor any other officer, employee, representative, or*
6 *agent of the United States, nor any other person,*
7 *shall assert in any court or agency, nor shall any*
8 *court or agency consider, any claim to or for water*
9 *or water rights in the State of Colorado, which is*
10 *based on any construction of any portion of this Act,*
11 *or the designation of any lands as wilderness or Spe-*
12 *cial Management Area by this Act, as constituting an*
13 *express or implied reservation of water or water*
14 *rights.*

15 **(2) NO AFFECT ON WATER RIGHTS.—***Nothing in*
16 *this Act shall be construed as a creation, recognition,*
17 *disclaimer, relinquishment, or reduction of any water*
18 *rights of the United States in the State of Colorado*
19 *existing before the date of enactment of this Act.*

20 **(3) NO INTERPRETATION OR DESIGNATION.—***Ex-*
21 *cept as provided in subsection (g), nothing in this Act*
22 *shall be construed as constituting an interpretation of*
23 *any other Act or any designation made by or pursu-*
24 *ant thereto.*

1 (4) *NO PRECEDENT.*—*Nothing in this section*
2 *shall be construed as establishing a precedent with re-*
3 *gard to any future wilderness designations.*

4 (c) *NEW OR EXPANDED PROJECTS.*—*Notwithstanding*
5 *any other provision of law, on and after the date of enact-*
6 *ment of this Act neither the President nor any other officer,*
7 *employee, or agent of the United States shall fund, assist,*
8 *authorize, or issue a license or permit for the development*
9 *of any new water resource facility within the areas de-*
10 *scribed in sections 3 and 4 or the enlargement of any water*
11 *resource facility within the areas described in sections 3*
12 *and 4.*

13 (d) *ACCESS AND OPERATION.*—

14 (1) *ACCESS TO WATER RESOURCE FACILITIES.*—
15 *Subject to the provisions of this subsection, the Sec-*
16 *retary shall allow reasonable access to water resource*
17 *facilities in existence on the date of enactment of this*
18 *Act within the areas described in sections 3 and 4, in-*
19 *cluding motorized access where necessary and custom-*
20 *arily employed on routes existing as of the date of en-*
21 *actment of this Act.*

22 (2) *ACCESS ROUTES.*—*Existing access routes*
23 *within such areas customarily employed as of the date*
24 *of enactment of this Act may be used, maintained, re-*
25 *paired, and replaced to the extent necessary to main-*

1 tain their present function, design, and serviceable
2 operation, so long as such activities have no increased
3 adverse impacts on the resources and values of the
4 areas described in sections 3 and 4 than existed as of
5 the date of enactment of this Act.

6 (3) *USE OF WATER RESOURCE FACILITIES.*—
7 Subject to the provisions of subsections (c) and (d),
8 the Secretary shall allow water resource facilities ex-
9 isting on the date of enactment of this Act within
10 areas described in sections 3 and 4 to be used, oper-
11 ated, maintained, repaired, and replaced to the extent
12 necessary for the continued exercise, in accordance
13 with Colorado State law, of vested water rights adju-
14 dicated for use in connection with such facilities by
15 a court of competent jurisdiction prior to the date of
16 enactment of this Act. The impact of an existing facil-
17 ity on the water resources and values of the area shall
18 not be increased as a result of changes in the adju-
19 dicated type of use of such facility as of the date of
20 enactment of this Act.

21 (4) *REPAIR AND MAINTENANCE.*—Water resource
22 facilities, and access routes serving such facilities, ex-
23 isting within the areas described in sections 3 and 4
24 on the date of enactment of this Act shall be main-
25 tained and repaired when and to the extent necessary

1 to prevent increased adverse impacts on the resources
2 and values of the areas described in sections 3 and 4.

3 (e) *EXISTING PROJECTS.*—Except as provided in sub-
4 sections (c) and (d), the provisions of this Act related to
5 the areas described in sections 3 and 4, and the inclusion
6 in the National Wilderness Preservation System of the areas
7 described in section 3 and 4, shall not be construed to affect
8 or limit the use, operation, maintenance, repair, modifica-
9 tion, or replacement of water resources facilities in existence
10 on the date of enactment of this Act within the boundaries
11 of the areas described in sections 3 and 4.

12 (f) *MONITORING AND IMPLEMENTATION.*—The Secre-
13 taries of Agriculture and the Interior shall monitor the op-
14 eration of and access to water resource facilities within the
15 areas described in sections 3 and 4 and take all steps nec-
16 essary to implement the provisions of this section.

17 (g) *INTERSTATE COMPACTS.*—Nothing in this Act, and
18 nothing in any previous Act designating any lands as wil-
19 derness, shall be construed as limiting, altering, modifying,
20 or amending any of the interstate compacts or equitable ap-
21 portionment decrees that apportion water among and be-
22 tween the State of Colorado and other States. Except as ex-
23 pressly provided in this section, nothing in this Act shall
24 affect or limit the development or use by existing and future

1 *holders of vested water rights of Colorado’s full apportion-*
2 *ment of such waters.*

3 **SEC. 7. NATURITA CANYON MANAGEMENT PROVISIONS.**

4 *(a) WITHDRAWAL.—Subject to valid rights in existence*
5 *on the date of the enactment of this Act, land described in*
6 *subsection (b) is withdrawn from all forms of—*

7 *(1) entry, appropriation, or disposal under pub-*
8 *lic land laws;*

9 *(2) location, entry, and patent under mining*
10 *laws; and*

11 *(3) disposition under all laws pertaining to min-*
12 *eral and geothermal leasing or mineral materials.*

13 *(b) LAND DESCRIBED.—The land to be protected under*
14 *subsection (a) is the approximately 6,596 acres depicted on*
15 *the map titled “Naturita Canyon Mineral Withdrawal*
16 *Area” and dated January 26, 2010.*

Union Calendar No. 345

11TH CONGRESS
2^D Session

H. R. 3914

[Report No. 111-600]

A BILL

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