

Water Language from 1993 Colorado Wilderness Act

SEC. 8. WATER.

(a) FINDINGS, PURPOSE, AND DEFINITION- (1) Congress finds that--

(A) the lands designated as **wilderness** by this **Act** are located at the headwaters of the streams and rivers on those lands, with few, if any, actual or proposed water resource facilities located upstream from such lands and few, if any, opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the **wilderness** values of such lands; and

(B) the lands designated as **wilderness** by this **Act** are not suitable for use for development of new water resource facilities, or for the expansion of existing facilities; and

(C) therefore, it is possible to provide for proper management and protection of the **wilderness** value of such lands in ways different from those utilized in other legislation designating as **wilderness** lands not sharing the attributes of the lands designated as **wilderness** by this **Act** .

(2) The purpose of this section is to protect the **wilderness** values of the lands designated as **wilderness** by this **Act** by means other than those based on a Federal reserved water right.

(3) As used in this section, the term 'water resource facility' means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

(b) RESTRICTIONS ON RIGHTS AND DISCLAIMER OF EFFECT- (1) Neither the Secretary of Agriculture nor the Secretary of the Interior, nor any other officer, employee, representative, or agent of the United States, nor any other person, shall assert in any court or agency, nor shall any court or agency consider, any claim to or for water or water rights in the State of **Colorado** , which is based on any construction of any portion of this **Act** , or the designation of any lands as **wilderness** by this **Act** , as constituting an express or implied reservation of water or water rights.

(2)(A) Nothing in this **Act** shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the Piedra, Roubideau, and Tabeguache areas identified in section 9 of this **Act** , or the Bowen Gulch Protection Area or the Fossil Ridge Recreation Management Area identified in sections 5 and 6 of this **Act** .

(B) Nothing in this **Act** shall be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United

States in the State of **Colorado** existing before the date of enactment of this **Act** , except as provided in subsection (g)(2) of this section.

(C) Except as provided in subsection (g) of this section, nothing in this **Act** shall be construed as constituting an interpretation of any other **Act** or any designation made by or pursuant thereto.

(D) Nothing in this section shall be construed as establishing a precedent with regard to any future **wilderness** designations.

(c) NEW OR EXPANDED PROJECTS- Notwithstanding any other provision of law, on and after the date of enactment of this **Act** 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 water resource facility within the areas described in sections 2, 5, 6, and 9 of this **Act** or the enlargement of any water resource facility within the areas described in sections 2, 5, 6, and 9 of this **Act** .

(d) ACCESS AND OPERATION- (1) Subject to the provisions of this subsection (d), the Secretary shall allow reasonable access to water resource facilities in existence on the date of enactment of this **Act** within the areas described in sections 2, 5, 6, and 9 of this **Act** , including motorized access where necessary and customarily employed on routes existing as of the date of enactment of this **Act** .

(2) Existing access routes within such areas customarily employed as of the date of enactment of this **Act** may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the areas described in sections 2, 5, 6, and 9 of this **Act** than existed as of the date of enactment of this **Act** .

(3) Subject to the provisions of subsections (c) and (d), the Secretary shall allow water resource facilities existing on the date of enactment of this **Act** within areas described in sections 2, 5, 6, and 9 of this **Act** to be used, operated, maintained, repaired, and replaced to the extent necessary for the continued exercise, in accordance with **Colorado** State law, of vested water rights adjudicated for use in connection with such facilities by a court of competent jurisdiction prior to the date of enactment of this **Act** :

Provided, That the impact of an existing facility on the water resources and values of the area shall not be increased as a result of changes in the adjudicated type of use of such facility as of the date of enactment of this **Act** .

(4) Water resource facilities, and access routes serving such facilities, existing within the areas described in sections 2, 5, 6, and 9 of this **Act** on the date of enactment of this **Act** shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of the areas described in sections 2, 5, 6, and 9 of this **Act** .

(e) EXISTING PROJECTS- Except as provided in subsections (c) and (d) of this section, the provisions of this **Act** related to the areas described in sections 2, 5, 6, and 9 of this **Act** , and the inclusion in the National **Wilderness** Preservation System of the areas described in section 2 of this

Act , shall not be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resources facilities in existence on the date of enactment of this **Act** within the boundaries of the areas described in sections 2, 5, 6, and 9 of this **Act** .

(f) MONITORING AND IMPLEMENTATION- The Secretaries of Agriculture and the Interior shall monitor the operation of and access to water resource facilities within the areas described in sections 2, 5, 6, and 9 of this **Act** and take all steps necessary to implement the provisions of this section.

(g) INTERSTATE COMPACTS AND NORTH PLATTE RIVER- (1) Nothing in this **Act** , and nothing in any previous **Act** designating any lands as **wilderness** , shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of **Colorado** and other States. Except as expressly provided in this section, nothing in this **Act** shall affect or limit the development or use by existing and future holders of vested water rights of **Colorado's** full apportionment of such waters.

(2) Notwithstanding any other provision of law, neither the Secretary of Agriculture nor any other officer, employee, or agent of the United States, or any other person, shall assert in any court or agency of the United States or any other jurisdiction any rights, and no court or agency of the United States shall consider any claim or defense asserted by any person based upon such rights, which may be determined to have been established for waters of the North Platte River for purposes of the Platte River **Wilderness** Area established by Public Law 98-550, located on the **Colorado** -Wyoming State boundary, to the extent such rights would limit the use or development of water within **Colorado** by present and future holders of vested water rights in the North Platte River and its tributaries, to the full extent allowed under interstate compact or United States Supreme Court equitable decree. Any such rights shall be exercised as if junior to, in a manner so as not to prevent, the use or development of **Colorado's** full entitlement to interstate waters of the North Platte River and its tributaries within **Colorado** allowed under interstate compact or United States Supreme Court equitable decree.