



— BUREAU OF —  
RECLAMATION

# **Environmental Assessment and Finding of No Significant Impact for the McPhee Dam and Reservoir Area Land Withdrawal**

**WCAO-DUR-EA-2022-01**

**Dolores Project, Colorado**

**Upper Colorado Basin: Interior Region 7**

**Western Colorado Area Office**



# Mission Statements

The mission of the Department of the Interior is to protect and manage the Nation's natural resources and cultural heritage; provide scientific and other information about those resources; and honor its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

The mission of the Forest Service is to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations.

The Bureau of Land Management's mission is to sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations.

# **FINDING OF NO SIGNIFICANT IMPACT**

for the

## **McPhee Dam and Reservoir Area Land Withdrawal**

**WCAO-DUR-FONSI-2022-01**

United States Department of the Interior  
Bureau of Reclamation  
Interior Region 7: Upper Colorado Basin  
Western Colorado Area Office  
Durango, Colorado

&

United States Department of Agriculture  
Forest Service  
San Juan National Forest, Dolores Ranger District  
Dolores, Colorado

&

United States Department of the Interior  
Bureau of Land Management  
Colorado State Office  
Lakewood, Colorado

### **Introduction**

In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council on Environmental Quality's (CEQ) NEPA regulations at 40 Code of Federal Regulations (CFR) Parts 1500 – 1508 (2020), the Bureau of Reclamation (Reclamation) in conjunction with the Forest Service (USFS) and Bureau of Land Management (BLM) have completed an environmental assessment (EA) for the Proposed Action of the withdrawal, for a period of 100 years and subject to valid existing rights, of 953.06 acres of public lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, and 309.56 acres of National Forest System lands from location and entry under the mining laws, and reserve them for use by Reclamation and the USFS in connection with McPhee Dam and Reservoir, components of the Dolores Project.

Under the legislative authority of 43 CFR Section 2310.3-2, Reclamation is the applicant for the Proposed Action and is the lead Federal agency for the purposes of compliance with the NEPA.

The EA was prepared by Reclamation and cooperating agencies to address the potential impacts to the human environment due to implementation of the Proposed Action. The project's EA is included in this document and incorporated by reference in this Finding of No Significant Impact (FONSI) for the Proposed Action.

## **Alternatives**

The EA analyzed a No Action Alternative and the Proposed Action to implement the McPhee Dam and Reservoir Land Withdrawal project.

## **Decision and Finding of No Significant Impact**

Reclamation and the cooperating agencies' decision is to recommend the McPhee Dam and Reservoir Area Land Withdrawal be forwarded to the Secretary of Interior for implementation. Based upon a review of the EA and supporting documents, Reclamation and cooperating agencies have determined that implementation of the Proposed Action will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. No environmental effects meet the definition of significance in context or intensity as defined at 40 CFR 1508.27. Therefore, an environmental impact statement is not required for this Proposed Action. This finding is based on consideration of the Proposed Action's degree of effects on the potentially affected environment, as analyzed in the EA.

## **Context**

The Proposed Action is located in Montezuma County, Colorado near the towns of Cortez and Dolores and adjacent to McPhee Dam and Reservoir. Affected interests include Reclamation, USFS, Dolores Water Conservancy District, Tribes, and adjacent landowners. The EA evaluated the effects on the potentially affected environment near the McPhee Dam and Reservoir area.

## **Intensity**

The following discussion is organized around the 10 significance criteria described in 40 CFR 1508.27. These criteria were incorporated into the resource analysis and issues described in the EA.

### **1. Impacts may be both beneficial and adverse.**

The Proposed Action will impact resources as described in the EA. Implementation of the Proposed Action will result in the continued administration and protection of the Dolores Project. The Proposed Action is administrative in nature; no environmental commitments or best management practices were developed. As discussed in detail in the EA, the Proposed Action's environmental impacts are not considered significant. Impacts from the Proposed Action, together with other past, current, and reasonably foreseeable actions, do not rise to a significant cumulative impact.

**2. The degree to which the selected alternative will affect public health or safety or a minority or low-income population.**

The Proposed Action will not have significant impacts on public health or safety and will not disproportionately or adversely impact minority or low-income populations in the project's vicinity.

**3. Unique characteristics of the geographic area.**

The parcels of the Proposed Action are adjacent to McPhee Reservoir and within the Anasazi Archaeological District. Mesa Verde National Park is located approximately 20 miles south of the project area and multiple unique designations have been proposed for the Dolores River and Dolores River Canyon west of McPhee Reservoir. While in the general vicinity of various important geographic areas, the Proposed Action is not anticipated to impact the viewsheds, visual resources, nor the unique geographic characteristics of the region.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

Reclamation and cooperating agencies contacted representatives of other Federal agencies, state and local governments, Tribes, and individuals regarding the Proposed Action and its effects on resources. Based on the responses received, the effects of the Proposed Action on the quality of the human environment are not highly controversial.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

There are no predicted effects on the human environment that are considered highly uncertain or that involve unique or unknown risks.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

Implementing the Proposed Action will not establish a precedent for future actions with significant effects and will not represent a decision in principle about a future consideration.

**7. Whether the action is related to other actions which are individually insignificant but cumulatively significant.**

Cumulative impacts are possible when the effects of the Proposed Action are added to other past, present, and reasonably foreseeable future actions. The project parcels are located in a region with limited active development (as described in Section 1.5 of the EA), and the Proposed Action will not contribute to significant cumulative effects.

**8. The degree to which the action may adversely affect sites, districts, buildings, structures, and objects listed in or eligible for listing in the National Register of Historic Places.**

Parcels of the Proposed Action within the McPhee Reservoir Area are located within the Anasazi Archaeological District that was listed in the National Register of Historic Places in 1984. Under the Proposed Action, cultural resources would continue to be managed by the USFS as described in the 2021 San Juan National Forest Lands and Resource Management Plan with additional protection

under the conditions of the proposed withdrawal. Consultation with the Colorado State Historic Preservation Officer concluded with a “*no historic properties affected*” effect determination for the Proposed Action.

**9. The degree to which the action may adversely affect and endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.**

Reclamation used the U.S. Fish and Wildlife Service’s Information for Planning and Consultation Tool to generate a list of potential threatened and endangered species in the Proposed Action. After review, the Proposed Action was determined to have “*no effect*” on the New Mexico meadow jumping mouse, Gunnison sage-grouse, Mexican spotted owl, yellow-billed cuckoo, bonytail, Colorado pikeminnow, humpback chub, razorback sucker, and monarch butterfly.

**10. Whether the action threatens a violation of Federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment.**

The Proposed Action does not violate any Federal, state, local, or tribal law, regulation, or policy imposed for the protection of the environment. In addition, the Proposed Action is consistent with applicable land management plans, policies, and programs. State, local, and Tribal governments; and interested members of the public were given the opportunity to participate in the environmental analysis process.

## **Environmental Commitments**

The Proposed Action is administrative in nature; no environmental commitments were developed.

## Approval



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Ed Warner  
Area Manager  
Western Colorado Area Office  
Bureau of Reclamation

**FRANK BEUM**

Digitally signed by FRANK BEUM  
Date: 2022.08.25 20:21:11 -06'00'

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Frank Beum  
Regional Forester  
Rocky Mountain Region  
Forest Service

**AMELIA SAVAGE**

Digitally signed by AMELIA SAVAGE  
Date: 2022.05.17 10:47:56 -06'00'

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Amelia Savage  
Branch Chief of Lands and Realty  
Colorado State Office  
Bureau of Land Management

# **Environmental Assessment for the McPhee Dam and Reservoir Area Land Withdrawal**

**WCAO-DUR-EA-2022-01**

**Dolores Project, Colorado**

**Upper Colorado Basin: Interior Region 7**

**Western Colorado Area Office**

*Prepared by the Bureau of Reclamation in conjunction with the Forest Service and Bureau of Land Management.*

Cover Photo: Dolores Project lands near McPhee Dam and Reservoir (Shannon Hatch, July 2020).



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# CHAPTER 1 – INTRODUCTION

This Environmental Assessment (EA) has been prepared to disclose and evaluate the potential environmental effects of the Bureau of Reclamation’s (Reclamation) proposed McPhee Dam and Reservoir Area Land Withdrawal (“Project” or “Proposed Action”) and has been prepared in conjunction with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM). The Federal action evaluated in this EA is the withdrawal, for a period of 100 years, of 953.06 acres of public lands and 309.56 acres of National Forest System lands for reserved use by Reclamation and the USFS in connection with McPhee Dam and Reservoir, components of the Dolores Project. The withdrawal would provide for the continued administration and protection of the Dolores Project and is in compliance with the provisions of the Colorado River Basin Act of September 30, 1968 (Public Law 90-537) as a participating project under the Colorado River Storage Act of April 11, 1956, as amended (Public Law 84-485). This document has been prepared in compliance with the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality’s (CEQ) NEPA regulations at 40 Code of Federal Regulations (CFR) Parts 1500 – 1508 (2020). If potentially significant impacts to environmental resources are identified, an Environmental Impact Statement (EIS) would be prepared. If no significant impacts are identified, a Finding of No Significant Impact (FONSI) would be issued.

## 1.1 – Project Location and Legal Description

The Proposed Action is located approximately ten miles north of Cortez, Colorado within Montezuma County near McPhee Dam and Reservoir (Figure 1). All lands proposed to be withdrawn are administered and managed by the USFS in coordination with Reclamation. A legal description (New Mexico Principal Meridian) of the lands associated with the Project is provided below.

### 1.1.1 – Public Lands

The “Public Lands” descriptor defines lands formerly obtained by Reclamation for the Dolores Project which have subsequently had administrative jurisdiction transferred to the USFS via a Memorandum of Agreement between Reclamation and the USFS. The table below describes these parcels.

Table 1. Legal Description of Public Lands to be Withdrawn as Part of the Proposed Action

Township, Range	Section	Location	Acres
38 North, 15 West	18	Lots 2 and 3, and NE $\frac{1}{4}$ SW $\frac{1}{4}$	110.43
38 North, 15 West	19	SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$	80.00
38 North, 16 West	2	Lots 1 thru 4	162.63

38 North, 16 West	11	S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> and S <sup>1</sup> / <sub>2</sub> NW <sup>1</sup> / <sub>4</sub>	160.00
38 North, 16 West	12	SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> , S <sup>1</sup> / <sub>2</sub> NW <sup>1</sup> / <sub>4</sub> , N <sup>1</sup> / <sub>2</sub> SW <sup>1</sup> / <sub>4</sub> , SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> , N <sup>1</sup> / <sub>2</sub> SE <sup>1</sup> / <sub>4</sub> , and SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	360.00
38 North, 16 West	13	W <sup>1</sup> / <sub>2</sub> NW <sup>1</sup> / <sub>4</sub>	80.00
<b>Total</b>	-	-	<b>953.06</b>

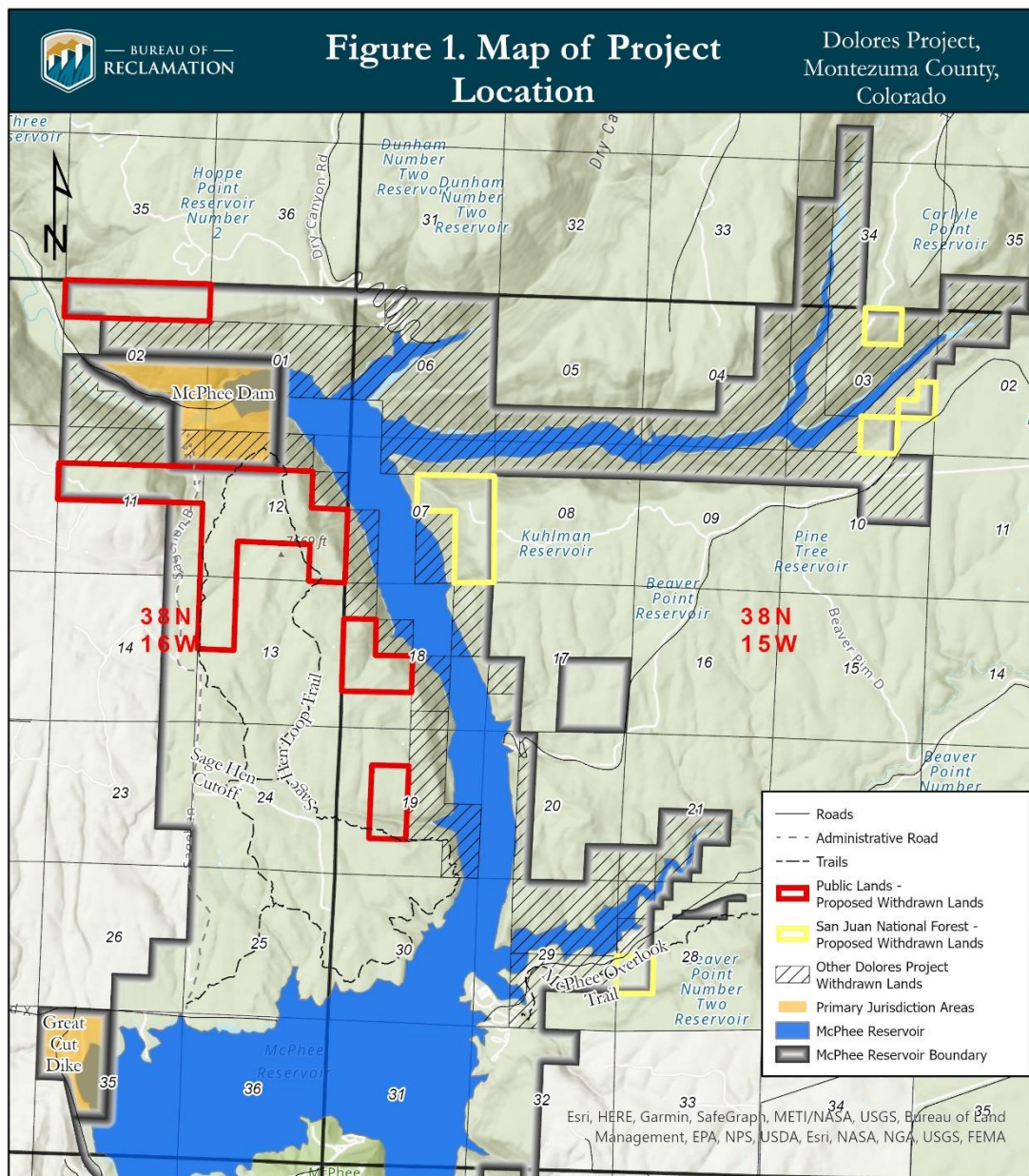
### 1.1.2 – National Forest System

The “National Forest System” or “San Juan National Forest” descriptor defines National Forest System lands that have been previously withdrawn by Reclamation. The table below describes these lands.

Table 2. Legal Description of National Forest System lands to be Withdrawn as Part of the Proposed Action

<b>Township, Range</b>	<b>Section</b>	<b>Location</b>	<b>Acres</b>
38 North, 15 West	3	Lot 2, E <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> , SW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> , and SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub>	109.56
38 North, 15 West	7	S <sup>1</sup> / <sub>2</sub> NE <sup>1</sup> / <sub>4</sub> and E <sup>1</sup> / <sub>2</sub> SE <sup>1</sup> / <sub>4</sub>	160.00
38 North, 15 West	28	NW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub>	40.00
<b>Total</b>	-	-	<b>309.56</b>

Figure 1. Map of project location.



Sources:  
USBR, USFS, ESRI

**DISCLAIMER:**

No warranty is made by the Bureau of Reclamation as to the accuracy, reliability, or completeness of these data. This project was developed through digital means and may be updated without notice. Map produced by Western Colorado Area Office, Bureau of Reclamation. Map created 1/5/2022.



## **1.2 – Purpose and Need of the Proposed Action**

The purpose of the Proposed Action is to provide for the administration and protection of the Dolores Project, described in Section 1.4.1, which includes McPhee Dam and Reservoir. The need for the Proposed Action is to prevent any interest in these lands from passing out of Federal ownership, allowing Reclamation (in coordination with the USFS) to retain complete unencumbered jurisdiction and responsibility for activities taking place on these lands as they relate to the protection of the Dolores Project. The withdrawn area is the minimum size essential to accommodate Dolores Project features and the expected life of the Dolores Project is anticipated to exceed 100 years, which is consistent with the 100-year term requested for the withdrawal.

Neither a right-of-way nor cooperative agreement would adequately preserve the use of these lands against nondiscretionary entries. A right-of-way agreement would be unacceptable to Reclamation to fully operate and maintain the powerplant, McPhee Dam and Reservoir, and appurtenant structures, as well as follow commitments to recreation and wildlife. Further, retention of the withdrawal is consistent with Reclamation policy set forth in 43 CFR 8, Joint Policies of the Departments of Interior and of the Army Relative to Reservoir Projects Lands, Section 6 of the Interagency Agreement between the Bureau of Reclamation and the Bureau of Land Management dated March 25, 1983, and Master Interagency Agreement Number 86-SIE-004 Between the Bureau of Reclamation, U.S. Department of the Interior, and the Forest Service, U.S. Department of Agriculture, Concerning Water Resource Related Projects of the Bureau of Reclamation Within or Adjacent to National Forest System Land. Reclamation policy provides that all dams and reservoirs be located on lands over which Reclamation has sufficient management control to comply with regulations concerning public safety, dam safety, soil and moisture conservation, recreation management, and fish and wildlife conservation and mitigation. Reclamation policy dictates that sufficient management control is possible only on acquired or withdrawn land.

## **1.3 – Decision to be Made**

Reclamation, in conjunction with the USFS, would petition the Proposed Action to the BLM, who on behalf of the Department of Interior, would process the withdrawal package and forward to the Secretary of the Interior to decide whether to implement the Proposed Action. If the withdrawal request is approved by the Secretary, a Public Land Order withdrawing the lands would be published in the Federal Register.

## **1.4 – Background**

The following section provides a summary of the Dolores Project, information about the management of McPhee Dam and Reservoir, a description of what withdrawn lands represent, and details the lands that have been withdrawn as part of the Dolores Project.

### **1.4.1 – Dolores Project**

The Dolores Project is a multi-purpose water development project located in the Dolores and San Juan River Basins of southwestern Colorado and was authorized by the Colorado River Basin Act of

September 30, 1968 (Public Law 90-537), as a participating project under the Colorado River Storage Project (CRSP) Act of April 11, 1956 (Public Law 84-485). Water from the Dolores River is impounded by McPhee Dam and the Great Cut Dike to create the approximately 4,500-acre McPhee Reservoir. Water from McPhee Reservoir is used for irrigation, municipal and industrial use, power production, and recreation among other uses. Irrigation water is supplied to the northwest Dove Creek area, Central Montezuma Valley area, and south to the Ute Mountain Ute Reservation. Municipal and industrial water is provided to the communities of Cortez, Dove Creek, and Towaoc. Hydroelectric powerplants are located at McPhee Dam and on the Towaoc Canal and supply power to the CRSP transmission system.

#### **1.4.2 – Management of the McPhee Reservoir Area**

The McPhee Reservoir Area lies entirely within the San Juan National Forest boundary. Lands within this area are administered by the USFS in coordination with Reclamation; notwithstanding Reclamation's authority to construct, operate, and maintain project facilities in accordance with the purposes of the Dolores Project; and excepting Reclamation approval required for administrative actions that are not for Dolores Project purposes within three Primary Jurisdiction Zones (PJZs; McPhee Dam, Great Cut Dike, and the Dolores Tunnel). The Dolores Water Conservancy District; as Reclamation's Operation, Maintenance, and Replacement (OM&R) contractor for the Dolores Project; is responsible for ongoing OM&R of Dolores Project facilities and for coordination with the USFS inasmuch as is necessary to carry out OM&R activities, protect Dolores Project infrastructure, and enhance and preserve aesthetic and cultural values within the McPhee Reservoir Area.

In 1983, Public Law 98-141 modified the exterior boundary of the San Juan National Forest to include lands acquired by Reclamation as part of the McPhee Dam and Reservoir. As part of this law, "...the Secretary of the Interior retained jurisdiction over all lands administered by the Bureau of Reclamation that, by reason of the boundary modification described in the first section of this Act, fall within the boundary of the San Juan National Forest, until such time as the Secretary of the Interior, by agreement with the secretary of Agriculture, transfers such jurisdiction to the Secretary of Agriculture. Upon such transfer, the land involved shall be added to the San Juan National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the national forest system."

Reclamation entered into a Memorandum of Agreement (MOA) with the USFS in 1986 for the Administration of Forest Resources, Recreation Facilities, Lands, Waters, and Reclamation Works in the McPhee Reservoir Area, Dolores Project, Colorado; Contract No. 6-07-40-L0190. This MOA was later supplemented in 1988 and titled: Relating to the Transfer of Administrative Jurisdiction of Certain Lands and for Administration of Forest Resources, Recreation Facilities, Lands, Waters, and Reclamation Works in the McPhee Reservoir Area, Dolores Project, Colorado. The purpose of the MOA and supplement was to specify each agency's responsibility with respect to planning, administration, and operation of the McPhee Reservoir Area. In accordance with these agreements, the USFS manages recreation areas associated with the reservoir, as well as the water-based recreation. The USFS also administers all lands with the Reservoir Area Boundary, which includes all lands used for McPhee Dam and Reservoir. These lands, which are located within the exterior boundaries of the San Juan National Forest, consist of National Forest lands reserved from the public domain which are also under Reclamation withdrawal, and lands acquired by Reclamation which by the Public Lands and National Parks Act pursuant to provisions and limitations of Section

7(c) of the Federal Water Project Recreation Act, are National Forest lands. The USFS manages these areas in accordance with the 2013 San Juan National Forest Land and Resource Management Plan (SJNFLRMP) that was recently updated in 2021 (USFS 2021).

### 1.4.3 – Land Withdrawal Overview

A land withdrawal means withholding an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than property governed by the Federal Property and Administrative Services Act (40 U.S.C. 472), from one department, bureau or agency to another department, bureau or agency (43 CFR 2300.0-5(h)).

Until the enactment of the Federal Land Policy and Management Act of 1976 (FLPMA), withdrawal of public land for Reclamation’s authorized project purposes was made pursuant to the authority of the Reclamation Act of June 17, 1902 (Reclamation 2012). Section 3 of the 1902 Act enabled Reclamation to “withdraw from public entry the lands required for any irrigation works” planned and developed by Reclamation. This withdrawal from public entry of lands required for the construction of irrigation facilities is referred to as a “Form One Withdrawal”. Section 3 of the 1902 Act also permits Reclamation to “withdraw from entry...any public lands believed to be susceptible of irrigation from said [irrigation] works”. This withdrawal from public entry of lands that are planned to be irrigated is referred to as a “Form Two Withdrawal”.

Land withdrawals are currently made, modified, extended, or revoked in accordance with section 204 of FLPMA, unless otherwise specifically legislated. The general implementing regulations and procedures for withdrawals are outlined in 43 CFR parts 2310 and 2370. The Proposed Action is an administrative withdrawal which may be made by the President, Secretary of the Interior, or other authorized Executive branch officers. Currently, only public land orders signed by the Secretary or Assistant Secretary of the Interior are used for administrative withdrawals (BLM 2021). The BLM is responsible for processing withdrawal related applications for the Department of the Interior.

Land withdrawals are generally made subject to “valid existing rights” which as used in legislated withdrawals can be defined as a third-party (non-Federal) interest in Federal land that the relevant Federal agency cannot terminate or unduly limit (Congressional Research Service 2021). According to the Congressional Research Service (2021), to have a valid existing right, the nonfederal party must:

- Have met the requirements under the relevant law to obtain a property interest in the land (i.e., the property interest must be *valid*);
- Have had a protectable interest before the United States withdraws the land (i.e., the property interest was *existing* at the time of withdrawal); and
- Possess a property interest (or in some cases a possessory interest) in the land that constitutes a right for purposes of withdrawals (i.e., it must be a *right*).



## 1.4.4 – Dolores Project Withdrawn Lands

### 1.4.4.1 - Prior Withdrawals for Lands Included in the Proposed Action

Lands included in the Proposed Action were initially withdrawn under Public Land Order 5811 on January 22, 1981, under Section 204 of the FLPMA (43 U.S.C. 1714) for a period of twenty years. Subject to valid existing rights, Public Land Order 5811 withdrew the “Public Lands” of the Proposed Action from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, 30. U.S.C. Ch. 2. The lands were reserved for use by the Water and Power Resources Service (former name of Reclamation) in connection with McPhee Dam and Reservoir, Dolores Project, including, without limiting the generality of the preceding, the use of such lands to replace wildlife habitat inundated by the reservoir and for recreational purposes. Also subject to valid existing rights, Public Land Order 5811 withdrew the “San Juan National Forest” lands of the Proposed Action from location and entry under the mining laws, 30 U.S.C. Ch. 2, for use by the Water and Power Resources Service (former name of Reclamation) in connection with the McPhee Dam and Reservoir, Dolores Project.

Public Land Order 7473, dated January 21, 2001, extended the withdrawal of the lands included in the Proposed Action for a 20-year term that expired on January 21, 2021.

Reclamation sought an extension for the formerly withdrawn lands included in the Proposed Action, however, the application was not processed in time and the withdrawal expired on January 21, 2021. Land withdrawal extensions are typically processed by the BLM using a Categorical Exclusion; however, the Proposed Action is considered a new withdrawal and an Environmental Assessment was determined to meet the requirements of the NEPA per 43 CFR 2310.3-2.

### 1.4.4.2 – Other Dolores Project Land Withdrawals

Other withdrawn lands are associated with the Dolores Project (see Figure 1). These land withdrawals were authorized under the public land orders and secretarial orders described in the below table.

Table 3. Other Dolores Project Land Withdrawals

Order	Date	Authority	Acres
Secretarial Order	12/30/1942	First form Reclamation withdrawal, as provided in section 3 of the act of June 17, 1902 (32 Stat. 388). The Colorado Grazing District No. 4, established under departmental order of April 8, 1935, was modified, and made subject to this withdrawal.	2,685.89
Secretarial Order	1/4/1943	First form Reclamation withdrawal, as provided in section 3 of the act of June 17, 1902 (32 Stat. 388). The Colorado Grazing District No. 4, established under departmental order of April 8, 1935, was modified, and made subject to this withdrawal.	1,411.29

Public Land Order 2800	10/19/1962	Section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C 416)	1,078.18
Public Land Order 3608	4/14/1965	Section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C 416)	193.98

## 1.5 – Relationship to Other Projects

The withdrawn lands associated with the Proposed Action are fully encompassed by the Dolores Project and San Juan National Forest and are not adjacent to any other Reclamation or active projects.

In 2018, Montezuma County, in partnership with the Montezuma County Recreation Advisory Committee, requested the San Juan National Forest consider designation of a motorized trail in the Sage Hen/McPhee area west of MCPhee Reservoir (Figure 1). Two field visits were held with various partners, including Reclamation, to discuss the trail proposal and potential points of analysis (USFS 2019). The project proposal was subsequently withdrawn due to natural resource concerns in the area, including the presence of a golden eagle nest.

# CHAPTER 2 – PROPOSED ACTION AND ALTERNATIVES

Alternatives evaluated in this EA include the No Action Alternative and the Proposed Action Alternative.

## 2.1 – No Action Alternative

Under the No Action Alternative, the parcels included in the Proposed Action totaling 1,262.62 acres would not be withdrawn and would receive no additional protection from settlement, sale, location, or entry, under all of the general land laws, including the mining laws.

## 2.2 – Proposed Action

The Proposed Action is the withdrawal, for a period of 100 years and subject to valid existing rights, of 953.06 acres of public lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, and 309.56 acres of National Forest System lands from location and entry under the mining laws, and reserve them for use by Reclamation and the USFS in connection with MCPhee Dam and Reservoir, components of the Dolores Project. The withdrawal, totaling 1,262.62 acres, would provide for the continued administration and protection of the Dolores

Project. The Proposed Action's land withdrawal would follow the same terms and conditions these lands were previously withdrawn under by Public Land Order 5811 and as extended by Public Land Order 7473. No change in acreage, purpose, facilities, and management from the previous withdrawn status would occur under the Proposed Action.

Parcels included in the Proposed Action are segregated until 2023 as described below per the Notice of Proposed Withdrawal and Opportunity for Public Meeting for the Proposed Action, published by the BLM in the Federal Register on August 2, 2021 (86 Fed. Reg. 41507-41508):

- For a period until August 2, 2023, subject to valid existing rights, the 953.06 acres of public lands are segregated from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, and 309.56 acres of National Forest System lands are segregated from location and entry under the mining laws, unless the application is denied or canceled, or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of mineral and vegetative resources other than under the mining laws.

## **2.3 – Permits and Authorizations**

Compliance with the following laws and Executive Orders are required prior to and during project implementation.

### **2.3.1 – Natural Resource Protection Laws**

- Clean Air Act of 1963 (42 U.S.C. § 7401)
- Endangered Species Act of 1973 as amended (16 U.S.C. 1531-1544, 87 Stat. 884)
- Clean Water Act of 1972 as amended (33 U.S.C. 1251 et seq.)
- Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712)
- Bald and Golden Eagle Protection Act of 1940 (16 U.S.C. 668- 668c)

### **2.3.2 – Cultural Resource Laws**

- National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470 et seq.)
- Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470mm et seq.)
- Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001 et seq.)
- American Indian Religious Freedom Act of 1978 (42 U.S.C. Public Law 95-341)
- Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44716)

### **2.3.3 – Paleontological Resource Laws**

- Paleontological Resources Preservation Act of 2009 [Section 6301-6312 of the Omnibus Land Management Act of 2009 (Public Law 111-11 123 Stat. 991-1456)]

# CHAPTER 3 – AFFECTED ENVIRONMENT & ENVIRONMENTAL CONSEQUENCES

## 3.1 - Introduction

This chapter discusses resources that may be affected by the Proposed Action Alternative and the No Action Alternative. For each resource, the potentially affected area and/or interests are identified, existing conditions described, and potential impacts predicted under the No Action and Proposed Action Alternatives. Also included is a list of resources that were considered but excluded from analysis. This section is concluded with a summary of impacts and a list of environmental commitments.

## 3.2 – Resources Considered but Eliminated from Further Analysis

Resources that were considered but eliminated from further analysis in this EA are listed in the below table. These resources were eliminated due to a lack of applicability or a lack of foreseeable impact.

Table 4. Resources Considered but Eliminated from Further Analysis

Resource	Rationale for Elimination from Further Analysis
Threatened and Endangered Species	Reclamation used the U.S. Fish and Wildlife Service’s Information for Planning and Consultation (IPaC) tool to generate a list of potential threatened and endangered species in the project area. The IPaC species list included the New Mexico meadow jumping mouse, Gunnison sage-grouse, Mexican spotted owl, yellow-billed cuckoo, bonytail, Colorado pikeminnow, humpback chub, razorback sucker, and monarch butterfly. The parcels included in the Proposed Action do not contain designated critical habitat and no threatened and endangered species are known to inhabit the parcels. The Proposed Action would not contribute to new water depletions in the region. Reclamation has made a “no effect” determination for the above listed Threatened and Endangered species relative to the Proposed Action.
Visual Resources	The Proposed Action includes parcels adjacent to and generally above McPhee Reservoir and Dam. The Proposed Action would not impact visual resources within the McPhee Reservoir Area.
Wilderness and Wild and Scenic Rivers	No wilderness areas or wild and scenic rivers are located within or adjacent to the project area. The nearest designated wilderness is located approximately 20 miles south of the project area at Mesa Verde National Park. The Dolores River was found suitable for Wild and Scenic River designation and a portion of the Dolores River Canyon was inventoried as Lands having Wilderness

	Characteristics. The Proposed Action would not impact these areas or their current or future designations.
Prime and Unique Farmlands	Small portions of designated prime farmland, if irrigated, are within the parcels of the Proposed Action. The Proposed Action would not impact the status of these lands.
Floodplains, Wetland and Riparian Areas, Water Quantity and Quality	Floodplains, wetlands, and other waters are protected under the Federal Pollution Control Act, more commonly known as the Clean Water Act (33 U.S.C. 1344) and Executive Orders 11990, 13690, and 11988. While the Dolores River and McPhee Reservoir are jurisdictional Waters of the United States, the parcels included in the Proposed Action are generally upland areas that are adjacent to these waters that do not overlap or encroach upon their ordinary high water marks. The parcels contain a few ephemeral or intermittent waterways with a few stock ponds scattered throughout. The Proposed Action would not impact water quantity or quality, including ground water, surface water, public water supply system, or Federal, state or tribal water quality standards. The Proposed Action would not involve any discharge of dredge or fill material into any Water of the United States.
Water Rights	The Proposed Action would not impact water rights in the area or that may be associated with the Dolores Project.
Geology and Soils	The western area of the San Juan National Forest is within the Paradox Basin Gothic Shale Gas Play Area which is generally located at a depth of 5,500 to 7,500 feet below the ground surface (USFS 2009). Limited leasing and oil and gas development is adjacent to McPhee Reservoir (Colorado Oil & Gas Conservation Commission 2022). While the hydrocarbon occurrence potential is rated high for the Gothic Shale Gas Play Area, development potential is low to moderate (USFS 2009). Soils in the Proposed Action are typically characterized as loams with rock outcrops and slopes varying in steepness. Mineral development in the McPhee Reservoir Area is guided by the 2021 SJNFLRMP and described in Chapter 3.
Recreation, Access, Transportation, Public Health and Safety	Parcels of the Proposed Action include portions of USFS managed the Sage Hen Loop, Sage Hen Cutoff, and McPhee Overlook Trails. These trails are currently open to non-motorized use. The McPhee Overlook Trail is closed to use from December 1 to May 1 to protect critical winter habitat for deer and elk. The Beaver Rim Road and the House Creek Road intersect a small portion of the parcels in the Proposed Action; both roads are closed December 1 to May 1. The Proposed Action would not impact current recreation, access, transportation, or public health and safety in the region.
Air Quality and Climate Change	The administrative nature of the Proposed Action would not result in impacts to air quality or climate change.

Noise	Noise in the project area would continue to be minimal and the Proposed Action would not contribute to additional noise levels in the region.
Vegetation, Noxious Weeds	The Proposed Action does not authorize vegetative disturbance and would not impact vegetation or contribute to the spread of noxious weeds.
Environmental Justice	The CEQ has provided guidance on addressing environmental justice under NEPA (CEQ 1997) and current interim implementation guidance (Office of Management and Budget 2021). Under the guidance, minority populations are identified where the percentage of minorities in the affected area exceeds 50 percent, or where the minority population percentage of the affected area is meaningfully greater than the minority population percentage of a much broader area. According to the U.S. Census Bureau (2021), the population of Montezuma County, Colorado does not meet the above levels. The Proposed Action would not adversely affect minority or low-income populations.
Indian Trust Assets	Based on the Colorado Ute Indian Water Rights Final Settlement Agreement (Dec. 10, 1986), the Ute Mountain Ute Tribe is entitled to water from the Dolores Project for municipal, industrial, irrigation, development, and fish/wildlife purposes, with a priority date of 1868. The Tribe shall also share for all time, on a pro rata basis, the priority of the Dolores Project, which has an adjudication date of March 22, 1963 and an appropriation date of September 10, 1940. The Proposed Action would not impact Ute Mountain Ute Tribe water rights, thus, there would be no effects on an Indian Trust Assets from the Project.
Socioeconomics	The Proposed Action would withdraw all Federal lands that were previously withdrawn from 1981-2021. Activities within the parcels of the Proposed Action are minimal and the Proposed Action is not anticipated to alter the economic potential of the project area.

### 3.3 – Affected Environment and Environmental Consequences

#### 3.3.1 – Land Use

Parcels of the Proposed Action are located in the McPhee Reservoir Area which is managed by the USFS following the 2021 SJNFLRMP (pp. 207-209). USFS management of the area emphasizes protection and preservation of archaeological and paleontological sites, providing recreation opportunities, and protecting big game winter range and sage-grouse habitat. The following uses listed in the below table are allowed, prohibited, or restricted per the 2021 SJNFLRMP (page 209).

Table 5. USFS McPhee Allowable Uses

Management Activities and Uses	Allowable – Prohibited - Restricted
Fire managed for resource benefit	Restricted in order to protect significant archaeological resources
Prescribed burning	Restricted
Mechanical fuels treatment	Allowable
Timber production (scheduled on a rotation basis)	Restricted
Timber harvesting as a tool	Restricted (significant archaeological resources must be protected)
Commercial use of special forest products and firewood	Prohibited
Land use ROWs, special use permits, and utility corridors	Restricted (to minimize impacts to archaeological resources; utilize existing corridors where practicable)
Livestock grazing	Allowable
Facilities	Restricted to existing facilities (significant archaeological resources must be protected prior to the development of any new facilities)
Motorized (summer)	Restricted to designated routes
Motorized (winter)	Restricted
Non-motorized (summer and winter)	Restricted
Mechanical transport	Restricted to designated roads and trails
Road construction (permanent or temporary)	Restricted
Minerals – leasable (oil and gas, and other)	Administratively not available
Minerals – locatable	Allowable (open to mineral entry per the 1987 Mining Law; however, the exploration and development of mining claims may be subject to restrictions to protect resources)
Minerals – saleable (materials)	Restricted

Current land use in the parcels of the Proposed Action is limited. Multiple recreational trails and roads wind through pieces of the Proposed Action parcels, however, no other major land uses are associated with the parcels.

*No Action Alternative:* Under the No Action Alternative, future land uses could be proposed in the Project area that are allowable under the 2021 SJNFLRMP with no additional protection from settlement, sale, location, or entry, under all of the general land laws, including the mining laws.

*Proposed Action:* Under the Proposed Action, land use would continue to be managed by the USFS as described in the 2021 SJNFLRMP and under the withdrawal conditions listed in the Proposed Action. No change in acreage, purpose, facilities, and management from the previous withdrawn status would occur under the Proposed Action.

### **3.3.2 – Cultural Resources**

Cultural resources are defined as physical or other expressions of human activity or occupation, which include culturally significant landscapes, prehistoric and historic archaeological sites, isolated artifacts or features, historic structures, human burials, sacred sites, and traditional cultural properties. Title 54 USC 300101 et seq., National Park Service and Related Programs (formerly known as the NHPA of 1966), requires Federal agencies to take into account the potential effects of a proposed Federal undertaking on historic properties.

The McPhee Reservoir Area is home to the Anasazi Archaeological District, listed in the National Register of Historic Places (NHRP) on July 19, 1984, which contains one of the densest concentrations of Ancestral Puebloan sites in the southwestern United States. Archaeological sites are associated with the Basketmaker III (A.D. 500–750), Pueblo I (A.D. 750–900), and Pueblo II (A.D. 900–1150) culture periods (USFS 2021).

An interagency Memorandum of Agreement was signed in 1978 between Reclamation, the Colorado State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) for the conduct of a major cultural resources mitigation program for the Dolores Project. The Dolores Project mitigation program recorded 977 prehistoric and historic cultural properties in the area of the McPhee Dam and Reservoir from 1978 to 1985. Approximately 60% of these properties remain above the waters of McPhee Reservoir. The USFS currently manages the Anasazi Archaeological District and currently lists over 997 archaeological sites in the region with desired conditions and objectives of the area listed in the 2021 SJNFLRMP. Rising and falling water levels associated with management of McPhee Reservoir continue to impact archaeological sites causing erosion, loss of archaeological resources, and Native American Graves Protection and Repatriation Act issues (USFS 2021).

Reclamation conducted a Class I cultural resource inventory of the Proposed Action area in December of 2021 using Colorado History's COMPASS database and the USFS's cultural database. The Class I Survey conducted for the area of the Proposed Action found that 41 Class III Surveys have been conducted on or adjacent to the lands considered in the Proposed Action area. There have been 11 Class II Surveys conducted on or near the lands under consideration. A total of 114 cultural sites were identified within the Proposed Action parcels under consideration. Of the identified sites, 87 are determined eligible, 17 are determined not eligible, and 10 have not been evaluated for eligibility for inclusion to the NRHP. Of the 114 sites identified within the area of the



Proposed Action, 77 are determined as contributing to the designated Anasazi Archaeological District (5MT.6599).

*No Action Alternative:* Under the No Action Alternative, future land uses could be proposed in the Project area that are allowable under the 2021 SJNFLRMP and the NHPA with no additional protection for cultural resources from settlement, sale, location, or entry, under all of the general land laws, including the mining laws.

*Proposed Action:* Under the Proposed Action, cultural resources would continue to be managed by the USFS as described in the 2021 SJNFLRMP and under the withdrawal conditions listed in the Proposed Action. No change in acreage, purpose, facilities, and management from the previous withdrawn status would occur under the Proposed Action.

In consultation with the Colorado SHPO (Appendix B), Reclamation has determined that the Proposed Action would result in a “*no historic properties affected*” effect determination.

### **3.3.3 – Wildlife & Special Status Species**

The McPhee Reservoir Area provides a variety of habitats for wildlife including wetland, riparian, and lakeshore areas near McPhee Reservoir and the Dolores River; forested areas surrounding the reservoir; and dryland and irrigated agricultural areas to the south and west of the Proposed Action. Dominant vegetative land cover types near the Proposed Action include pinyon-juniper woodlands, big sagebrush shrublands, montane sagebrush steppe, Gambel oak-mixed montane shrublands, ponderosa pine woodlands, and agriculture. The western side of McPhee Reservoir is generally unfragmented land until reaching agricultural areas to the west. The San Juan National Forest abuts the McPhee Reservoir area to the north and east, while the community of Dolores, Colorado is near the southeastern portion of the reservoir.

Wildlife in the area includes a suite of western Colorado mammals, birds, reptiles, amphibians, fish, insects, and invertebrates. Mammals including elk (*Cervus elaphus*), mule deer (*Odocoileus hemionus*), black bear (*Ursus americanus*), and Merriam’s turkey (*Meleagris gallopavo merriami*) among others frequent the region due to the availability of water and the presence of relatively undisturbed natural environments as well as agricultural areas. The variety of habitats within and adjacent to McPhee Reservoir and the Dolores River corridor support a variety of landbirds, raptors, shorebirds, waterfowl, and waterbirds. McPhee Reservoir and the Dolores River provide habitat to a multitude of fish including bluehead (*Catostomus discobolus*) and flannelmouth (*Catostomus latipinnis*) suckers, various trout species, and a mixture of warm- and cold-water fishes in McPhee Reservoir.

Parcels of the Proposed Action are primarily forested and/or shrub dominated sites surrounding McPhee Reservoir. Portions of the Proposed Action’s parcels (and much of the surrounding area) have been mapped by Colorado Parks and Wildlife (CPW) as severe winter range, winter concentration areas, migration corridors, and house resident populations of mule deer and elk (CPW 2021). Other data from CPW (2021) show that sagebrush shrublands in the region historically provided habitat for the Gunnison’s sage grouse (*Centrocercus minimus*), and Columbian sharp-tailed grouse (*Tympanuchus phasianellus*) production areas and winter range exist just to the west of the Proposed Action. Multiple raptor species including the bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), osprey (*Pandion haliaetus*), and peregrine falcon (*Falco peregrinus*) among others use the McPhee Reservoir Area and Dolores River corridor for nesting, roosting, foraging, and migration throughout the year (CPW 2021). Wetland and riparian corridors including the Dolores

River, House Creek, and Beaver Creek provide important habitat for nearly all resident and migratory species in the region.

*No Action Alternative:* Under the No Action Alternative, future land uses could be proposed in the Project area that are allowable under the 2021 SJNFLRMP and the Endangered Species Act with no additional protection for wildlife and special status species from settlement, sale, location, or entry, under all of the general land laws, including the mining laws.

*Proposed Action:* Under the Proposed Action, wildlife and special status species would continue to be managed by the USFS as described in the 2021 SJNFLRMP and under the withdrawal conditions listed in the Proposed Action. No change in acreage, purpose, facilities, and management from the previous withdrawn status would occur under the Proposed Action.

### **3.4 – Summary**

In summary, if the No Action Alternative was selected, impacts to land use, cultural resources, and wildlife & special status species from potential future land uses would continue under the management guidelines of the 2021 SJNFLRMP with no additional protections from settlement, sale, location, or entry, under all of the general land laws, including the mining laws. The Proposed Action would strengthen resource protection in the project area under the conditions of the proposed withdrawal.

## **CHAPTER 4 – ENVIRONMENTAL COMMITMENTS**

The Proposed Action is administrative in nature; no environmental commitments were developed.

## **CHAPTER 5 – CONSULTATION AND COORDINATION**

### **5.1 – Introduction**

This chapter details the consultation and coordination between Reclamation and other Federal, state, and local government agencies, Native American Tribes, and the public during the preparation of this project. The public involvement process presents the public with opportunities to obtain information about a given project and allows interested parties to participate in the project through written comments. This chapter discusses public involvement activities taken to date for the Proposed Action.

## 5.2 – Scoping

Scoping for this EA was completed by Reclamation, in consultation with the following agencies and organizations during the planning stages of the Proposed Action to identify the potential environmental and human environment issues and concerns associated with implementation of the Proposed Action and No Action Alternatives.

- BLM, Colorado State Office, Lakewood, CO
- Colorado State Historic Preservation Office, Denver, CO
- CPW, Southwest Region, Durango, CO
- Dolores Water Conservancy District
- Hopi Tribe, Jicarilla Apache Nation, Kewa Pueblo, Navajo Nation, Ohkay Owingeh, Pueblo de Cochiti, Pueblo de San Ildefonso, Pueblo of Acoma, Pueblo of Isleta, Pueblo of Jemez, Pueblo of Laguna, Pueblo of Nambe, Pueblo of Picuris, Pueblo of Pojoaque, Pueblo of San Felipe, Pueblo of Santa Ana, Pueblo of Santa Clara, Pueblo of Tesuque, Pueblo of Zia, Southern Ute Indian Tribe, Taos Pueblo, Ute Indian Tribe, Ute Mountain Ute Tribe, and Zuni Pueblo
- USFS, San Juan National Forest, Dolores Ranger District, Dolores, CO
- USFS, San Juan National Forest, Forest Headquarters, Durango, CO

Coordination during scoping included meetings, phone calls, and letters from August 2021 thru February 2022 regarding the Proposed Action.

## 5.3 – Public Involvement

A Notice of Proposed Withdrawal and Opportunity for Public Meeting for the Proposed Action was published by the BLM in the Federal Register on August 2, 2021 (86 Fed. Reg. 41507-41508) with comments and requests for a public meeting requested by November 1, 2021. The BLM also issued a press release on August 2, 2021 ([www.blm.gov/press-release/blm-proposes-withdrawal-mcphee-dam-and-reservoir](http://www.blm.gov/press-release/blm-proposes-withdrawal-mcphee-dam-and-reservoir)) detailing the Proposed Action and asking for public comments. Letters of support for the Proposed Action were provided to the BLM by the Colorado Water Conservation Board and the Dolores Water Conservancy District during this public comment period (Appendix C).

In compliance with NEPA, the Draft EA was made available for a 30-day public comment period from March 17, 2022 to April 17, 2022. The Draft EA document was hosted on Reclamation's Upper Colorado Basin website that houses environmental documents ([www.usbr.gov/uc/DocLibrary/ea.html](http://www.usbr.gov/uc/DocLibrary/ea.html)) as well as the SJNF Schedule of Proposed Actions (<http://data.ecosystem-management.org/nepaweb/current-sopa.php?forest=110213>). Reclamation distributed a scoping letter to the individuals, organizations, and agencies listed in Appendix A notifying them of the Proposed Action, availability of the Draft EA, and details on how to comment. A letter of support for the Proposed Action was received from the Dolores Water Conservancy District during the Draft EA's 30-day public comment window (Appendix D). CPW also submitted a letter (Appendix D) to Reclamation during the public comment period, however, the letter had no specific comments related to the Proposed Action.

Publicly available electronic versions of the Draft and Final EA meet the technical standards of Section 508 of the Rehabilitation Act of 1973, so that the documents can be accessed by people with disabilities using accessibility software tools.

## CHAPTER 6 – PREPARERS

The following list contains the individuals who participated in the preparation of this EA.

Table 7. List of EA Preparers

Name	Title	Agency	Areas of Responsibility
Eric Creeden	General Biologist	Reclamation	NEPA, Biological Resources, Threatened and Endangered Species
Shannon Hatch	Natural Resources Specialist	Reclamation	NEPA, Lands
Jimmie McKenzie	Archaeologist	Reclamation	Cultural Resources
Dalia Hernandez	Realty Specialist	Reclamation	Lands
Emma Reinemann	NEPA Planner	USFS	NEPA
Derek Padilla	District Ranger	USFS	NEPA
Mark Lambert	Planning, Public Service and Lands Staff Officer	USFS	NEPA
Mark Roper	Forest GIS Coordinator	USFS	GIS, Lands
John Chmelir	Archaeologist	USFS	Cultural Resources
Ivan Messinger	Wildlife Biologist	USFS	Biological Resources, Threatened and Endangered Species

# CHAPTER 7 – REFERENCES

- Bureau of Land Management. 2021. Withdrawals. Available at: <https://www.blm.gov/programs/lands-and-realty/land-tenure/withdrawals>. Accessed 8 November 2021.
- Bureau of Reclamation. 2012. Reclamation Lands Handbook, Chapter 2. Available at: <https://www.usbr.gov/lands/LandsHandbook/Chapter02.pdf>. Accessed 8 November 2021.
- Colorado Oil & Gas Conservation Commission. 2022. COGCC Interactive Map. Available at: <https://cogcc.state.co.us/maps.html#/gisonline>. Accessed: 3 January 2022.
- Colorado Parks and Wildlife. 2021. CPW All Species Activity Mapping Data. Available at: <https://www.arcgis.com/home/item.html?id=190573c5aba643a0bc058e6f7f0510b7>. Access 30 December 2021.
- Colorado Ute Indian Water Rights Final Settlement Agreement. 1986. Available at: <https://digitalrepository.unm.edu/nawrs/9/>. Accessed 19 November 2021.
- Congressional Research Service. 2021. Withdrawal of Federal Lands: Analysis of a Common Legislated Withdrawal Provision. Available at: <https://sgp.fas.org/crs/misc/R46657.pdf>.
- Council on Environmental Quality. 1997. Environmental Justice: Guidance Under the National Environmental Policy Act. Washington, D.C.: Executive Office of the President. 40 pp.
- Natural Resources Conservation Service. 2020. USA SSURGO – Farmland Class dataset. Available: [https://landscape11.arcgis.com/arcgis/rest/services/USA\\_Soils\\_Farmland\\_Class/ImageServer](https://landscape11.arcgis.com/arcgis/rest/services/USA_Soils_Farmland_Class/ImageServer). Accessed 19 November 2021.
- Office of Management and Budget. 2021. Interim Implementation Guidance for the Justice40 Initiative. Memorandum M-21-28, issued July 20, 2021.
- U.S. Forest Service (USFS). 2009. 2009 Addendum to the Oil and Gas Potential and Reasonable Foreseeable Development (RFD) Scenarios in the San Juan National Forest and BLM Public Lands, Colorado. Available at: <https://www.fs.usda.gov/detail/sanjuan/landmanagement/planning/?cid=stelprdb5432707>.
- USFS. 2019. Sage Hen Motorized Trails Scoping Notice. Available at: [https://www.fs.usda.gov/nfs/11558/www/nepa/112206\\_FSPLT3\\_4816898.pdf](https://www.fs.usda.gov/nfs/11558/www/nepa/112206_FSPLT3_4816898.pdf). Accessed 5 November 2021.
- USFS. 2021. Final San Juan National Forest Land and Resource Management Plan. Available at: [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd894620.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd894620.pdf). Accessed 11 November 2021.
- U.S. Fish and Wildlife Service. 2021. Information for Planning and Consultation (IPaC). Available at: <https://ecos.fws.gov/ipac/>. Accessed 5 November 2021.

## CHAPTER 8 – ABBREVIATIONS AND ACRONYMS

Abbreviation or Acronym	Definition
ACHP	Advisory Council on Historic Preservation
BLM	U.S. Bureau of Land Management
CEQ	Council on Environmental Quality
CPW	Colorado Parks and Wildlife
CRSP	Colorado River Storage Project
EA	Environmental Assessment
EIS	Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
FONSI	Finding of No Significant Impact
IPaC	Information for Planning and Consultation
MOA	Memorandum of Agreement
OM&R	Operation, Maintenance, and Replacement
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
PJZ	Primary Jurisdiction Zone
Reclamation	U.S. Bureau of Reclamation
SJNFLRMP	San Juan National Forest Land and Resource Management Plan
SHPO	State Historic Preservation Officer
USFS	U.S. Forest Service

# **CHAPTER 9 – APPENDICES**

Appendix A – Distribution List

Appendix B – Cultural Resources Compliance Documentation

Appendix C – Comment Letters for the Notice of Proposed Withdrawal and Opportunity for Public Meeting for the McPhee Dam and Reservoir, Dolores Project; Colorado (86 Fed. Reg. 41507-41508)

Appendix D – Comments Received During the Draft EA’s Public Comment Period

## **9.1 – Appendix A (Distribution List)**

Colorado Department of Archaeology and Historic Preservation  
Colorado Parks and Wildlife  
Colorado Water Conservation Board  
Dolores Water Conservancy District  
Kay and William Goode  
Jared and Karen Hansen  
Lanier Farms, Inc.  
Montezuma County Planning and Zoning  
Montezuma County Road and Bridge  
Navajo Nation  
Southern Ute Tribe  
Town of Dolores  
U.S. Army Corps of Engineers Durango Regulatory Office  
U.S. Bureau of Land Management Colorado State Office  
U.S. Fish and Wildlife Service Colorado Ecological Services  
U.S. Forest Service San Juan National Forest  
Ute Mountain Ute Tribe



## 9.2 – Appendix B (Cultural Resource Compliance Documentation)



Ed Warner  
Area Manager  
Western Colorado Area Office  
445 West Gunnison Avenue, Suite 221  
Grand Junction, CO 81501

RE: National Historic Preservation Act Section 106 Consultation for the McPhee Dam and Reservoir  
Area Land Withdrawal Project, Dolores Project, Montezuma County, Colorado (HC# 80963)

Dear Mr. Warner,

Thank you for your correspondence received by our office on February 2, 2022 requesting review of the above referenced undertaking under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations 36 CFR 800.

The provided documentation notes that the proposed undertaking consists of a withdrawal of lands to ensure that the subject lands continue to remain in a withdrawn status. Further, the documentation notes that the proposed undertaking will not result in a change of management of lands. Based on the documentation provided, we agree that your finding of no adverse effect [36 CFR 800.5(d)(1)] to historic properties is appropriate for the subject undertaking.

Should unidentified archaeological resources be discovered in the course of the project, work must be interrupted until the resources have been evaluated in terms of the National Register eligibility criteria (36 CFR 60.4) in consultation with our office pursuant to 36 CFR 800.13. Also, should the consulted-upon scope of the work change, please contact our office for continued consultation under Section 106 of the NHPA.

We request being involved in the consultation process with the local government, which as stipulated in 36 CFR 800.3 is required to be notified of the undertaking, and with other consulting parties. Additional information provided by the local government or consulting parties might cause our office to re-evaluate our eligibility and potential effect findings. Please note that our compliance letter does not end the 30-day review period provided to other consulting parties.

Thank you for the opportunity to comment. If you have any questions, please contact Matthew Marques, Section 106 Compliance Manager, at (303) 866-4678, or [matthew.marques@state.co.us](mailto:matthew.marques@state.co.us).

Sincerely,

Dr. Holly Kathryn Norton

Dawn DiPrince  
State Historic Preservation Officer

Digitally signed by Dr. Holly Kathryn

Norton

Date: 2022.02.14 11:09:32 -07'00'

## 9.3 – Appendix C (Comment Letters for the Notice of Proposed Withdrawal and Opportunity for Public Meeting for the McPhee Dam and Reservoir, Dolores Project; Colorado [86 Fed. Reg. 41507-41508])



### COLORADO

#### Colorado Water Conservation Board

Department of Natural Resources  
1313 Sherman Street, Room 718  
Denver, CO 80203

October 29, 2021

Jamie Connell, State Director  
Bureau of Land Management  
2850 Youngfield Street  
Lakewood, CO 80215

Submitted via email to John Beck, [jbeck@blm.gov](mailto:jbeck@blm.gov)

Re: Notice of Proposed Withdrawal and Opportunity for Public Meeting for the McPhee Dam and Reservoir, Dolores Project; Colorado, 86 Fed. Reg. 41507 (Aug. 2, 2021); Bureau of Land Management LLCO 923000.L1440000.ET0000; COC-25845

Dear Director Connell:

Thank you for the opportunity to comment on the Notice of Proposed Withdrawal and Opportunity for Public Meeting for the McPhee Dam and Reservoir, Dolores project; Colorado (Notice) published on August 2, 2021 in the Federal Register. The Colorado Water Conservation Board supports the actions described in the Notice, namely the continued withdrawal of 953.06 acres of public land and 309.56 acres of National Forest System land (together, the Lands) for a term of one hundred years, and the reservation for use of the Lands by the Bureau of Reclamation (BOR) for McPhee Dam and Reservoir.

The continued operation of McPhee Dam and Reservoir, key components of the Dolores Project, is critical to water management in southwestern Colorado. The Dolores Project provides water for multiple purposes



including tribal, agricultural, municipal and environmental. The additional security of water supply provided by the project is vital to the Ute Mountain Ute Tribe, local water users and surrounding communities and economies. The CWCB supports reservation of the Lands to allow BOR to continue to operate this important project.

Sincerely,

*Rebecca L. Mitchell*

Rebecca Mitchell  
Director  
Colorado Water Conservation Board





## Dolores Water Conservancy District

60 S. Cactus St. P.O. Box 1150 Cortez, CO 81321  
Phone: 970-565-7562 Fax: 970-565-0870  
Email: [dwcd@frontier.net](mailto:dwcd@frontier.net)

October 29, 2021

Bureau of Land Management Colorado State Director  
2850 Youngfield Street  
Lakewood, CO 80215

Re: DEPARTMENT OF THE INTERIOR, Bureau of Land Management, [LLCO-923000.L1440000.ET0000; COC-25845], Notice of Proposed Withdrawal and Opportunity for Public Meeting for the McPhee Dam and Reservoir, Dolores Project, Colorado

Dear State Director:

Dolores Water Conservancy District (DWCD) heartily supports the proposed continued land withdrawal of 953.06 acres for use by Reclamation for McPhee Dam and Reservoir that are the primary water development features of the Dolores Project (DP). McPhee Dam has allowed for 29,000 fully pressurized additional acres to be developed using some of the most efficient irrigation in Montezuma and Dolores Counties while securing future municipal water supplies for Dove Creek, Cortez and Towaoc and the surrounding communities. McPhee allowed the Ute Indian Water Rights Settlement that resulted in a 7,600 acre fully pressurized farm for the Ute Mountain Ute Tribe (UMUT), a major Tribal employer and growing agricultural brand, Bow & Arrow. The DP developed water also firmed up late season irrigation supply for the historical 38,000 acres in the Montezuma Valley, an agricultural linchpin in southwestern Colorado. Finally, the second largest pool in McPhee was established to help the downstream fishery and environment for a hundred miles that historically went dry every summer through the fall.

These benefits have greatly secured the local agricultural economic future for our communities and enhanced future commercial and industrial growth opportunities within two counties and the Ute Mountain Ute Tribe. Several commercial projects, such as the UMUT truck stop, hotel & casino, are directly linked to these secure municipal supplies. The federal investment of \$565 million dollars under the 1968 Colorado River Basin Act is still relatively new and will continue to provide benefits for generations to come. A 100-year withdrawal would be a minimum needed to continue the benefits for southwest Colorado.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Curtis", with a stylized flourish at the end.

Kenneth W. Curtis III  
DWCD General Manager

## 9.4 – Appendix D (Comments Received During the Draft EA's Public Comment Period)



### Dolores Water Conservancy District

60 S. Cactus St. P.O. Box 1150 Cortez, CO 81321  
Phone: 970-565-7562 Fax: 970-565-0870  
Email: [dwcd@frontier.net](mailto:dwcd@frontier.net)

April 14, 2022

Eric Creeden, General Biologist  
Bureau of Reclamation  
Western Colorado Area Office  
185 Suttle Street, Suite 2  
Durango, CO 81303

Re: DEPARTMENT OF THE INTERIOR, Bureau of Reclamation Draft  
Environmental Assessment (EA), McPhee Dam and Reservoir, Dolores Project;  
Colorado

Dear Mr. Creeden:

Dolores Water Conservancy District (DWCD) has reviewed with the draft EA and has no factual concerns with the document. Given the Congressional Authorization for the Dolores Project and the large amount federal land (mostly National Forest System) previously withdrawn for Dolores Project operations, it makes sense to likewise withdraw the additional designated federal parcels, 1,262.62 acres, to equivalent status of the those previously withdrawn adjacent National Forest System lands for 100 years. This will allow for consistent management by the San Juan National Forest in conjunction with Reclamation and DWCD for continued Dolores Project operations.

Therefore, DWCD supports the proposed action for withdrawal of 1,262.62 federal acres by the Secretary of Interior for use by Reclamation for McPhee Dam and Reservoir that are the primary water development features of the Dolores Project (DP). McPhee Dam has allowed for 29,000 fully pressurized additional acres to be developed using some of the most efficient irrigation in Montezuma and Dolores Counties while securing future municipal water supplies for Dove Creek, Cortez and Towaoc and the surrounding communities. McPhee allowed the Ute Indian

Water Rights Settlement that resulted in a 7,600 acre fully pressurized farm for the Ute Mountain Ute Tribe (UMUT), a major Tribal employer and growing agricultural brand, Bow & Arrow. The DP developed water also firmed up late season irrigation supply for the historical 38,000 acres in the Montezuma Valley, an agricultural linchpin in southwestern Colorado. Finally, the second largest pool in McPhee was established to help the downstream fishery and environment for a hundred miles that historically went dry every summer through the fall.

These benefits have greatly secured the local agricultural economic future for our communities and enhanced future commercial and industrial growth opportunities within two counties and the Ute Mountain Ute Tribe. Several commercial projects, such as the UMUT truck stop, hotel & casino, are directly linked to these secure municipal supplies. The federal investment of \$565 million dollars under the 1968 Colorado River Basin Act is still relatively new and will continue to provide benefits for generations to come. A 100-year withdrawal would be a minimum needed to continue the benefits for southwest Colorado.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Curtis", with a stylized flourish at the end.

Kenneth W. Curtis III  
DWCD General Manager





## COLORADO

### Parks and Wildlife

Department of Natural Resources

Southwest Regional Office  
415 Turner Drive  
Durango, CO 81303  
P 970.375.6701

April 15, 2022

Mr. Eric Creeden  
Bureau of Reclamation  
Durango Field Division  
185 Shuttle Street, Suite 2  
Durango, CO 81303

RE: Draft McPhee Dam and Reservoir Area Land Withdrawal Environmental Assessment-DUR-EA-2022-01

Dear Eric,

Colorado Parks and Wildlife (CPW) has reviewed the Draft McPhee Dam and Reservoir Area Land Withdrawal Environmental Assessment (EA). The Bureau of Reclamation (Reclamation) proposes to withdraw, for a period of 100 years approximately 1,262 acres of federal public lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws. These lands include National Forest System lands, which would also be withdrawn from location and entry under the mining laws, and reserve them for use by Reclamation and the USFS in connection with McPhee Dam and Reservoir, components of the Dolores Project. These lands would continue to be administered and managed by the US Forest Service in coordination with Reclamation, and were previously withdrawn by Public Land Order 5811 and as extended by Public Land Order 7473. The proposed action will result in no change to the acreage, purpose, facilities, and/or management from the previous withdrawn status.

The administrative action will not result in on the ground changes that could affect natural resources or public access to these lands, therefore CPW does not have any specific comments on the EA. We appreciate the early coordination efforts from Reclamation, Bureau of Land Management, and Forest Service staff on this project with CPW. Thank you for the opportunity to comment. If you have questions or would like to discuss, please contact me at 970-375-6707.

Sincerely,

Brian Magee  
Energy Liaison-SW Region

cc: Matt Thorpe, Deputy SW Regional Manager, Adrian Archuleta, Durango Area Wildlife Manager

