

# NEWS

U.S. SENATOR BARRY GOLDWATER / ARIZONA



FOR IMMEDIATE RELEASE  
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## SENATOR GOLDWATER INTRODUCES ARIZONA NATIONAL FOREST WILDERNESS ACT OF 1984

Senator Barry Goldwater today introduced the Arizona National Forest Wilderness Act of 1984 which he hopes will conclude the Forest Service's RARE II program in Arizona. The bill would designate 28 areas containing 752,900 acres as wilderness; 60,910 acres would be for further planning; and, 50 miles of the Verde River would come under the protection of the Wild Scenic Rivers Act.

- Areas wholly or in part proposed for wilderness are: Kaibab National Forest -- Kendrick Mountain; Prescott National Forest -- Juniper Mesa, Arnold Mesa, Castle Creek, Granite Mountain, Apache Creek, and Sheridan Mountain; Coconino National Forest -- San Francisco Peaks, Red Rock-Secret Mountain, Wet Beaver, Fossil Springs, West Clear Creek, Sycamore Canyon, and Rattlesnake; Tonto National Forest -- Mazatzal, Superstition, Hellsgate, Salome, Four Peaks, and Salt; Coronado National Forest -- Rincon Mountain, Chiricahua, Pajarita, Galiuro, Santa Teresa, Mt. Wrightson, and Miller Peak; Apache-Sitgreaves National Forest -- Bear Wallow. Those areas set aside for future planning are in the Coronado National Forest: Bunk Robinson Peak, Whitmire Canyon, and Mount Graham.

"I am not wedded to this bill," the Arizona Senator said, "but I think it is a reasonable proposal and it is a good starting point. I expect the hearing process to be fully utilized. No one is going to be happy with whatever we propose, but I regard my bill as a working draft to which everyone can contribute. Changes will be made and we have to have a wilderness bill passed this session and I want to have a hand in it."

In his floor statement, Senator Goldwater said, "There are certainly many areas which need not be opened up to any kind of exploration or development and which should be protected; however, we must make decisions in a manner consistent with the way the people in Arizona want to live the kind of life they believe in, now and in the future. This also means that we must have the kind of resources which we need to protect our way of life. We must remain flexible if a reasonable and workable balance is to be achieved between economic necessities and environmental priorities."

Senator Goldwater introduced the Aravaipa Canyon Wilderness Act which designates 6,670 acres as wilderness and the bill passed the Senate on September 13, 1983. The Arizona Republican is also a sponsor of the Arizona Strip District Wilderness Act of 1983 which designates approximately 394,600 acres as wilderness.

termination of the issue as to whether or not the broadcast of such material would violate a criminal law of the United States and for declaratory judgment relief in accordance with the provisions of chapter 151 of Title 28, United States Code.

(c) In any case in which a legally qualified candidate for any public office is denied the use of a broadcasting station pursuant to subsection (a) of this section on the grounds that the broadcast of material of such candidate would violate a criminal law of the United States, such candidate, in addition to any other rights available to such candidate under this Act, shall have the right, notwithstanding any other provision of law, to immediately petition any appropriate United States district court for an expeditious determination of the issue as to whether or not the broadcast of such material would violate a criminal law of the United States and for declaratory judgment relief with respect to the denial in accordance with the provisions of chapter 151 of Title 28, United States Code."

FEDERAL COMMUNICATIONS  
COMMISSION.

Washington, D.C., January 19, 1984.

HON. JEREMIAH DENTON,  
U.S. Senate,  
Hart Office Building,  
Washington, D.C.

DEAR SENATOR DENTON: PURSUANT TO YOUR request, we have reviewed the Broadcasters' Protection Act, a copy of which is attached hereto. The Broadcasters' Protection Act provides in essence that a broadcaster is not obliged to air material presented to it by a legally qualified candidate pursuant to Section 315 of the Communications Act if the broadcaster reasonably believes the broadcast of such material would violate a federal criminal law.

As you know, a question has recently arisen which the Broadcasters' Protection Act would have resolved had it been in effect. Concern was expressed as to whether a broadcaster who is presented with an advertisement containing obscene material is required to air such advertisement pursuant to Section 315. In response to that question, the attached memorandum was prepared by Commission staff, which points out that no evidence has been found to indicate that Congress intended the no-censorship provision of Section 315 to override the criminal prohibition against the broadcast of obscene or indecent material contained in Section 1464 of Title 18. At the same time, however, the memorandum notes that the Congress which enacted the Communications Act did not anticipate that a candidate would attempt to exploit the no-censorship provision of Section 315 in order to violate another criminal law. The memorandum nonetheless concludes that the no-censorship provision in Section 315 was not intended to override the statutory prohibition against the broadcast of obscene or indecent material that is etched in Section 1464 of the Criminal Code. While we believe that the result reached therein is the result Congress would have reached had it considered the question, a legislative confirmation of this conclusion would be helpful. (The full Commission has not voted on this matter and will probably not have occasion to do so until presented with a specific dispute.)

Your proposed legislation also resolves a question the attached memorandum does not address: namely, the issue of whether a broadcaster who is presented with material the broadcast of which would violate federal criminal statutes other than Section 1464 must air such material. As drafted, the Broadcasters' Protection Act resolves that question in a manner entirely consistent

with the analysis we have set forth with respect to Section 1464. However, as we have not undertaken an exhaustive analysis of all criminal statutes that might be applicable, we cannot comment with certainty to the effect other criminal laws would have on Section 315. Our limited analysis gives us no reason to think a different result than that reached in our analysis of Section 1464 would ensue. Enactment of the Broadcasters' Protection Act would therefore be helpful to this Commission should we be faced with a candidate who tries to use the political broadcasting laws as a shield for violating the Federal Criminal Code.

Please be assured that if I or my staff can be of any further assistance to you in this matter, we shall be delighted to help.

Sincerely,

MARK S. FOWLER,  
Chairman.

FEDERAL COMMUNICATIONS  
COMMISSION.

WASHINGTON, D.C., NOVEMBER 12, 1983.  
HON. JEREMIAH DENTON,  
U.S. Senate,  
Hart Office Building,  
Washington, D.C.

DEAR SENATOR DENTON: This Commission is aware that a question has arisen as to whether a broadcaster is required to air political advertisements containing obscene material.

As you know, Section 315(a) of the Communications Act forbids broadcasters from censoring material presented by duly qualified candidates for public office. The utterance of obscene, indecent, or profane language, however, is prohibited by section 1464 of title 18 U.S. Code.

The Commission has never authoritatively opined on the legal question presented by a candidate who proposes to exploit the equal access provisions of Section 315 to violate the Criminal Code. The Commission has, however, received numerous requests to resolve this knotty issue. When the Commission completes its review of the matters raised by the intricacies of existing law, it will inform you of its legal analysis and conclusions.

In the meantime, however, enactment of an amendment providing that broadcasters are not obliged to air material in violation of the federal criminal laws would authoritatively resolve the tension presented by the apparent conflict between these two statutes.

Thank you for your attention in this matter.

Sincerely,

BRUCE E. FEIN,  
General Counsel.

o Mr. THURMOND, Mr. President, I am pleased to join with my distinguished colleague from Alabama, Senator DENTON, and others in introducing legislation to clarify the obligations of broadcasters under the Communications Act of 1934 with respect to candidates for public office.

This measure, referred to as the Broadcasters' Protection Act, would close a dangerous loophole which exists in the present law. As we are all aware, legally qualified candidates for public office have very broad discretion in regard to the form and content of campaign statements. Under present law, such a candidate may include in his or her campaign broadcasts an unlimited array of subjects.

Mr. President, the lack of limitations on broadcast content has heretofore

not been a source of any significant problems. However, the recent case involving a publisher of a pornographic magazine demonstrates the need for this legislative action. No one ever intended or anticipated that political campaigns would be a vehicle for bringing into our homes the kind of pornographic trash which this "candidate" promised to broadcast.

Under existing law, a broadcaster carrying campaign material for a legally qualified candidate must provide equal opportunity, with no right of censorship, to other qualified candidates. Consequently, such a broadcaster must choose between violating the equal access provision, or violating Federal laws and regulations designed to control obscenity.

Mr. President, the Broadcasters' Protection Act will clarify a broadcaster's responsibility by permitting a broadcaster to refuse to air material which is reasonably believed to be in violation of Federal criminal law. The bill also provides for immediate review in the district court by either the broadcaster or the candidate.

Mr. President, I strongly endorse the principles of this bill, and I would urge my colleagues in the Senate to give it their support. o

By Mr. GOLDWATER:

S. 2242, A bill to designate certain national forest lands in the State of Arizona as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

ARIZONA NATIONAL FOREST WILDERNESS ACT OF  
1984

o Mr. GOLDWATER, Mr. President, the bill I am introducing today, the Arizona National Forest Wilderness Act of 1984, is hopefully, the conclusion of Arizona's RARE II program which began in 1977. My bill would designate 28 areas containing 752,900 acres as wilderness; 60,910 acres would be for further planning; and 50 miles of the Verde River would come under the protection of the Wild and Scenic Rivers Act. If we do not get some sort of forest wilderness legislation passed by Congress this session, the State of Arizona faces the certainty of a RARE III study process which would take years to complete and would be a waste of the taxpayers' money. This wilderness issue is something that is not going to go away, and the sooner we handle this, the better off all parties will be.

The RARE II studies were aimed at determining which roadless areas and undeveloped land areas in the national forest system are of such quality that they should be added to the national wilderness preservation system, as established by Congress in 1964. Along with determining possible wilderness additions, the forest Service identified general uses of the same lands for resource management and development. This process is part and parcel of the overall planning direc-

tion for Forest Service lands in conjunction with the forest and Rangeland Renewable Planning Act of 1974 and the National Forest Management Act of 1976.

Unlike my bill, of the 1,955,032 acres of national forest in Arizona which were inventoried, the Forest Service has recommended that 14 areas containing 400,312 acres be designated by Congress as wilderness; 545,828 acres by subject to further planning; and 1,008,532 acres be released to multiple-use management. Another difference between my bill and the Forest Service plan is the setting of boundary lines.

My proposal is not going to satisfy all the resource users in our State of Arizona and it is not going to make the environmental groups happy. There is too much acreage to suit the user groups who suggested that only 501,560 acres be declared wilderness and it is too little for the Arizona Wilderness Coalition which wanted 1.6 million acres. The release language is not hard release language which the user groups wanted, but then it is not the soft release wording which the environmentalists wanted. This bill as introduced is a working draft and one which I hope would be used as a vehicle to achieve a compromise with which all parties could live. We need to start somewhere and I think the proposal is a reasonable one. Everyone concerned should now sit down and concentrate and make constructive comments on one proposal, not four or five, but one specific proposal. The status of the RARE II areas in our State should not be left in limbo; we should go ahead and decide what areas are to be designated as wilderness and the other areas should be managed accordingly.

There are certainly many areas which need not be opened up to any kind of exploration or development and which should be protected; however, we must make decisions in a manner consistent with the way the people in Arizona want to live the kind of life they believe in, now and in the future. This also means that we must have the kind of resources which we need to protect our way of life. We can no longer afford to withdraw areas simply because we want to and we have got to start being responsible in planning for our energy needs.

The user groups involved in the State of Arizona probably generate more than \$10 billion in direct and indirect economic and social benefits to our State every year, and a major portion of this income is derived from present or former national forest lands in our State. We must protect and preserve both our renewable resources and the integrity of our natural environment. We must remain flexible if a reasonable and workable balance is to be achieved between economic necessities and environmental priorities. My fellow Arizonan in the House of Representatives, MO UDALL, is today introducing a companion pro-

posal to my bill and we will work together to see that a wilderness proposal is enacted that we can all live with.

Mr. President, at this point, I ask that the text of this bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2242

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Arizona National Forest Wilderness Act of 1984".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Arizona are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Kaibab National forest which comprise approximately 6,510 acres as generally depicted in a map entitled "Kendrick Mountains Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Kendrick Mountain Wilderness.

(2) Certain lands in the Prescott National forest which comprise approximately 7,300 acres as generally depicted in a map entitled "Juniper Mesa Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Juniper Mesa Wilderness.

(3) Certain lands in the Prescott National Forest which comprise approximately 20,000 acres as generally depicted in a map entitled "Arnold Mesa Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Arnold Mesa Wilderness.

(4) Certain lands in the Prescott National forest which comprise approximately 28,429 acres as generally depicted in a map entitled "Castle Creek Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Castle Creek Wilderness.

(5) Certain lands in the Prescott National Forest which comprise approximately 8,540 acres as generally depicted in a map entitled "Granite Mountain Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Granite Mountain Wilderness.

(6) Certain lands in the Prescott National Forest which comprise approximately 5,610 acres as generally depicted in a map entitled "Apache Creek Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Apache Creek Wilderness.

(7) Certain lands in the Prescott National Forest which comprise approximately 38,380 acres as generally depicted in a map entitled "Sheridan Mountain Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Sheridan Mountain Wilderness.

(8) Certain lands in the Coconino National Forest which comprise approximately 19,000 acres as generally depicted in a map entitled "San Francisco Peaks Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be

known as the San Francisco Peaks Wilderness.

(9) Certain lands in the Coconino National Forest which comprise approximately 47,460 acres as generally depicted in a map entitled "Red Rock-Secret Mountain Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Red Rock-Secret Mountain Wilderness.

(10) Certain lands in the Coconino National Forest which comprise approximately 9,290 acres as generally depicted in a map entitled "Wet Beaver Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Wet Beaver Wilderness.

(11) Certain lands in the Coconino National Forest which comprise approximately 14,090 acres as generally depicted in a map entitled "Fossil Springs Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Fossil Springs Wilderness.

(12) Certain lands in the Coconino National Forest which comprise approximately 30,000 acres as generally depicted in a map entitled "West Clear Creek Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the West Clear Creek Wilderness.

(13) Certain lands in the Coconino National Forest which comprise approximately 10,930 acres as generally depicted in a map entitled "Sycamore Canyon Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be included in the Sycamore Canyon Wilderness.

(14) Certain lands in the Coconino National Forest which comprise approximately 32,870 acres as generally depicted in a map entitled "Rattlesnake Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Rattlesnake Wilderness.

(15) Certain lands in the Tonto National Forest which comprise approximately 60,000 acres as generally depicted in a map entitled "Mazatzal Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be included in the Mazatzal Wilderness. Nothing in the designation of this wilderness area shall be construed to prevent the installation and maintenance, subject to such conditions as the Secretary deems desirable, of hydrologic, meteorologic, or telecommunications facilities, or any combination of the foregoing, which are essential to flood warning, flood control, and water reservoir operation purposes. As provided in section 4(d)(1) of the Wilderness Act, within the wilderness area added by this paragraph, the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(16) Certain lands in the Tonto National Forest which comprise approximately 40,000 acres as generally depicted in a map entitled "Superstition Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be included in the Superstition Wilderness.

(17) Certain lands in the Tonto National Forest which comprise approximately 30,400 acres as generally depicted in a map entitled "Hellsgate Wilderness—Proposed" and dated February 1984, retained by the

United States Forest Service, Washington, D.C. and which shall be known as the Hellgate Wilderness.

(18) Certain lands in the Tonto National Forest which comprise approximately 36,400 acres as generally depicted in a map entitled "Salome Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Salome Wilderness.

(19) Certain lands in the Tonto National Forest which comprise approximately 54,990 acres as generally depicted in a map entitled "Four Peaks Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Four Peaks Wilderness.

(20) Certain lands in the Tonto National Forest which comprise approximately 41,290 acres as generally depicted in a map entitled "Salt Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Salt Wilderness.

(21) Certain lands in the Coronado National Forest which comprise approximately 39,700 acres as generally depicted in a map entitled "Rincon Mountain Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Rincon Mountain Wilderness.

(22) Certain lands in the Coronado National Forest which comprise approximately 60,150 acres as generally depicted in a map entitled "Chiricahua Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be included in the Chiricahua Wilderness.

(23) Certain lands in the Coronado National Forest which comprise approximately 10,320 acres as generally depicted in a map entitled "Pajarita Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Pajarita Wilderness.

(24) Certain lands in the Coronado National Forest which comprise approximately 25,000 acres as generally depicted in a map entitled "Galiuro Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be included in the Galiuro Wilderness.

(25) Certain lands in the Coronado National Forest which comprise approximately 27,150 acres as generally depicted in a map entitled "Santa Teresa Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Santa Teresa Wilderness. Reasonable access shall be permitted to continue on the existing right-of-way from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock.

(26) Certain lands in the Coronado National Forest which comprise approximately 25,170 acres as generally depicted in a map entitled "Mount Wrightson Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Mount Wrightson Wilderness.

(27) Certain lands in the Coronado National Forest which comprise approximately 22,180 acres as generally depicted in a map entitled "Miller Peak Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Miller Peak Wilderness.

(28) Certain lands in the Apache-Sitgreaver National Forest which comprise approximately 7,000 acres as generally depicted in a map entitled "Bear Wallow Wilderness—Proposed" and dated February 1984, retained by the United States Forest Service, Washington, D.C., and which shall be known as the Bear Wallow Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

(d) The Congress does not intend that designation of wilderness areas in the State of Arizona lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e)(1) As provided in paragraph (6) of section 4(d) of the Wilderness Act, nothing in this Act or in the Wilderness Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Arizona State water laws.

(2) As provided in paragraph (7) of section 4(d) of the Wilderness Act, nothing in this Act or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Arizona with respect to wildlife and fish in the national forests located in that State.

(f)(1) Grazing of livestock in wilderness areas established by this Act, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and section 108 of Public Law 96-560.

(2) The Secretary is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in Arizona in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(3) Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (1) and (2) of this section.

Sec. 3. (a) The Secretary shall review the following lands in conjunction with the re-

quirements of the National Forest Management Act of 1976 and in furtherance of the purposes of the Wilderness Act, as to their suitability or unsuitability for preservation as wilderness and shall submit his recommendations to the President:

(1) Certain lands in the Coronado National Forest which comprise approximately 740 acres as generally depicted on a map entitled "Bunk Robinson Peak Wilderness Study Area" and dated February 1984, retained by the United States Forest Service, Washington, D.C.

(2) Certain lands in the Coronado National Forest which comprise approximately 5,080 acres as generally depicted on a map entitled "Whitmore Canyon Wilderness Study Area" and dated February 1984, retained by the United States Forest Service, Washington, D.C.

(3) Certain lands in the Coronado National Forest which comprise approximately 55,090 acres as generally depicted on a map entitled "Mount Graham Wilderness Study Area" and dated February 1984, retained by the United States Forest Service, Washington, D.C.

With respect to the areas named in paragraphs (1) and (2), the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than January 1, 1986.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Arizona and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Arizona such statement shall not be subject to judicial review with respect to national forest system lands in the State of Arizona;

(2) with respect to the national forest system lands in the State of Arizona which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands designated for wilderness study in section 2 of this Act or by previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Arizona reviewed in such final environmental statement which, upon enactment of this Act, are not designated as wilderness or designated for further study by Congress need not be man-

used for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arizona for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Sec. 5. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)) is amended by inserting the following after paragraph (50):

"(51) VERDE, ARIZONA.—The segment from the boundary between national forest and private land in Sections 26 and 27, Township 13 North, Range 5 East, Gila Salt River Meridian, downstream to the confluence with Tangle Creek, as generally depicted on a map entitled 'Verde River—Wild and Scenic River' which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture. This designation shall not prevent water users receiving Central Arizona Project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law. After consultation with State and local governments and the interested public and within two years after the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section."

By Mr. HELMS:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Finance.

#### TAXPAYERS' BILL OF RIGHTS ACT

Mr. HELMS. Mr. President, I am today introducing legislation to put a stop to one of the most blatant civil rights abuses of all times—the harassment of taxpayers by agents of the Internal Revenue Service.

Americans from all walks of life are being intimidated, harassed, and otherwise subjected to the strong-arm tactics of the IRS. Unfortunately, current law permits the Internal Revenue Service to lien, levy, summon, and seize a person's money, property, and other assets, all without recognizing the individual rights to due process of law guaranteed by the U.S. Constitution.

My bill, entitled the "Taxpayers' Bill of Rights Act," will put an end to this injustice. It is a positive step toward protecting the constitutional rights of every taxpaying citizen. By spelling out these rights one by one, my proposal will restore a degree of sanity to the tax system. It will help give honest Americans more confidence in the tax laws and lay the foundation for a system of taxation that is simpler and more evenhanded than the current one.

Mr. President, not long ago, former IRS Commissioner Donald Alexander testified before Congress:

The only way we can keep them (referring to the American taxpayers) honest and paying their taxes is to keep them afraid.

Judging from the number of reports of IRS misconduct I have seen lately, I believe many Americans would agree that the IRS agents are going out of their way in complying with Mr. Alexander's mandate. Indeed, the horror stories are familiar to all.

The Dwight Snyder family of Oakland, Md., was involved in a protracted dispute with the IRS over alleged taxes owed. Michael Satchell of Parade recently wrote:

One day, Mr. Snyder was beginning his day's labor in the workshop next to his house when a procession of unmarked cars, police vehicles, three wreckers and an interstate moving van halted outside his home.

—According to the IRS, at least two dozen (Snyder says there were 49) U.S. marshalls, State patrolmen, IRS revenue officers and special agents—some brandishing M-16 automatic rifles, shotguns, and sidearms—surrounded his property and took up positions near the house, the workshop, and along the highway.

The door to the shop flew open and with guns pointed, the officers shouted that they were there to seize. At the same moment, another armed group moved into the house and confronted Snyder's wife and the couple's 4-year-old daughter. They searched every room in the house, picking through the drawers and cupboards, searching for cash.

Outside, neighbors who began gathering and taking snapshots of the raid found themselves staring down the business end of the long guns and were ordered to leave. "The IRS seized the Snyder family's vehicles, machinery, tools—everything from a pick-up truck and tractor to towel holders, soap dishes, sink strainers, toothbrush holders . . . Everything."

John Barron of Readers Digest reported of two IRS agents in Kansas city, who intruded upon Mrs. Michael Darrah while she was nursing her 6-week-old baby. The young mother pleaded with the men to come back another time. Instead, for 4 tortuous hours they questioned her about income tax charges against her father, Kenneth R. Layne. When she sought to call him for advice, one man ordered, "Don't touch that phone." Unsure of her rights, Mrs. Darrah asked permission to call a lawyer. "That will only make it worse for your father," an agent threateningly told her. For the terrified woman, it was tantamount to being held prisoner in her own home. Ultimately, a jury unanimously concluded that Layne was innocent of any crime. But his daughter, never accused of anything, suffered a nervous breakdown.

Mr. President, from time to time, stories like these hit closer to home. A longtime friend of mine, Bill Currie, has been working to establish a broadcasting school in Pittsburgh. After auditing Bill's books for three consecutive years, the IRS determined that it owed him \$2,500. Wonderful, he told me, but his legal fees amounted to some \$20,000, an amount Bill conceded is quite reasonable for the vast number of hours his tax attorney spent on the case. Mr. Currie now faces possible loss of his home over a

tax audit which proved nothing except his honesty in filing tax returns.

And there is Benny Gooden, the owner of a lumber company in Elizabethtown, N.C. He recently sent me affidavits documenting the conduct of IRS agents who came on his premises carrying pistols and making veiled threats against him and his father. Along with the signed affidavits, Mr. Gooden, sent a pocket-sized copy of the U.S. Constitution and bill of rights, asking why the IRS does not respect their contents.

Mr. President, the Taxpayers' Bill of Rights Act will restrain this type of IRS conduct. Without compromising the Internal Revenue Service's interest in efficient tax collection, it will promote a fairer administration of the tax code. Let me summarize the bill.

#### COURT ORDER REQUIREMENT FOR LEVY

My proposal will insure the taxpayer's right to due process of law by requiring a Federal court order from the taxpayer's district before the IRS can levy on property or assets. The Federal judge must provide the taxpayer with a reasonable opportunity to respond to the IRS request for levy before one is granted. The judge must also require the IRS to favorably demonstrate that every legitimate offer of compromise and/or time payments have been made to resolve any tax deficiencies.

#### PROPERTY TAX EXEMPT FROM LEVY NOTICE TO THIRD PARTY RECORDKEEPERS

The Taxpayers' Bill of Rights Act exempts from levy certain income property not currently exempt by law, so as to guarantee the taxpayer a reasonable ability to maintain an adequate livelihood. In addition, if the IRS should begin an investigation of a taxpayer, proper notification of the taxpayer's rights must be made to all third parties related to the investigation. This notice will prevent IRS seizure of records without knowledge of the taxpayer.

#### WRITTEN ADVICE OF THE INTERNAL REVENUE SERVICE

It requires the IRS to discount in full any tax deficiencies caused by erroneous written advice furnished to the taxpayer by the IRS, including any penalties and/or interest imposed by the deficiency. The bill also requires the IRS to provide the taxpayer with a written statement that it is not responsible for any oral advice given, should it be provided. This affords the taxpayer the opportunity to request such advice in writing in an effort to adequately protect himself.

#### TAXPAYER ASSISTANCE PROTECTION BOARD

The Taxpayers' Bill of Rights Act would establish within the Department of the Treasury an office called the Taxpayer Assistance Protection Board. While there is now a small office within the IRS that is supposed to aid taxpayers, the complexity of the tax code dictates that a major division should be established. The office