101st Congress 2d Session | HOUSE OF REPRESENTATIVES | Report 101-405

# PROVIDING FOR THE DESIGNATION OF CERTAIN PUBLIC LANDS AS WILDERNESS IN THE STATE OF ARIZONA

February 21, 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Udall, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

together with

## SUPPLEMENTAL VIEWS

[To accompany H.R. 2570]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2570) to provide for the designation of certain public lands as wilderness in the State of Arizona, having considered the same report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Desert Wilderness Act of 1990"

SEC. 2. WILDERNESS DESIGNATION AND MANAGEMENT.

(a) Designation.—In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Mohave County, Arizona, which comprise approximately 23,600 acres, as generally depicted on a map entitled "Mount Wilson Wilderness" and dated February 1990, and which shall be known as the Mount Wilson Wilderness.

(2) Certain lands in Mohave County, Arizona, which comprise approximately 31,070 acres, as generally depicted on a map entitled "Mount Tipton Wilderness" and dated February 1990, and which shall be known as the Mount Tipton Wilderness.

(3) Certain lands in Mohave County, Arizona, which comprise approximately 27,530 acres, as generally depicted on a map entitled "Mount Nutt Wilderness"

★39-006

USAV-00004552

and dated February 1990, and which shall be known as the Mount Nutt Wilderness.

(4) Certain lands in Mohave County, Arizona, which comprise approximately 76,600 acres, as generally depicted on a map entitled "Warm Springs Wilderness" and dated February 1990, and which shall be known as the Warm Springs Wilderness.

(5) Certain lands in Mohave County, Arizona, which comprise approximately 15,900 acres, as generally depicted on a map entitled "Aubrey Peak Wilderness" and dated February 1990, and which shall be known as the Aubrey Peak Wilderness.

(6) Certain lands in La Paz County, Arizona, which comprise approximately 14,630 acres, as generally depicted on a map entitled "East Cactus Plain Wilderness" and dated February 1990, and which shall be known as the East Cactus Plain Wilderness.

(7) Certain lands in Mohave and Yavapai Counties, Arizona, which comprise approximately 41,600 acres, as generally depicted on a map entitled "Rawhide Mountains Wilderness" and dated February 1990, and which shall be known as the Rawhide Mountains Wilderness.

(8) Certain lands in Mohave, Yavapai, and La Paz Counties, Arizona, which comprise approximately 129,525 acres, as generally depicted on a map entitled "Arrastra Mountain Wilderness" and dated February 1990, and which shall be known as the Arrastra Mountain Wilderness.

(9) Certain lands in La Paz County, Arizona, which comprise approximately 25,287 acres, as generally depicted on a map entitled "Harcuvar Mountains Wilderness" and dated February 1990, and which shall be known as the Harcuvar Mountains Wilderness.

(10) Certain lands in La Paz and Maricopa Counties, Arizona, which comprise approximately 22,865 acres, as generally depicted on a map entitled "Harquahala Mountains Wilderness" and dated February 1990, and which shall be known as the Harquahala Mountains Wilderness.

(11) Certain lands in Maricopa County, Arizona, which comprise approximately 20,600 acres, as generally depicted on a map entitled "Big Horn Mountains Wilderness" and dated February 1990, and which shall be known as the Big Horn Mountains Wilderness.

(12) Certain lands in Maricopa County, Arizona, which comprise approximately 30,170 acres, as generally depicted on a map entitled "Hummingbird Springs Wilderness" and dated February 1990, and which shall be known as the Hummingbird Springs Wilderness.

(13) Certain lands in La Paz, Yuma, and Maricopa Counties, Arizona, which comprise approximately 94,100 acres, as generally depicted on a map entitled "Eagletail Mountains Wilderness" and dated February 1990, and which shall be known as the Eagletail Mountains Wilderness.

(14) Certain lands in Maricopa County, Arizona, which comprise approximately 15,250 acres, as generally depicted on a map entitled "Signal Mountain Wilderness" and dated February 1990, and which shall be known as the Signal Mountains Wilderness.

(15) Certain lands in Maricopa County, Arizona, which comprise approximately 61,000 acres, as generally depicted on a map entitled "Woolsey Peak Wilderness" and dated February 1990, and which shall be known as the Woolsey Peak Wilderness.

(16) Certain lands in Maricopa County, Arizona, which comprise approximately 14,500 acres, as generally depicted on a map entitled "Sierra Estrella Wilderness" and dated February 1990, and which shall be known as the Sierra Estrella Wilderness.

(17) Certain lands in Maricopa and Pinal Counties, Arizona, which comprise approximately 34,400 acres, as generally depicted on a map entitled "Table Top Wilderness" and dated February 1990, and which shall be known as the Table Top Wilderness

(18) Certain lands in Pima County, Arizona, which comprise approximately 5,080 acres, as generally depicted on a map entitled "Coyote Mountains Wilderness" and dated February 1990, and which shall be known as the Coyote Mountains Wilderness.

(19) Certain lands in Pima County, Arizona, which comprise approximately 2,065 acres, as generally depicted on a map entitled "Baboquivari Peak Wilderness" and dated February 1990, and which shall be known as the Baboquivari Peak Wilderness.

USAV-00004553

(20) Certain lands in Gila County, Arizona, which comprise approximately 9,201 acres, as generally depicted on a map entitled "Needle's Eye Wilderness" and dated February 1990, and which shall be known as the Needle's Eye Wilderness. The right-of-way reserved by right-of-way reservation A-16043 dated October 20, 1986, together with the right of ingress and egress thereto, shall not be affected by this Act, and the existing powerline utilizing such right-of-way may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values.

(21) Certain lands in Graham County, Arizona, which comprise approximately 6,590 acres, as generally depicted on a map entitled "North Santa Teresa Wilderness" and dated February 1990, and which shall be known as the North Santa Teresa Wilderness.

(22) Certain lands in Graham County, Arizona, which comprise approximately 10,883 acres, as generally depicted on a map entitled "Fishhooks Wilderness" and dated February 1990, and which shall be known as the Fishhooks Wilderness.

(23) Certain lands in Cochise County, Arizona, which comprise approximately 11,998 acres, as generally depicted on a map entitled "Dos Cabezas Mountains Wilderness" and dated February 1990, and which shall be known as the Dos Cabezas Mountains Wilderness.

(24) Certain lands in Graham County, Arizona, which comprise approximately 6,600 acres, as generally depicted on a map entitled "Redfield Canyon Wilderness" and dated February 1990, and which shall be known as the Redfield Canyon Wilderness.

(25) Certain lands in La Paz County, Arizona, which comprise approximately 18,805 acres, as generally depicted on a map entitled "Gibraltar Mountain Wilderness" and dated February 1990, and which shall be known as the Gibraltar Mountain Wilderness.

(26) Certain lands in La Paz County, Arizona, which comprise approximately 15,755 acres, as generally depicted on a map entitled "Swansea Wilderness" and dated February 1990, and which shall be known as the Swansea Wilderness.

(27) Certain lands in La Paz County, Arizona, which comprise approximately 29,095 acres, as generally depicted on a map entitled "Trigo Mountain Wilderness" and dated February 1990, and which shall be known as the Trigo Mountain Wilderness.

(28) Certain lands in Yuma County, Arizona, which comprise approximately 8,855 acres, as generally depicted on a map entitled "Muggins Mountain Wilderness" and dated February 1990, and which shall be known as the Muggins Mountain Wilderness.

(29) Certain lands in Yavapai and Maricopa Counties, Arizona, which comprise approximately 9,200 acres, as generally depicted on a map entitled "Hells Canyon Wilderness" and dated February 1990, and which shall be known as the Hells Canyon Wilderness.

(30) Certain lands in Maricopa County, Arizona, which comprise approximately 63,600 acres, as generally depicted on a map entitled "North Maricopa Mountains Wilderness" and dated February 1990, and which shall be known as the North Maricopa Mountains Wilderness.

(31) Certain lands in Maricopa County, Arizona, which comprise approximately 72,004 acres, as generally depicted on a map entitled "South Maricopa Mountains Wilderness" and dated February 1990, and which shall be known as the South Maricopa Mountains Wilderness.

(32) Certain lands in Mohave County, Arizona, which comprise approximately 38,400 acres, as generally depicted on a map entitled "Wabayuma Peak Wilderness" and dated February 1990, and which shall be known as the Wabayuma Peak Wilderness.

(33) Certain lands in Mohave County, Arizona, which comprise approximately 27,390 acres, as generally depicted on a map entitled "Upper Burro Creek Wilderness" and dated February 1990, and which shall be known as the Upper Burro Creek Wilderness.

(34) Certain lands in Yavapai County, Arizona, which comprise approximately 11,840 acres, as generally depicted on a map entitled "Hassayampa River Canyon Wilderness" and dated February 1990, and which shall be known as the Hassayampa River Canyon Wilderness.

(35) Certain lands in Pinal County, Arizona, which comprise approximately 5,800 acres, as generally depicted on a map entitled "White Canyon Wilderness" and dated February 1990, and which shall be known as the White Canyon Wilderness.

USAV-00004554

(36) Certain lands in Mohave County, Arizona, which comprise approximately 8,700 acres, as generally depicted on a map entitled "Tres Alamos Wilderness" and dated February 1990, and which shall be known as the Tres Alamos Wilderness.

(37) Certain lands in Cochise County, Arizona, which comprise approximately 19,650 acres, as generally depicted on a map entitled "Peloncillo Mountains Wilderness" and dated February 1990, and which shall be known as the Peloncillo Mountains Wilderness.

(38) Certain lands in Yuma County, Arizona, which comprise approximately 21,860 acres, as generally depicted on a map entitled "New Water Mountains Wilderness" and dated February 1990, and which shall be known as the New Water Mountains Wilderness.

(39) Certain lands in Gila and Graham Counties, Arizona, which comprise approximately 12,711 acres, as generally depicted on a map entitled "Aravaipa Wilderness Additions" and dated February 1990, and which shall be added to and managed as part of Aravaipa Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness area designated by this Act shall be administered by the Secretary of the Interior (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) MAP AND LEGAL DESCRIPTION.—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 Director, Bureau of Land Management, United States Department of the Interior.

(d) NO BUFFER ZONES.—The Congress does not intend for designation of wilderness areas in the State of Arizona to lead to the creation of protective perimeters or buffer zones around any such 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) FISH AND WILDLIFE.—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 on the public lands located in that State.

(f) LIVESTOCK.—(1) Grazing of livestock in wilderness areas designated 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 the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(2) The Secretary is directed to review all policies, practices, and regulations of the Bureau of Land Management regarding livestock grazing in Bureau of Land Management 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.

(g) WATER.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved rights shall be the date of enactment of this Act. The Secretary of the Interior shall file a claim for the quantification of such rights in an appropriate stream adjudication, and shall take all steps necessary to protect such rights in such an adjudication. The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously reserved or obtained by the United States for other than wilderness purposes.

(h) WILDLIFE MANAGEMENT.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas, where consistent with relevant wilderness management plans, in accordance with appropriate policies and guidelines such as those set forth in appendix B of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

USAV-00004555

SEC. 3. CONGRESSIONAL FINDING.

Excepting for the Baker Canyon area (AZ-040-070), and the approximately 57,800 acres of public land as generally depicted on a map entitled "Cactus Plain Wilderness Study Area" dated February, 1990, the Congress hereby finds and directs that all public lands in Arizona, administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 not designated as wilderness by this Act, or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of such Act and are no longer subject to the requirement of section 603(c) of such Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

SEC. 4. GILA BOX RIPARIAN NATIONAL CONSERVATION AREA.

(a) PURPOSES.—In order to conserve, protect, and enhance the riparian and associated areas described in subsection (b) and the aquatic, wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas, there is hereby established the Gila Box Riparian National Conservation Area (hereafter in this section referred to as the "conservation area").

(b) AREAS INCLUDED.—The conservation area shall consist of the public lands generally depicted on a map entitled "Gila Box Riparian National Conservation Area" dated February 1990, and comprising approximately 20,900 acres.

(c) MAP.—As soon as practicable after the date of enactment of this Act, a map and legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in appropriate office of the Bureau of Land Management in Arizona.

(d) MANAGEMENT OF CONSERVATION AREA.—(1) The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances its resources and values (including the resources and values specified in subsection (a)), pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this section.

(2) The Secretary shall allow only such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads specifically designated for such use as part of the management plan prepared pursuant to this section.

(e) WITHDRAWAL AND WATER.—(1) Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(2) Congress hereby reserves a quantity of water sufficient to fulfill the purposes (as specified in subsection (a)) for which the conservation area is established. The priority date of this reserved right shall be the date of enactment of this Act. The Secretary shall file a claim for the quantification of this right in an appropriate stream adjudication, and shall take all steps necessary to protect such right in such adjudication. The Federal water right reserved by this paragraph shall be in addition to any other water rights reserved or obtained by the United States.

(f) MANAGEMENT PLAN.—(1) No later than two years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the conservation area in order to fulfill the purposes for which the conservation area is established. The management plan shall be developed with full public participation and shall include provisions designed to assure protection of the resources and values (including the resources and values specified in subsection (a)) of the conservation area. For the purposes of this section, the term "management plan" means the plan developed under this subsection.

(2) The management plan shall include a discussion of the desirability of the inclusion in the conservation area of additional lands, including the lands not in Federal ownership that are contiguous to the boundary of the conservation area (as depicted on the map referenced in subsection (b) or as hereafter adjusted pursuant to subsection (g)) and within the area extending two miles on either side of the centerline of Eagle Creek from the point where Eagle Creek crosses the southern bounda-

USAV-00004556

ry of the Apache National Forest to the confluence of Eagle Creek with the Gila River (this area is hereafter referred to in this section as the "Eagle Creek riparian area").

(3) In order to better implement the management plan, the Secretary may enter into cooperative agreements with appropriate State and local agencies pursuant to section 307(b) of the Federal Land Policy and Management Act of 1976.

(4) In order to assist in the development and implementation of the management plan, the Secretary may authorize appropriate research, including research concerning the environmental, biological, hydrological, cultural, and other characteristics, resources, and values of the conservation area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976.

(g) ACQUISITION AND BOUNDARY ADJUSTMENTS.—(1) The Secretary is authorized to acquire non-Federal lands or interests therein within the boundaries of the conservation system unit or within the Eagle Creek riparian area.

(2) The Secretary is authorized to adjust the boundaries of the conservation area so as to incorporate within the conservation area any lands or interests within the Eagle Creek riparian area that may be acquired after the date of enactment of this Act as well as public lands within that portion of the Eagle Creek riparian area west of the centerline of Eagle Creek that the Secretary finds appropriate in order to properly manage such acquired lands as part of the conservation area. Any lands or interests so incorporated shall be managed as part of the conservation area.

(3) No lands or interests therein owned by the State of Arizona or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the conservation area or the Eagle Creek riparian area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests.

(h) NO BUFFER ZONES, AND SO FORTH.—The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area not permitted in the conservation area shall not preclude such activities or uses up to the boundary of the conservation area to the extent consistent with other applicable law.

(i) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary with respect to the preparation and implementation of the management plan. Such advisory committee shall consist of seven members appointed by the Secretary. One member shall be appointed from nominations supplied by the Governor of Arizona and one member each shall be appointed from nominations supplied by the supervisors of Graham and Greenlee Counties, respectively. The remaining members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the purposes for which the conservation area is established.

(j) REPORT.—No later than five years after the date of enactment of this Act, and at least each ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the implementation of this section, the condition of the resources and values of the conservation area, and the progress of the Secretary in achieving the purposes for which the conservation area is established.

(k) ENFORCEMENT.—Any person who violates any regulation promulgated by the Secretary to implement this section shall be subject to a fine in accordance with applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3572) or to imprisonment for at least six months but no more than one year, or both such fine and imprisonment.

(l) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

## PURPOSE

The purpose of H.R. 2570 is to designate 39 wilderness areas, retain two areas in wilderness study status and create a new National Conservation Area on Arizona lands under the jurisdiction of the Bureau of Land Management, and to release to multiple-use management other lands not so designated.

USAV-00004557

## BACKGROUND AND NEED

H.R. 2570 is an effort to resolve outstanding wilderness questions on those lands in the state of Arizona under the jurisdiction of the Bureau of Land Management that have been subject to wilderness review pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA). Under that section, the Arizona state office of BLM has been studying more than two milion acres of roadless lands for possible designation as wilderness. FLPMA requires all these lands to be managed to protect their wilderness values until the Congress makes a final determination as to their status.

As originally introduced, H.R. 2570 proposed almost 1.4 million acres of wilderness in 53 separate areas. After a year of intensive study and consultation with the Arizona Congressional delegation, the Committee has agreed to designate just under 1.1 million acres of wilderness in 39 areas, leave two areas in wilderness study status and organize a third area as a National Conservation Area. The legislation also releases almost 950,000 acres from interim wilderness management dictates to multiple use management as defined by FLPMA.

## THE COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute. Its provisions are discussed in detail in the Section-by-Section Analysis portion of this report.

## SECTION-BY-SECTION ANALYSIS

### *Short title*

Section 1 would provide a short title for H.R. 2570, the "Arizona Desert Wilderness Act of 1990."

### *Wilderness areas*

Section 2(a) provides for 39 wilderness areas as follows:

| Area: | *Acreage* |
|---|---|
| Mount Wilson | 23,600 |
| Mount Tipton | 31,070 |
| Mount Nutt | 27,530 |
| Warm Springs | 76,600 |
| Aubrey Peak | 15,900 |
| East Cactus Plain | 14,630 |
| Rawhide Mountains | 41,600 |
| Arrastra Mountains | 129,525 |
| Harcuvar Mountains | 25,287 |
| Harquahala Mountains | 22,865 |
| Big Horn Mountains | 20,600 |
| Hummingbird Springs | 30,170 |
| Eagletail Mountains | 94,100 |
| Signal Mountains | 15,250 |
| Woolsey Peak | 61,000 |
| Sierra Estrella | 14,500 |
| Table Top Mountain | 34,400 |
| Coyote Mountains | 5,080 |
| Baboquivari Peak | 2,065 |
| Needle's Eye | 9,201 |
| North Santa Teresa | 6,590 |
| Fishhooks | 10,883 |
| Dos Cabezas | 11,998 |

USAV-00004558

| | |
|---|---|
| Redfield Canyon | 6,600 |
| Gibraltar Mountain | 18,805 |
| Swansea | 15,755 |
| Trigo Mountain | 29,095 |
| Muggins Mountain | 8,855 |
| Hells Canyon | 9,200 |
| North Maricopa Mountains | 63,600 |
| South Maricopa Mountains | 72,004 |
| Wabayuma Peak | 38,400 |
| Upper Burro Creek | 27,390 |
| Hassayampa River Canyan | 11,840 |
| White Canyon | 5,800 |
| Tres Alamos | 8,700 |
| Peloncillo Mountains | 19,650 |
| New Water Mountains | 21,860 |
| Aravaipa Wilderness Additions | 12,711 |

A more complete discussion of these areas follows:

*Mount Wilson*

Situated about 10 miles southeast of Hoover Dam and bordering Lake Mead National Recreation Area, the proposed 23,600 acre Mount Wilson Wilderness affords visitors with an exceptional wilderness experience. The isolation, ruggedness, lack of development and human impact make this area one of the most pristine BLM wilderness areas in Arizona. The area includes nine miles of Wilson Ridge and its summit, the 5,445 foot-high Mount Wilson, the highest and most prominent topographic features in the Hoover Dam area. With a vertical relief of over 3,000 feet, visitors see breathtaking views of the Grand Canyon, Lake Mead and distant mountains in Nevada from atop the wilderness unit.

The Mount Wilson Wilderness provides a complete desert system, from the ridge tops to the bajadas below. Desert springs sustain a wide variety of wildlife. In particular, Mount Wilson is crucial habitat for the desert bighorn sheep, with a population of over 100 sheep inhabiting the area. Five protected plant species are also present in the wilderness.

With its exceptional wilderness qualities, this area provides ample opportunity for primitive and unconfined wilderness recreation. Hikers, backpackers, campers and hunters especially will enjoy utilizing the Mount Wilson Wilderness.

*Mount Tipton*

Rising abruptly from the surrounding valleys, the Cerbat Mountains form the setting for the proposed Mount Tipton Wildernesss. Elevations in the region range from 3,400 feet to 7,148 feet at the summit of Mount Tipton. The intricately carved Cerbat Pinnacles provide an interesting geological contrast to Mount Tipton. The wild and scenic mountains of this area show virtually no sign of human intrusion, offering excellent opportunities to seek solitude and engage in primitive recreation.

A variety of vegetation can be found in the Mount Tipton region. Lying within the Mohave Desert, the area is a fine example of the desert environment. But the area also contains chaparral and scrub, semi-desert grasslands such as black grama and stands of ponderosa pine in the upper reaches of the range. The Cerbat Mountains provide an excellent home for mule deer, bobcats and

USAV-00004559

numerous raptors. Cougars are occasionally seen in the area as well. Of the areas animal inhabitants, 17 species have some special status.

Recent land acquisitions by the BLM have allowed for designation of a slightly larger portion of the WSA than originally proposed. The 31,070 acre proposed wilderness now includes the scenic Antelope Canyon and a section of Joshua tree forest typical of the Mohave Desert.

*Mount Nutt*

Located within the Black Mountains 15 miles west of Kingman, the proposed Mount Nutt Wilderness is one of the finest examples of desert wilderness in northwest Arizona. This is an area of complex and fascinating terrain. Prominent buttes and mesas are cut by deep canyons and washes providing excellent opportunities for solitude. The craggy peaks and pinnacles are awash in colors ranging from deep pink to brown.

Vegetation ranges from Mohave scrub in the lower elevations to Upper Sonoran juniper grasslands in the higher elevations. Several springs in the area provide riparian habitats which include cottonwoods, willows and oaks. Among the abundant wildlife to be found here are 21 special status species. The area provides critical habitat for the desert bighorn sheep and is suitable for the endangered peregrine falcon, desert tortoise and Gila monster.

In addition to the scenic values of the region and its importance to desert plants and animals, the Mount Nutt area is rich in archeological sites. Some of the best examples of red, black and white paintings, possibly Mohave in origin, are found here in addition to other pictographs and rock shelters. Bighorn Cave, occupied for some 2,000 years by ancient peoples, has been nominated to the National Register of Historic Places.

Boundary adjustments have been made to provide access to and maintenance of the water supply for the town of Oatman and to protect mineral interests.

*Warm Springs*

The proposed Warm Springs Wilderness is found in the southern stretches of the Black Mountains. This large area contains a wide variety of plant and animal species and varied topography. Several distinct vegetation communities exist in the Warm Springs region. The lower reaches contain creosote and related types. Brittlebush and Mohave cholla carpet the steep slopes. Visitors to the summit of Black Mesa will find prominent stands of Mohave Yucca. In addition, Warm Springs is one of the few proposed wilderness areas containing the smoke tree.

This area is also important to desert wildlife. Large portions of the proposed wilderness provide critical lambing grounds for the desert bighorn as well as habitat for the endangered Gila monster and desert tortoise. Other typical desert dwellers inhabit the area including several species of rodents, snakes and lizards. Mule deer and golden eagles are often spotted here.

The boundaries of the 76,600 acre Warm Springs Wilderness represent a somewhat smaller area than the BLM state office originally recommended. A large, open area at the southern end of the

USAV-00004560

WSA was eliminated to facilitate management of the wilderness. The McHeffy Butte area was released to accommodate mining interests utilizing the area.

*Aubrey Peak*

The 15,900 acres of the Aubrey Peak Wilderness present a splendid variety of landforms and features. This volcanic area contains buttes, dikes, plugs, natural windows, tafoni caves, spires, overhangs and slickrock terraces. With elevations ranging from 1,800 feet to 3,221 feet, the wilderness offers a challenge to experienced hikers and climbers as well as less strenuous stretches of desert washes, outwash plains, and pristine interior basins.

Located where the Sonoran and Mohave Deserts merge, the wilderness offers an abundant variety of plant and animal life. Visitors will frequently see the most conspicuous denizens of the two deserts, the saguaro cactus and the Joshua tree, growing side by side. Among the 331 species of wildlife found here are 11 special-status species, including prairie falcons, golden eagles and rosy boas.

*East Cactus Plain*

This proposed wilderness area is separated from the Cactus Plain WSA by the Central Arizona Project. Together with Cactus Plain, proposed to remain in study status, the wilderness area provides visitors a glimpse of a unique biological community. In contrast to the mountainous terrain of most desert wildernesses, this is a region of rolling sand dunes, sand sculptures and rounded hills. The soft, rolling terrain and breathtaking vistas afford a solitary and distinctive wilderness experience.

The mix of Sonoran Desert and Mohave Desert vegetation provides a rare treat for Arizona nature lovers. Cut off from California by the Colorado River, the Arizona flora and fauna have developed separately in this region. These unique plant communities hold separate status with the Arizona Game and Fish Department and the Arizona State Parks Department. In addition, several state and federally listed threatened animals inhabit the area, including the Mojave fringetoed lizard and the desert tortoise. Designation of this area as wilderness is essential to protect this exceptional Arizona treasure.

*Rawhide Mountains*

The proposed Rawhide Wilderness is one of the truly special areas designated by this legislation. Bisected by the perennially flowing Bill Williams River, the area provides an example of the rapidly vanishing riparian ecosystem. Located adjacent to Alamo State Park, the Rawhide Wilderness is easily accessible for both recreational and educational activities.

Elevations range from 1,730 feet to 2,430 feet. The Rawhide Mountains contain numerous rugged outcroppings and rocky canyons. Visitors are treated to a variety of landscapes from summit vistas to colorful and lush canyon floors. The 600-foot gorge enclosing the Bill Williams is a favorite of hikers.

The riparian environment, with reliable year-round water, attracts plant and animal varieties rarely found in other parts of Ari-

USAV-00004561

zona. Nineteen special status wildlife species are found in the Rawhide Mountains. Deer, fish, beavers and burros are drawn to the riparian environment. The area is also prime habitat for a variety of birds, including bald eagles which nest at nearby Alamo Lake. Most of the area is composed of typical lower Sonoran vegetation such as the palo verde-saguaro community. The banks of the Bill Williams host a cottonwood and willow environment that is uncommon in Arizona.

In developing the bill as reported, the Committee has taken into consideration certain matters concerning the relationship between the Rawhide Mountains and Swansea areas and the existing Alamo Dam and Reservoir. Both the Rawhide Mountains and Swansea Wildernesses designated by the bill include reaches of the Bill Williams River below the existing Alamo Dam and Reservoir. Alamo Dam was authorized by the Flood Control Act of 1944. The project was constructed primarily for flood control, but the report of the Corps of Engineers leading to congressional authorization showed that the reservior could also serve the purposes of, among others, water conservation, recreation and wildlife. Therefore the project was sized to allow benefits for these purposes to be realized. The Arizona Department of Game and Fish currently holds water rights for fishery purposes in Alamo Dam. The Arizona State Parks Department maintains a boat ramp on the lake for recreational purposes.

Furthermore, a pair of Southern Bald Eagles, an endangered species, are nesting on the lake, and on the advice of the Fish and Wildlife Service, the Corps of Engineers is currently managing the reservoir to maintain a water level to protect the eagles.

Near the confluence of the Bill Williams River and the Colorado River is the Bill Williams unit of the Havasu National Wildlife Refuge. While the federal reserved water rights to the Colorado River for this refuge were quantified in the *Arizona* v. *California* litigation (373 U.S. 546, 376 U.S. 340), the water rights for the Bill Williams unit on the Bill Williams River have not been quantified.

The city of Scottsdale owns the Planet Ranch and the appurtenant water rights located below Alamo Dam and the wilderness areas, but above the National Wildlife Refuge. Scottsdale has applied to the Department of Water Resources for a permit to appropriate additional water from the Bill Williams River. The Central Arizona Water Conservation District, the umbrella repayment entity for the Central Arizona Project, has protested Scottsdale's application on the ground, among others, that any unappropriated water on the Bill Williams River as of 1968 has been dedicated to the Central Arizona Project. Also, the Bureau of Land Management has applied to the state for an instream flow appropriation on the Bill Williams River below Alamo Dam for fish, wildlife and recreation purposes.

If granted and perfected, the priority dates of the rights applied for by Scottsdale and BLM would antedate the rights reserved by this bill for the Swansea and Rawhide Mountains wilderness areas and the BLM rights may fully or partially fulfill the purposes of the wilderness designation. Nevertheless, the situation of these two areas is unique in its complexity. It is the intent of the Committee that the water rights for the Rawhide Mountains and Swansea Wil-

USAV-00004562

derness areas shall be quantified in a manner that recognizes vested water rights, takes into account the purposes of the Central Arizona Project, and is consistent with the laws the Secretary of the Army must follow in operating the Alamo Project, while still protecting the wilderness qualities of these two areas.

Finally, section 2(g) directs the Secretary of the Interior to file a claim in an appropriate stream adjudication for the quantification of the federal water rights reserved by this Act. The Committee recognizes that there currently are ongoing general adjudications in the Gila and Little Colorado River drainages, and that those adjudications are consuming a great deal of federal, state and local government resources. Some of the federal water rights reserved by this Act can be quantified in the context of those already ongoing proceedings. In view of the resource commitment required by those adjudications, however, the Committee does not intend that the Secretary immediately initiate a general adjudication for the federal reserved rights pertaining to areas in the Bill Williams River drainage. Several of the parties involved in the currently ongoing general adjudications for the Gila and Little Colorado rivers will also be involved in an adjudication on the Bill Williams River. These parties will be in a better position to decide to commence a new general adjudication at some later time, preferably after the state makes a decision on the applications to appropriate made by BLM and Scottsdale. Therefore, the Committee does not expect the Secretary to initiate a general adjudication in the Bill Williams River drainage unless it is plainly necessary.

The reservation of federal water rights in this Act should not be construed as a waiver or relinquishment of any water rights previously reserved or obtained by the United States, and the reservation in this Act will operate to protect water for wilderness purposes to the extent, if at all, that such protection is not provided by existing water rights held by the United States.

*Arrastra Mountains*

Due to an extensive land trade between the BLM and the state, the proposed Arrastra Mountains Wilderness has been expanded to include the Black Mountain/Ives Peak Wilderness Study Area along with parcels of land adjoining these areas. These acquisitions make Arrastra Mountains, at 129,525 acres, the largest wilderness area proposed in this legislation. Its size, diversity of plant and animal life and its riparian environment make this proposed wilderness one of the truly exceptional natural areas in the desert Southwest.

With two mountain ranges, the Poachie and the Black Mountains, and two river systems, the Big Sandy and the Santa Maria, the Arrastra area provides visitors with an array of varied scenery and recreational opportunities. Elevations in the Poachie Mountains reach 4,807 feet at Arrastra Mountain. Further east in the rugged Black Mountains, elevations reach 4,091 feet. A series of lengthy canyons and washes drain from the slopes of the mountains into the Santa Maria or Big Sandy river systems. Peoples Canyon, in particular, is described by the BLM as a "unique desert oasis." The lush riparian habitat and aquatic scenery led the Arizo-

USAV-00004563

na Water Quality Control Council to designate Peoples Canyon Creek as "unique waters of exceptional significance" in 1985.

This region is located where the Sonoran and Mohave Deserts merge, yielding an unusual blend of desert ecosystems. The area's bajadas are characterized by the saguaro community of the Sonoran Desert and the Joshua tree community of the Mohave desert. High quality riparian habitat is found in the canyons and along the rivers with a lush bounty of cottonwoods, sycamores and willows among other species. The Santa Maria River also supports an extensive mesquite bosque, a rare and vanishing ecosystem.

Numerous wildlife are attracted by the reliable water in the region. Nearly 300 species of wildlife are found here, with as many as 20 special status species. Bird life is especially plentiful with bald eagles, golden eagles, snowy egrets and great blue herons all finding a home here.

With its close proximity to Highway 93 and Alamo State Park and the abundant and reliable water sources, unparalleled recreational opportunities exist in the Arrestra wilderness. Numerous areas are ideal for dayhikes and few other areas offer the same prospects for extended backpacking trips. Hunting, rockhounding, wildlife and nature study are exemplary here. River running is also possible in Arrastra during periods of high run-off.

*Harcuvar Mountains*

This isolated and rarely-visited parcel of 25,287 acreas offers outstanding opportunities for wilderness recreation. The Harcuvar Mountains Wilderness consists of an island of rugged mountains rising abruptly from the desert floor. Elevations range from 2,400 feet to 5,135 feet. The canyons and ridgelines throughout the mountains provide an excellent setting for hiking and backpacking, as well as hunting, climbing and horseback riding. Solitude and undisturbed interaction with nature are easily found in this nearly trackless expanse.

A great diversity of desert flora and fauna thrive in this wilderness. A 3,500 acre "island" of chaparral habitat is found on the northern ridgeline of the Harcuvars, containing virtually undisturbed stands of native grasses. The island is an important home for several species of wildlife cut off from their parent populations for thousands of years, including Gilbert's skink, rosy boas and desert night lizards. Also found in the Harcuvars are desert bighorn sheep, cougars, goldern eagles and various hawks.

Additionally, several important cultural sites exist in the area, including three sites eligible for inclusion in the National Register of Historic Places. In setting boundaries, the Committee followed the recommendations of the BLM, which eliminated some areas, including lands on the south with heavy mineral interest.

*Harquahala Mountains*

Located in the relatively unpopulated expanse of southwest Arizona, the Harquahala Mountains present almost unequalled opportunities for solitude and seclusion. While being remote, this area is quite accessible and provides a needed respite from the growing population centers in the state. The 22,865 acre wilderness includes most of the Harquahala Mountains. Elevations range from 1,400

USAV-00004564

feet on the valley floor to 5,681 feet at the summit of Harquahala Peak, the highest point in southwestern Arizona. The view from the Peak presents a breathtaking panorama of the surrounding desert and distant mountain ranges.

Uncommon for most Arizona mountains, the Harquahalas contain an extensive and screened interior. The canyons, outcrops and hills in this sheltered interior furnishes the solitary and secluded experience so treasured by wilderness visitors.

Year-round water sustains critical habitat for such species as the desert bighorn and the desert tortoise. In addition, a 32,000 acre "island" of chaparral habitat on the higher ridges supports a variety of plant and animal species.

The Committee adopted the recommendations of the BLM in setting acreage and boundaries, resulting in deletion of about two-thirds of the unit for mineral and manageability concerns.

*Big Horn Mountains*

Visible from 40 miles away, spectacular Big Horn Peak towers over the surrounding ranges at 3,480 feet high. Near Interstate 10, the proposed Big Horn mountains Wilderness is easily accessible. Visitors can wander the narrow canyons or climb to the top of the range to be rewarded with views of thousands of undisturbed acres all around the region. The proposed Hummingbird Springs Wilderness lies just northeast of the area, separated from Big Horn Mountains by a jeep trail.

Although water is scarce here, there are no perennial streams and rainfall is slight, dense vegetation abounds. The hills and grasslands are carpeted with thickets of palo verde, ironwood, saguaro, ocotillo and wildflowers. The region contains 13,000 acres of crucial bighorn sheep habitat. Golden eagles, prairie falcons and Gila monsters are also among the wildlife found here.

Designation of this 20,600 acre wilderness will provide important protection for the natural and scenic values of the area. With its easy access and nearness to population centers, this wilderness will also provide an important source of recreation to the state.

A small boundary adjustment has been made on the north of the unit to accommodate active mining of fire agates and similar minerals.

*Hummingbird Springs*

Located about 60 miles west of Phoenix and near Interstate 10, this proposed area offers significant recreational potential for city dwellers and local residents seeking to "get away from it all." Although the region is geographically an extension of the Bighorn Mountains, Hummingbird Springs differs substantially from the proposed Bighorn Mountains wilderness abutting it on the west. Most desert mountains are "islands" rising abruptly from the desert floor. The area's dominant Sugarloaf Mountain, however, contains a complex and expansive system of foothills and drainages that is unusual in western Arizona. The complexity and diversity of landforms, the dense vegetation and the awesome natural beauty of the proposed wilderness combine to present a wealth of activities to visitors of all ages and abilities.

USAV-00004565

The variety of plant life presents a classic Sonoran Desert landscape of saguaros, chollas, ocotillos, palo verdes and mesquite. The spring hiker will be rewarded with lush grasses and wildflowers thriving in the valleys and foothills. Most of the region is also crucial habitat for the desert bighorn sheep and desert tortoise. Among other wildlife frequenting the area are Cooper's hawks, golden eagles, kit foxes and the rare Gila monster.

Hummingbird Springs was not included in this legislation as first introduced. Public support for this area, however, was overwhelming and the Committee decided its inclusion would be a valuable addition to the bill. The boundaries of the 30,170 acre wilderness were drawn to exclude conflicts with mineral activities and human impacts on the east and west, leaving a core area rich in scenic and recreational values.

*Eagletail Mountains*

Located 65 miles west of Phoeniz, this spectacular range of mountains offers visitors a rich wilderness experience. With Courthouse Rock and Eagletail Peak as the prominent features of the range, the jagged peaks, spires, weathered cliffs and diverse landforms furnish challenging climbing and hiking opportunities. Sightseers and nature lovers will find abundant natural arches and windows in the Eagletails. Wilderness designation of the bajadas to the west of the Eagletails is vital to protect brittle, floury desert soils.

Among the varied plant life in the mountain range, four special status species are found, qualifying the area to be proposed as a Natural Area by the Arizona Academy of Science. Evidence of prehistoric man is plentiful in the wilderness area, including lithic scatters, rock rings and shelters and numerous petroglyphs perhaps dating back 10,000 years.

The 94,100 acres comprising the proposed Eagletail Wilderness makes this area one of the larger parcels of land designated by this bill. The boundaries are slightly larger than originally proposed by the BLM state office. The additional acreage includes Cemetery Ridge within the wilderness boundary, providing important protection of 2182 feet. The sharp peaks and craggy ridges of the mounincreasing opportunities for solitude and primitive recreation.

*Signal Mountain*

The proposed 15,250 acre Signal Mountain Wilderness presents a rich variety of scenery and vegetation. Signal Mountain is a colorful volcanic peak rising 1,200 feet from the desert floor to an elevation of 2181 feet. The sharp peaks and craggy ridges of the mountain contrast with the rolling hills, gentle valleys and outwash plains surrounding it. The area presents a pristine example of the Sonoran Desert environment.

Many forms of wilderness recreation are available in the area including hiking, climbing, hunting and horseback riding. The varied and colorful topography provides a distinct contrast to nearby mountains, offering a refreshing change of scenery.

The Signal Mountain Wilderness is adjacent to the newly-designated Woolsey Peak Wilderness, separated by a four-wheel drive gravel road. This offers crucial protection for a recently introduced herd of desert bighorn sheep. The Committee adopted the recom-

USAV-00004566

mendations of the BLM state office in determining acreages and boundaries.

*Woolsey Peak*

The 61,000 acre proposed Woolsey Peak Wilderness is located just eleven miles north of Gila Bend and immediately south of the proposed Signal Mountain Wilderness. The region provides visitors with an appealing array of topography and geology. The proposed wilderness contains flat plains, low rolling hills, mesas, jagged desert mountains and wide valleys and washes. The complex geology of the area presents a variety of colors and textures which will entrance visitors.

The Woolsey Peak area exhibits classic lower Sonoran Desert vegetation. Creosote-bursage communities dominate the plains with the saguaro-palo verde communities occupying the slopes and bajadas. While the extreme aridity of the area makes vegetation sparse, there is still a surprising variety of plant species found here. While rare, sightings of bighorn sheep are possible. Eagles, deer, bobcats, cougars, hawks and owls are also known to frequent the region.

The diversity and ruggedness of the proposed wilderness combined with its size, offer the visitor extraordinary solitude. Primitive and unconfined recreation opportunities abound in this mysterious and scenic wilderness.

*Sierra Estrella*

Located just 15 miles southwest of Phoenix, the proposed Sierra Estrella Wilderness is in one of the most rugged mountain ranges in Arizona. The knife-edged ridgelines, steep talus slopes and rough canyons provide a challenging experience for hikers, backpackers and climbers.

All major species of plants in the Sonoran Desert are found here. A remnant herd of desert bighorns roams the mountain range and the endangered Gila monster and desert tortoise inhabit the area. Large populations of mule deer, javelina and coyotes in addition to the occasional mountain lion reside in the Sierra Estrella.

Prehistoric cultures were known to use the entire area for hunting and gathering. Numerous archeological sites and artifacts may be found within 14,500 acre wilderness area.

A northerly segment of the unit was deleted in part as a possible addition to a county park.

*Table Top*

Consisting of several rugged peaks with a maze of ravines, ridges and deep canyons, this 34,400 acre tract is easily accessible to residents of the burgeoning Phoenix and Tucson areas. Table Top Mountain, at 4,373 feet, is the highest peak in the region. Its flat-topped summit is a familiar landmark and can be recognized from Phoenix, 40 miles to the north.

While fairly accessible, the proposed wilderness shows few signs of human intrusion. Hikers venturing into the interior of the range are rewarded with solitude. The view from atop the range provides a magnificent panorama of the surrounding desert. The diverse ter-

USAV-00004567

rain and abundant flora and fauna present a wealth of opportunities to enjoy the wilderness experience.

The vegetation in the area is typical of the Sonoran desert. Magnificent saguaros, often as thick as in Saguaro National Monument or Organ Pipe National Monument, dot the landscape along with palo verdes, ironwood trees and tall grasses. This lush desert environment provides habitat for a variety of raptors, including Cooper's hawks, red-tailed hawks, kestrels and the occasional golden eagle. Herds of mule deer and javelinas also find a home here. Almost half of the proposed wilderness has been identified as having a high probability of containing cultural and archeological resources. A large prehistoric habitation site considered for inclusion in the National Register of Historic Places was discovered in 1982.

*Coyote Mountains*

Found 40 miles southeast of Tucson, this 5,080 acre wilderness area encompasses the major portion of the Coyote Mountains. Although relatively small, the Coyote Mountains Wilderness offers a distinct array of wilderness values. Spectacular scenery, diverse vegetation and abundant wildlife provide exceptional wilderness recreation opportunities.

With an elevation change of 3,500 feet, the Coyote Mountains contain both the Upper and Lower Sonoran life zones, from palo verde-saguaro communities in the canyon floors to oak and native grass communities at the higher elevations. A variety of big and small game and abundant bird life is also found in the wilderness as well as seven special-status wildlife species and eight protected plant species.

This spectacular area of granite domes, cliffs, steep canyons, streams and washes make this a popular area with birders, backpackers, climbers, photographers, hunters, artists and sightseers. Archeological sites are also common in the area.

*Baboquivari Peak*

Baboquivari Peak is sacred to the Tohono O'Odham Indians, who consider it the center of the universe. Non-Indians have long regarded this distinctive peak as an important scenic reference, visible from much of southern Arizona. Although small, only 2,065 acres, this area has many qualities unique to Arizona wilderness.

The complex terrain of the Baboquivari Mountains provide excellent hiking and climbing opportunities. Baboquivari Peak itself, 7,734 feet high, can be reached only with climbing equipment. As the only truly technical mountain in Arizona, the peak attracts climbers from all over the nation. The steep mountain slopes and heavy vegetation offer a solitary experience for visitors, with views in all directions virtually devoid of any evidence of human activity.

A variety of important plant and animal species thrive in the wilderness area. Four state-listed and BLM sensitive species are found here: the mountain skink, thick-billed kingbird, five-striped sparrow and the Gila monster. In addition, peregrine falcons, golden eagles and other special-status raptors may inhabit the area. The elevation range and relatively abundant water supplies also support a wide variety of vegetation.

USAV-00004568

Because of its cultural significance, several prehistoric sites of considerable antiquity are found just outside the wilderness area. At present, no public access to the wilderness exists. Entry is permitted on both sides of the range; access from the west is controlled by the Tohono O'Odham and eastern access across state and private land is controlled by ranchers.

*Needle's Eye*

Located 15 miles southeast of Globe, the proposed 9,201 acre Needle's Eye Wilderness contains a gorgeous canyon for the Gila River. Numerous side canyons slice through the surrounding countryside as they drain into the river. The magnificent cliffs of the Mescal Mountains not only provide breathtaking views, but also provide excellent nesting sites for raptors such as the bald eagle. Typical Sonoran vegetation such as the saguaro and palo verde dot the wilderness with lush riparian vegetation, including cottonwoods and willows, line the river and its tributaries.

A 44 kv powerline transverses the Needle's Eye Wilderness area. The Bureau of Land Management anticipates that the line will be surveyed every 90 days, by helicopter, to determine maintenance needs. Should maintenance be necessary, access will be by foot, horseback and/or helicopter. Within the next 10 years, the powerline is expected to be upgraded to a 69 kv capacity.

The Committee has included language to guarantee the rights of ingress and egress for purposes of operating and maintaining the powerline, as well as upgrading the powerline in the future, subject to reasonable requirements to protect wilderness values. The powerline, currently owned and operated by the Bureau of Indian Affairs, is expected to be transferred to new ownership as a result of the pending divestiture of the San Carlos Irrigation Project. The Committee does not intend such transfer to affect the rights of ingress and egress, or the right to upgrade the powerline.

*North Santa Teresa*

Formerly known as the Black Rock WSA, the proposed North Santa Teresa Wilderness is adjacent to the National Forest Service Santa Teresa Wilderness, providing for an integrated wilderness unit. Visitors to the area are greeted with a variety of interesting topography, such as Jackson Mountain, rising to 5,892 feet, Holdout Mesa, Holdup Canyon and Black Rock itself. A large volcanic plug, Black Rock rises 1,000 feet above the surrounding plain. In addition to providing good climbing opportunities, Black Rock provides important nesting sites for golden eagles and peregrine falcons. Along the larger drainages, riparian vegetation such as sycamore and walnut can be found along with three special status plant species. The 6,590 acre wilderness area also contains a high density of prehistoric cultural sites.

During consideration of this area, the Committee was told of concerns by some parties that designation might lead to increased use of the Black Rock Wash road, which is outside the wilderness area, by persons wishing to visit the wilderness area. The Committee has noted that the status of this road was addressed in P.L. 98-406, the Arizona Wilderness Act of 1984, and the Committee's Report (H. Rept. 98-642, Part 1) on the bill that became that public law. As

USAV-00004569

the Committee noted then, use of the road is vital to several ranching families in the area. Since the time of that Report, the possibility of the road being closed again has been raised by the San Carlos Apache Indian Tribe, although the road and the ranches pre-date by nearly a half-century a land transfer which brought the road within the boundaries of that Tribe's reservation. As it did in 1984, the Committee believes that closure of the road would be unacceptable. Use of the road by owners of property in the area, by the land-managing agencies, and by others should continue to be permitted, although of course applicable restrictions on off-road activities should be enforced.

*Fishhooks*

Abutting the San Carlos Indian Reservation, the Fishhooks Wilderness provides important protection for unique plant and animal communities. Visitors to this wilderness area will find outstanding opportunities for isolated and solitary wilderness experiences. Low rolling hills and rugged mountain crests combine to provide users with a variety of activities commensurate with their ability levels.

The Fishhooks Wilderness abounds in important plant species, some found in few other areas. A variety of plant communities exist in the area, ranging from the Sonoran Desert zone, with its saguaro and creosote flats, to the pinyon/juniper and mountain shrub communities at the higher elevations. One of the largest continuous stands of Lowell Ash, a candidate for federal "threatened" species status, is found in the wilderness. In addition, the Fishhooks Wilderness contains unique "transition" vegetation. This zone between the oak-juniper woodlands and the mountain mahogany-oak shrub belt is not found in any existing wilderness area.

Large wildlife populations also find homes in the Fishhooks Wilderness, including the black hawk and the bald eagle. The wilderness is also rife with prehistoric cultural sites such as lithic scatters, rock shelters and petroglyphs.

In designating the Fishhooks Wilderness, the Committee adopted the 10,883 acre recommendation of the BLM state office.

*Dos Cabezas Mountains*

The proposed Dos Cabezas Mountains Wilderness lies 20 miles east of Wilcox on the rugged slopes of the Dos Cabezas Mountains. Elevations range from 4,080 feet to 7,500 feet, allowing for a variety of plant and animal life as well as excellent recreational opportunities. Visitors will find a diverse terrain consisting of steep mountain slopes, granite outcroppings and canyon floors. This rugged and remote environment provides a rich wilderness experience.

Several developed and natural springs in the wilderness provide water for the abundant wildlife. White-tail and mule deer, mountain lions, golden eagles and bald eagles inhabit the Dos Cabezas Mountains. The beautiful and unusual collared lizard may be found in the upper portions of Buckeye Canyon. The Peregrine Falcon, a state and federally listed endangered species, visits the area on its migration path.

The boundaries of the 11,998 acre wilderness area are those recommended by the BLM state office. The unit does not contain Dos

USAV-00004570

Cabezas Peak itself in large part because a road separating it from the body of the unit is proposed to be upgraded. Other deletions were made to accommodate mineral interests.

*Redfield Canyon*

The proposed 6,600 acre Redfield Cayon Wilderness abuts the southern boundary of the existing Galiuro Wilderness on U.S. Forest Service land, providing important protection for the Redfield Canyon drainage as well as increased opportunity for primitive recreation. This is a spectacular area of steep, plunging escarpments, volcanic outcroppings and rugged canyons. Elevations range from 3,500 feet in Redfield Canyon to 6,219 feet along the escarpment on the eastern boundary of the wilderness. A variety of plant species inhabit the area from desert grasslands and shrubs at the lower elevations to oak and evergreen woodlands at the higher elevations. The diverse geology and vegetation provide excellent habitat for a number of animal species. Golden eagles and peregrine falcons nest here above herds of bighorn sheep and deer. Black bears and mountain lions are not uncommon in this area.

The boundary in this case has been carefully drawn to exclude most state and private lands in the area. One exception is lands owned by the Nature Conservancy, which supports inclusion of their property in the wilderness. The length of Jackson Cabin Road, an extremely rough vehicle way, has been cherrystemmed to provide access to the area.

*Gibraltar Mountain*

This rugged area just 10 miles northeast of Parker is distinguished by the solitude afforded visitors. Elevations range from 640 feet above sea level to nearly 1,900 feet. Narrow washes provide penetration deep into the convoluted mountain mass. The steep mountain slopes and canyon walls provide an alternative challenge for hikers and climbers. The area is ideal for other primitive recreational pursuits such as horseback riding, photography, backpacking and orienteering.

Gibraltar Mountain is an important area for several threatened species such as the Gila monster and desert tortoise. The wilderness contains habitat for the endangered bald eagle and peregrine falcon and is a crucial desert bighorn habitat with two lambing grounds found here.

The boundaries of this 18,805 acre wilderness were drawn to exclude evidence of past and present mining activity on the west, allowing visitors to roam the region without any distractions or intrusions.

*Swansea*

With the Bill Williams River flowing through the heart of the proposed wilderness, this area offers visitors an incredible assortment of flora, fauna and topography. Elevations in this 15,755 acre wilderness range from 750 feet at the river to around 2,500 feet atop the peaks south of the river. North of the Bill Williams and dominating the landscape of the Swansea Wilderness is Black Mesa looming over Centennial Wash and the broadening river.

USAV-00004571

The riparian environment supports a rich variety of plants and animals. As a transition zone between the Sonoran and Mohave Deserts, this area includes species not normally found together in the rest of the state. Many sensitive wildlife species dwell along the river and its tributaries. Rare species of birds, such as the yellow-billed cuckoo, summer tanager and white-faced ibis may be seen here. In addition, other threatened species such as the desert tortoise and Gila monster frequent the area.

With many different attractions in this region, recreational opportunities flourish. Hiking and backpacking are popular and the river provides chances for kayaking and rafting. The wealth of wildlife makes this area ideal for bird, nature study and hunting.

Large areas of the unit have been excluded due to mining and manageability concerns and evidence of non-wilderness intrusions. Access to the Bill Williams River itself has been provided on the understanding that inappropriate access along the river corridor can be prevented by area managers.

In addition, the Committee notes the location of the proposed wilderness downstream from Alamo Dam and takes into consideration those matters discussed above in reference to the Rawhide Mountains Wilderness. That discussion applies equally to the Swansea Wilderness.

*Trigo Mountains*

The proposed 29,095 acre Trigo Mountains Wilderness is located 25 miles north of Yuma and adjacent to the proposed Imperial National Wildlife Refuge Wilderness. This primitive area consists of complex mountains separated by interior valleys, rolling hills, deep, winding washes and broad washes such as Lopez and Clip Wash. Elevations range from 220 feet above sea level to 1,250 feet. This area provides splendid opportunities for camping, day hiking, horseback riding, photography and general wilderness exploration.

Wildlife abounds in the Trigo Mountain Wilderness. The area is critical habitat for the desert bighorn sheep and a variety of other mammals, including the elusive Yuma Puma, a type of mountain lion specially adapted to harsh desert life. Several species of birds, lizards and snakes also call the Trigo Mountains home in addition to two federal candidate species of cactus.

In designating this wilderness area, the Committee left Clip Wash open to provide important access for hunters using the nearby wildlife refuge. In addition, Clip Wash provides access to private inholdings in the Imperial Refuge. The Committee, however, is concerned that access across Clip Wash could have an adverse impact on both the Trigo Mountain and the Imperial National Wildlife Refuge Wildernesses. Nothing in this Act is meant to diminish the ability of wilderness managers to control access along Clip Wash to protect resources on both BLM and refuge lands.

*Muggins Mountain*

Located 25 miles east of Yuma, the proposed Muggins Mountain Wilderness provides an important recreational resource to residents of southwestern Arizona. This is an area of diverse terrain, comprised of rocky and rugged mountains in the western half of

USAV-00004572

the wilderness and low hills and rocky outcrops dissected by desert washes in the rest of the wilderness.

Plant and wildlife species found here are typical of the central Sonoran Desert. Vegetation includes seguaro cacti, ocotillo, palo verde trees, mesquite and ironwood trees. Wildlife in the area consists of the endangered Gila monster, desert bighorn sheep and cactus wren, among others.

In designating the 8,855 acres of Muggins Mountain as a wilderness, the Committee followed the recommendations of the BLM state office to delete lands in the east which have mineral potential and evidence of past intrusions.

*Hell's Canyon*

This proposed wilderness area consists of a highly scenic, 9,200 acre portion of the Hieroglyphic Mountains. The diversity of landforms and ecosystems in the Hell's Canyon Wilderness make it a valuable addition to the nation's wilderness system.

The narrow gorges, steep-sided peaks, open valleys and rolling hills of the unit furnish visitors with a high-quality wilderness experience. Backpacking, horseback riding, hunting and climbing are popular here. With its close proximity to the Phoenix area, it is ideal for dayhikes and sightseeing, even for senior citizens whose support for the area was a notable factor in its designation. Little evidence of man intrudes on the quiet, solitary wilderness experience that is found here.

A variety of plant life exists in Hell's Canyon. Water-loving plants such as cottonwood trees, cattails, ferns and grasses are found near the perennial streams of the rocky canyons. Mesquite thickets and typical Sonoran Desert vegetation, such as the saguaro, cholla and ocotillo, are abundant in the wider canyons. Additionally, Cedar Basin, in the northwest corner of the wilderness, contains 250 acres of chaparral habitat at an elevation of 2,600 feet, nearly 2,000 feet below its normal occurrence as well as a variety of plant and animal species not normally found together.

Designating Hell's Canyon as wilderness provides protection for at least 12 special-status animal species, including Gila monsters, desert tortoises, golden eagles and snowy egrets. Important cultural sites dot the wilderness including the remains of a prehistoric village dating back to perhaps 1100 A.D.

*North Maricopa Mountains*

The proposed 63,600 acre North Maricopa Mountains Wilderness is located about 12 miles northeast of Gila Bend and is easily accessible. The area's size, rugged terrain and general wildness combine to provide outstanding opportunities for solitude and primitive recreation. This diverse area is appropriate for family-oriented activities as well as presenting a challenge to even the most experienced outdoor enthusiast.

Unlike most desert mountain ranges rising to a single ridgeline, the North Maricopas are a jumble of long ridges and isolated peaks, separated and bisected by numerous washes. The large stands of saguaro, ocotillo, cholla and other Sonoran Desert species rival that of Saguaro National Forest. The springtime visitor will find the area ablaze with wildflowers. The region provides impor-

USAV-00004573

tant habitat for the desert bighorn and the desert tortoise. The proposed wilderness includes several prehistoric cultural sites and remnants of the historic Butterfield Stage line may be found just south of the wilderness area.

The Committee believes that the presence of the North and South Maricopa units, discussed below, in the rapidly growing West Valley area of Phoenix will make these areas especially important in the future as oases of nature and solitude in an urban center.

*South Maricopa Mountains*

The 72,004 acre proposed South Maricopa Mountains Wilderness presents an excellent example of relatively undisturbed Sonoran Desert environment. Characterizing the area is a steep, sloping range surrounded by desert plain. To the east of the wilderness is a more complex system of canyons and washes cutting through several mountains and mesas. Vegetation epitomizes the Sonoran Desert with mesquite and palo verde lining the washes and extensive stands of saguaro, ocotillo, cholla and barrel cactus in other areas. The size and primitive nature of this region provide numerous opportunities for wilderness recreation and solitude.

*Wabayuma Peak*

This 38,400 acre proposed wilderness encompasses the towering and rugged Wabayuma Peak at the southern end of the Hualapai Mountains and is one of the most outstanding units in the BLM inventory. Elevations in the wilderness range from 2,700 feet to 7,160 feet. This extensive elevation change accommodates a broad spectrum of ecosystems, making this a valuable scientific and recreational area. A mixture of Sonoran and Mohave Desert vegetation is found in the lower reaches of the wilderness with ponderosa pine forests on the mountain summits. This combination of life zones provides for a wealth of animal life, ranging from mule deer and coyotes to raptors and kangaroo rats. Recreational opportunities abound in this diverse region. Hiking, backpacking and horseback riding are possible year-round.

*Upper Burro Creek*

The proposed 27,390 acre Upper Burro Creek Wilderness is truly one of the "crown jewels" in this legislation. Few other areas combine the scenic, recreational and wildlife resources that are found here. The proposed area lies along the upper reaches of Burro Creek, a perennial stream and one of the few streams in Arizona to flow relatively undisturbed into the lowland desert. Burro Creek often runs deep creating beautiful waterfalls and pools. Encasing Burro Creek are steep and rocky canyon walls. The surrounding landscape is a veritable microcosm of the state's geology, with colorful bluffs, broad mesas, side canyons and desert peaks.

Three major types of vegetation occur in this riparian enviroment: Cottonwood-willow, mesquite bosque, and mixed broadleaf. The lower reaches of the wilderness area are typify the Sonoran Desert with saguaros and palo verdes dominating. Grasslands and chaparral communities may be found in the higher elevations.

The exceptional abundance of wildlife, however, distinguishes Upper Burro Creek from most other wild areas of the state. Over

USAV-00004574

one quarter of all animal species in the state are found here, including 17 special status species such as the bald eagle and golden eagle. The largest breeding colony of black hawks in North America is found along the drainage of Upper Burro Creek. All in all, the Upper Burro Creek Wilderness area contains the largest number of raptors of any other known tract of land administered by the BLM.

The unit boasts many high-quality archeological and cultural sites, especially in the riparian area. Many have been nominated for the National Register.

The Committee understands that the facilities providing the water supply for the town of Bagdad are outside the unit. Access to these facilities for maintenance and improvement will not be precluded.

The Committee also notes the presence of the large Cypress Bagdad copper mine in close proximity to the Upper Burro Creek Wilderness. The Committee does not believe nor intend that designation of this unit will adversely effect operation of the mine.

*Hassayampa River Canyon*

The proposed Hassayampa River Canyon Wilderness includes several miles of the free-flowing Hassayampa River and its associated riparian habitat. The dramatic scenery, diverse terrain, rich biology and relatively undisturbed riparian habitat make this area outstanding in wilderness values. The river itself flows through a channel of diverse scenery. Rocky grass fields border the river in some areas and lush, shady vegetation is found alongside it in others. As the river progresses southward, it cuts through a gradually steeper canyon providing stunning views of nearby rock formations.

A wide variety of plant life is found here, dominated by the unique riparian ecosystem. Willows, cottonwoods, maples and ash are common along the river. Flowering plants such as the yellow columbine may also be found here. The plateau in the northern sections of the wilderness includes chaparral and grassland communities as well as the saguaro cactus. This riparian habitat is also home for an abundance of wildlife. Sixteen rare or threatened wildlife species are known to exist in the Hassayampa River Canyon, including the spotted bat, great and snowy egret, back-crowned night heron, golden eagle and Gila monster. Designation of this wilderness area would provide needed protection for one of the last remaining riparian areas in western Arizona.

The Committee has deleted significant portions of the unit. State lands in the river canyon and on the north of the area have been deleted to ease management concerns. In addition, the Committee notes that the annual ride of the "Desert Caballeros" has and may continue to traverse the area. It is the Committee's understanding that should this activity continue, it can be conducted in a manner that will protect the unit's wilderness qualities.

*White Canyon*

Located 8 miles south of Superior and within easy reach of the booming Phoenix metropolitan area, the proposed 5,800 acre White Canyon Wilderness is an area of stunning scenery and tremendous

USAV-00004575

diversity. The focal point of the proposed wilderness is White Canyon itself, a deep, colorful gorge cutting through layers of volcanic ash flows and welded tuffs. Instead of a well-defined canyon rim, the river is enclosed by a series of weirdly eroded ridgelines and terraces. A rich variety of wildlife is found along the stream, including several special status species. Mountain lions are abundant here and black bear are occasionally sighted. The area's vegetation is typical of the Sonoran Desert, with huge saguaros found in the canyon. A pinyon tree thought to be one of the largest in the world can be found in White Canyon. The Committee notes that this unit is adjacent to lands on the Tonto National Forest that may well be suitable additions to the White Canyon Wilderness. These Forest Service lands were not studied in RARE II. Lacking any suitability review or recommendation, the Committee declined to consider extension of the wilderness to Forest Service lands at this time, but believes that such a study should be conducted at the earliest appropriate time.

*Tres Alamos*

The proposed 8,700 acre Tres Alamos Wilderness is located at the southern tip of the Black Mountains. Sawyer Peak, the highest point in the wilderness, rises spectacularly above the desert floor for 2,000 feet. This area is on the border between the Sonoran and Mohave deserts. On the eastern side of the unit, Mohave species such as the Joshua tree flourish. Saguaros and barrel cacti representative of the Sonoran Desert are found in the southern and western bajadas. The bajadas to the north and east of the region blend the two desert systems.

Three special status wildlife species are found here: the Gila monster, the prairie falcon and the golden eagle. Two federally listed species of fish inhabit two ponds located in the southern reaches of the wilderness. The oases formed by these ponds is unique to the desert and provides a home for many other species of animals. Combined with the proposed large Arrastra Wilderness nearby, these areas form an important wilderness complex providing protection for the many plant and animal species and sensitive cultural resources found in the region.

*Peloncillo Mountains*

The proposed Peloncillo Wilderness is found within the rugged Peloncillo Range, which stretches from Mexico to the Gila River. This remote and primitive area adjacent to the New Mexico border shows little signs of human activity. The primary recreational uses are hunting and rockhounding with outstanding potential for other uses, such as camping, backpacking and photography. Visitors reaching the upper peaks and ridges, with elevations over 6,000 feet, are rewarded with grand views of the Chiricahua and Dos Cabezas Mountains to the southwest and the Animas Valley stretching east to the mountains of New Mexico.

Desert bighorn sheep have been recently reintroduced to the region and share their home with peregrine falcons and four other sensitive animnal species. The flora ranges from desert shurb grasslands in the surrounding flatlands to oak-juniper woodlands in the higher reaches. The area is also rich in archeological sites

USAV-00004576

with the historic route of the Butterfield Stage forming the southern boundary of the proposed wilderness.

Although not originally recommended by the BLM state office as wilderness, recent land acquisitions by the BLM have eliminated the management problems posed by the ragged WSA boundary. The 19,650 acres proposed in this legislation thus represents a larger area than orignally contemplated, creating even greater opportunities to enjoy this wilderness area.

*New Water Mountains*

This picturesque range of sheer rock outcroppings, spires and natural arches is located adjacent to the Kofa National Wildlife Refuge, also proposed for wilderness status. Black Mesa and the New Water Range itself are the dominant features of the area. A large natural arch known as "the eagle eye" in the northwest end of the range is a well-known landmark, visible from the interstate many miles away. The Sonoran Desert life zone dominates the sparse vegetation with palo verde, creosote and other desert shurbs common. The New Water Mountains are crucial bighorn sheep habitat, with two lambing areas found within the wilderness. The New Waters contain one of the highest densities of sheep in any of the areas proposed for wilderness by this legislation. Over 500 desert tortoises live in the area of the New Water range as well. The scenic splendor and relatively undisturbed nature of this area offer visitors excellent opportunities for solitude and isolation.

*Aravaipa Canyon Wilderness addition*

With its spectacular scenery and important wildlife habitat, the existing Aravaipa Canyon Wilderness has long been recognized as one of the treasures of the Arizona wilderness system. The additions proposed in this legislation will provide crucial protection for the watersheds surrounding the canyon. The tributary canyon bottoms contain reparian habitats of cottonwood, sycamore, ash and alder. Much of the tablelands above the canyons are covered with grasslands with juniper and pinyon found at the higher elevations.

Opportunities for primitive recreation are abundant in the areas adjoining Aravaipa Canyon, often rivaling the existing wilderness. The steep, narrow canyons feeding into Aravaipa Canyon are reminiscent of the sandstone canyons of southern Utah. A perennial stream flows through Oak Grove Canyon, providing extensive riparian vegetation. The tablelands above the canyons offer outstanding scenic vistas of the canyons below as well as the surrounding countryside.

The Committee notes that a portion of the southern boundary of the unit is marked by an extremely poor road currently impassable due to landslides and other obstacles. This boundary excludes the Upper Virgus Canyon from the wilderness. BLM has expressed interest in opening the road for management purposes. Should BLM reject this course in the future, extension of the wilderness to include Upper Virgus Canyon should be strongly considered.

USAV-00004577

*Management*

Section 2(b) provides that the above areas are to be managed in accordance with the provisions of the Wilderness Act. BLM will be the managing agency.

Section 2(c) requires the Secretary to file a map and legal description of each area designated by H.R. 2570.

Section 2(d) incorporates standard language stating Congress' intent not to establish "buffer zones" around wilderness areas. By this, Congress means that non-wilderness activities outside wilderness areas should not be precluded by the simple fact that sights and sounds associated with those activities can be perceived from within the wilderness. Concerns have been raised about the meaning of the phrase "of itself" in the context of the buffer zone prohibition. The Committee intends by the inclusion of this phrase that, standing alone, the designation of wilderness areas by this Act should not be construed to extend restrictions on non-wilderness sights and sounds to land outside the boundary of the wilderness area. Such non-wilderness sights and sounds would be subject to regulation, if any, flowing only from the application of other law. For example, the fact that a mining operation can be seen or heard from a point within a wilderness area is not sufficient to impose restrictions on that mining operation that are not the result of provisions in other applicable law.

Section 2(e) contains standard language affirming that H.R. 2570 is not intended to affect state jurisdiction over fish and wildlife.

*Grazing*

Section (f) deals with the management of livestock grazing in the BLM-managed wilderness areas designated by the bill. During its consideration of the bill, the Committee reviewed the way in which grazing has been managed in previously-designated wilderness areas, especially as such management has been carried out since enactment of Public Law 96-650 in 1980, which included (in section 108) a requirement that Wilderness Act provisions relating to grazing be interpreted and administered with guidelines included in the Committee's Report on the bill (H.R. 5487 of the 96th Congress) that eventually became Public Law 96-560. Similar provisions have routinely been included in subsequent Acts that designated wilderness areas located within the National Forest System.

(It should be noted that, as the Committee pointed out in the 1979 report just cited, "Including those areas established by the Wilderness Act of 1964, Congress has designated . lands administered by the Forest Service, Fish and Wildlife Service, National Park Service, and Bureau of Land Management as components of the National Wilderness Preservation System. A number of these areas contain active grazing programs, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress . . . that the practical language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies, not just the Forest Service.")

After this review, the Committee concluded that the 1980 guidelines have been successful in providing for proper implementation

USAV-00004578

of relevant provisions of the Wilderness Act, and that they should be explicitly made applicable to the wilderness areas in this bill, which are to be managed by the Bureau of Land Management. Therefore, subsection 2(f) includes (in paragraph (1)) a requirement that grazing of livestock in the wilderness areas designated by the bill, where established prior to its enactment, is to be administered in accordance with section 4(d)(4) of the Wilderness Act and with the cited guidelines, which for ease of reference the Committee has included in Appendix A of this report.

Further, paragraph (2) of this subsection would direct that BLM's policies and practices regarding grazing in BLM wilderness areas in Arizona be reviewed to ensure their conformity with the guidelines; this is included because this is the first bill which would designate on a statewide basis a large number of wilderness areas to be managed by BLM, and should not be read as indicating any expectation that BLM is not properly prepared to manage grazing in wilderness areas in a way that fully conforms to the requirements of the Wilderness Act and this bill. On the contrary, the Committee has noted that the BLM is already properly managing grazing in existing wilderness areas under exactly the policies and practices set forth in Appendix A.

*Water rights*

Subsection 2(g) deals with water rights. It expressly reserves to the United States a quantity of water sufficient to fulfill the purposes of each of the wilderness areas that would be designated by the bill, and establishes the priority date of such rights as being the date of its enactment. It also would require the Secretary of the Interior to file a claim for the quantification of such rights in an appropriate stream adjudication, and to take all steps necessary to protect the reserved rights in such adjudication. It further specifies that these reserved rights are new rights, in addition to any other water rights that the United States may have reserved or otherwise obtained for other purposes; the purpose of this is to preclude any improper construing of this subsection as in some way constituting an abandonment or relinquishment of any part of such previously-obtained rights of the United States.

The Committee has included this subsection merely to make clear what rights are intended to be reserved with respect to the wilderness areas designated by this bill, and the inclusion of this subsection should not be viewed as reflecting any conclusion by the Committee as to the proper interpretation of any other Act or as relating to any designation of wilderness made by or pursuant to any other Act. The language of the subsection conforms closely to the language of the corresponding provisions of Public Law 101-195 (Nevada Wilderness), and in the opinion of the Committee would not alter existing Federal law regarding the jurisdiction of Federal or State courts relating to protection of rights of the type reserved by the subsection.

*Wildlife management*

Subsection 2(h) deals with wildlife management activities within the wilderness areas designated by the bill. The Committee has included this subsection in order to clarify that, consistent with and

USAV-00004579

in furtherance of the purposes and principles of the Wilderness Act, certain management activities may be carried out in wilderness areas in order to maintain or restore fish and wildlife populations or the habitat that supports such populations, provided that these activities are consistent with applicable wilderness management plans. To provide further clarification with regard to this matter, the subsection also specifies that such activities are to be carried out in accordance with appropriate policies and guidelines such as those that the Committee has included in Appendix B of this Report.

It should be noted that the Committee's decision to include this subsection, and to set forth relevant policies and guidelines in Appendix B, does not arise from any belief that BLM policy with respect to this matter does not conform to Congressional intent. On the contrary, the policies and guidelines in Appendix B are precisely those which BLM has incorporated into its wilderness management manual; the Committee has opted to include the statutory reference in this subsection only to remove any doubt as to the applicability of these guidelines and policy (or similar ones that also are consistent with the purposes and principles of the Wilderness Act) to the wilderness areas designated by this bill.

*Areas "Released"*

Section 3 declares that all public lands administered by BLM in Arizona that are not designated as wilderness or otherwise provided for by H.R. 2570 have been sufficiently studied for wilderness designation under Section 603 of FLPMA, and are no longer subject to the management restrictions of subsection 603(c) of that Act. These restrictions generally require that the area be managed so as not to impair its suitability for wilderness designation. Therefore, upon enactment, all existing BLM wilderness study lands in Arizona not designated as wilderness or otherwise provided for would be managed as multiple use lands under all laws normally applicable to the public lands.

The Committee has exempted two areas from this so-called release. The first is the Baker Canyon Wilderness Study Area. This 4,814-acre area is located in Cochise County, Arizona and is unusually rich in wildlife. It is part of a corridor for wildlife connecting ecosystems in Arizona, New Mexico and Mexico. Breeding and transient animal populations rarely seen elsewhere in the United States are found here, including coatimundi, Coues' whitetail deer, mountain lion, jaguars, the rare Mexican wolf and bobcat. Bird life is especially extraordinary with unusual populations of hummingbirds woodpeckers, trogons and bats, among others. A great variety of rare and endangered plants, including Chichuahua pine, Mexican pinyon and Arizona rosewood have been identified.

The Committee chose to neither designate nor release the area because it is contiguous to, or in close proximity of, wilderness study lands in New Mexico and similar Forest Service lands. It was felt that final status of the Baker Canyon lands should be part of a comprehensive resolution of lands in both states and agencies.

The second unreleased area is the Cactus Plain Wilderness Study Area. A 70,360-acre study area 10 miles east of the town of Parker, Cactus Plain is the most botanically important of all the wilderness

USAV-00004580

study areas in the Arizona BLM inventory. An exceptional variety of rare and endangered plants exist in this very colorful, stabilized sand dune complex. In appearance, resource values, pristine quiet and overall wilderness quality, Cactus Plain is unlike any other area. It also is extremely vulnerable to long-term damage from ORV use and other non-wilderness activities. The Committee expects BLM to aggressively protect these resources and values.

The status of Cactus Plain is clouded by unresolved questions concerning the possible relocation of the Town of Parker to a townsite directly adjacent to and perhaps within a portion of the original study area boundary. Although the Committee does not see that designation of a significant portion of the Cactus Plain need interfere with the proposed relocation, it believes it would be prudent, however, to withhold final determination of the status of Cactus Plain until matters relating to Parker have been clarified. In order to assure that consideration of the relocation issue proceed unimpeded by questions about wilderness management, the Committee has chosen to retain most of the area in its present status, but to delete about 15,000 acres from the area's western boundary. This deletion should remove from restrictive management any public lands that might be involved in the Parker relocation.

*Gila Box Riparian National Conservation Area*

Section 4 establishes the 20,900-acre Gila Box Riparian National Conservation Area in Graham and Greenlee Counties. This is only the fifth National Conservation Area ever establshed on BLM lands and the second Riparian National Conservation Area.[1] The first, the San Pedro Riparian National Conservation Area, was created in the 100th Congress and is also located in southeastern Arizona. It provides the blueprint on which the Gila Box area is closely modeled.

Riparian, or streamside, areas are among the richest wildlife habitats in the interior West of the United States because of their abundance of water and cover. This is all the more the case in the desert regions of Arizona where creeks and rivers are literally streams of life, gathering places not only for wildlife but also for plant communities. But the water that attracts wildlife also attracts development and utilization by man. Much of the West's aboriginal riparian habitat has suffered from development of past overuse that led to elimination of cover and forage, reduction of water flow due to habitat changes and water diversions, severe erosion problems and invasion by alien species such as tamarisk. All of these factors have combined to greatly degrade the value of many of the West's riparian areas for wildlife habitat and healthy plant communities. This concern is particularly acute in states of the desert Southwest, such as Arizona, where the Arizona Commission on the Environment, among other entities, called for strong action to preserve and restore the State's diminished riparian resource.

The Gila Box and associated riverways offer an extraordinary opportunity to reverse this trend. The spectacular wild area consists

[1] The California Desert Conservation Area, established in 1976 under FLPMA, is not designated a "National" Conservation Area

USAV-00004581

of scenic, steep-walled canyons surrounding perennial desert rivers and creeks and one of the healthiest riparian zones in the Southwest. Lush riparian vegetation provides habitat for at least 17 species of animals that are on state or federal protective lists or that are candidates for those lists. Birds of prey, such as the peregrine falcon and bald eagle, are active. Rafting, canoeing, backpacking, hiking, nature study, birding, horseback riding and camping are all extremely popular activities in the area.

For many years, this extraordinary area has been the subject of a variety of proposals for its protection, including wild and scenic river status and even designation as a national park. The creation of the 17,831-acre Gila Box Wilderness Study Area, however, was the seed for the conservation area proposal in H.R. 2570. The area was not recommended for wilderness by the BLM state office. However, support for wilderness designation was so powerful that it was contained in H.R. 2570 as introduced.

As debate over the bill proceeded, it became apparent that application of the concepts embodied in the San Pedro Riparian National Conservation Area might be suitable for the management of the area and might also bridge the gap between proponents and opponents of wilderness designation for Gila Box. The NCA designation is not intended to supplant the factors favoring wilderness, but to protect Gila Box by incorporating it and associated streams into a conservation area expressly designed to protect and enhance the particular riparian and other resources and values of the area.

Therefore, the conservation area boundaries were extended beyond the Gila Box study area to include a segment of Bonita Creek and an additional segment of the Gila River east to the Old Safford Road.

The Committee also believes that Eagle Creek would be a highly appropriate addition to the Gila Box Riparian National Conservation Area. This highly scenic waterway flows into the Gila River just above the Gila Box and offers natural resources and recreational opportunities of national significance. However, Eagle Creek and lands immediately adjacent to it are under the private ownership of the Phelps-Dodge Corporation. The Committee has provided in Section 4(g), therefore, authority for BLM to acquire lands within the Eagle Creek riparian area, but only by donation, exchange or purchase from a willing seller. Upon such acquisition, if any, the Secretary is authorized to expand the boundaries of the conservation area to incorporate any acquired lands, as well as certain existing public lands immediately adjacent thereto.

The key provisions of Section 4 require the Secretary to manage this conservation area to conserve, protect and enhance its riparian area and the natural resources associated with it, including wildlife and wildlife habitat and archeological, paleontological, scientific, cultural, recreational, educational and scenic resources. This mandate is intended to be as protective as possible of the natural and cultural resources referred to above. The bill provides that the Secretary may only allow such uses of the conservation area as will further the primary purposes for which it is designated, namely, as outlined in Section 4(a) of the bill.

The Committee is aware that livestock grazing has been a permitted activity on lands within the conservation area and has been

USAV-00004582

a longstanding use of those lands. The provisions of this section do not mandate its termination, although they do establish certain requirements that must be considered by the land manager in evaluating the permissibility of this and other uses. In particular, grazing should be carefully managed so as to provide protection for the riparian resource, and the Committee understands that current allotment management plans do utilize methods and strategies for livestock management within the riparian area. The Committee intends for BLM to work cooperatively with local permittees to ensure that careful attention be paid to control the entry of livestock into the canyon bottoms by developing and maintaining livestock watering facilities in upland areas and the erection of fences where appropriate and feasible.

The Committee also notes the language in Section 4(d)(2) of the bill requiring use of motorized vehicles to be permitted only on roads specifically designated for their use. ORV use in the river bottoms of the area has been a longstanding controversy. The language of this section is clearly intended to terminate this activity in the conservation area and keep all motorized access limited only to those parts of the conservation area where such use will not conflict with the primary mandate to conserve, protect and enhance the area's resources and values.

Section 4(h) provides language addressing the question of a buffer zone around the conservation area. An important purpose of this legislation, in addition to establishing areas to be protected, is to release other BLM lands for multiple uses. This subsection is included to make it clear that establishment of the conservation area is not intended to preclude resource developments on undesignated lands outside the conservation area. The Committee intends that the management prescriptions for the conservation area not extend to lands outside the area. This means that mining and other developments which are not permitted within the conservation area may occur on federal and non-federal lands outside the area to the extent consistent with other applicable law. This point is especially meaningful in light of the presence of one of the world's largest copper mines, Phelps-Dodge's Morenci mine, virtually on the doorstep of the conservation area.

## INFLATIONARY IMPACT, COST AND BUDGET ACT COMPLIANCE

In the opinion of the Committee, costs for the implementation of H.R. 2570 will be insignificant in comparison to the benefits to be derived, and enactment of the bill will have no inflationary impact on the national economy. No estimate was received from the Congressional Budget Office prior to the filing of this report.

## LEGISLATIVE HISTORY, OVERSIGHT STATEMENT AND COMMITTEE RECOMMENDATION

H.R. 2570 was introduced by Representative Udall on June 7, 1989. On June 9, 1989 the Subcommittee on National Parks and Public Lands held a hearing on the bill in Phoenix, Arizona; additional hearings were held by the Subcommittee on June 10, 1989, in Lake Havasu City, Arizona, and on September 21, 1989, in Washington, DC.

USAV-00004583

On September 21, 1989, the Subcommittee adopted an amendment in the nature of a substitute and favorably referred the bill as so amended to the Full Committee. On February 7, 1990, the Committee on Interior and Insular Affairs adopted an amendment in the nature of a substitute and by voice vote ordered the bill as so amended favorably reported to the House. No recommendations were received by the Committee pursuant to Rule X, Clause 2(b)(2).

USAV-00004584

## SUPPLEMENTAL VIEWS

Nearly two years of intensive work, especially during the past year, has gone into this legislation and its companion bill, H.R. 2571, designating as wilderness the four National Wildlife Refuges in Arizona. In general, the significant amount of public participation and review, along with the detailed and personal involvement of the Members of the Arizona Congressional Delegation, has been truly an impressive and open process.

I am in general agreement with the Delegation "consensus" agreement on the acreage and areas designated as wilderness and the one National Riparian Conservation Area designated by the bill. I was among the Members of the Delegation who endorsed that consensus, but I do have continuing reservations and concerns about some of the areas with moderate to high mineral potential that were included in the consensus.

On the other hand, more than a dozen areas with important mineral potential were removed from the bill as originally introduced. In other cases, detailed involvement by a variety of interest groups resulted in boundary modifications to several of the areas which were designated as wilderness. These boundary adjustments were made not only to reduce mineral conflicts, but also to attempt to address other issues such as hunter access, wildlife and wildlife habitat water maintenance needs, and to some degree, public access for recreational purposes. As a proponent of multiple-use management, it is important to recognize that this legislation also releases back to multiple-use management, nearly one-million acres of BLM land that has been managed as wilderness during the study period.

### WILDERNESS CONFLICTS

Several areas should not have been designated as wilderness because of significant man-made intrusions and other conflicts. An example is the Needles Eye Wilderness. It's a small area of 9,200 acres through which traverses a high voltage powerline. The compromise here was to include statutory language protecting the right-of-way and acknowledging the need for the planned upgrading of the powerline, and periodic maintenance. While I approve of the compromise, it seems to me such a significant intrusion is not compatible with the wilderness experience. The Needles Eye area should not have been designated.

Another example is the designation of Upper Burro Creek as wilderness. Santa Fe Minerals owns substantial subsurface mineral rights within the Upper Burro Creek Wilderness Study Area (WSA). I argued against designation of Upper Burro Creek for that reason and others, including the proximity of the WSA to the Cyprus Bagdad Copper Mine.



USAV-00004585

The Santa Fe mineral holdings are private property rights. I do not believe it is proper for the federal government to lock up that land and make mining nearly impossible. To me, it amounts to a federal taking of Santa Fe Minerals' private property rights. There is a possibility Santa Fe could exchange those rights for Bureau of Land Management (BLM) land elsewhere in the State. But that is a time consuming, expensive and not always successful process. I do not believe the federal government should force private interests into such a position.

*Wildlife and wildlife habitat*

I am pleased the delegation and the Committee accepted statutory language I proposed, along with explanatory Report language, to make sure the public land managers recognize wildlife and wildlife habitat as a wilderness resource. During our work on this bill, we were told that some federal policy makers believed the maintenance and construction of wildlife habitat improvements, such as simple watering facilities in the wilderness, were not compatible with the wilderness resource. By including this statutory and Report language, the Committee refutes any such contention. Wildlife water facilities and other habitat improvements can be maintained, repaired and reconstructed in accordance with the wilderness management plan developed by the land and wildlife managers.

The Committee also recognizes, as it has since 1980, in statutory language and Report language, the fact that grazing may continue where established prior to wilderness designation of these BLM lands. This statutory language and extensive Report guidelines have been included in every Forest Service wilderness bill since 1980. Both are included in full in this bill and Report to affirm that the situation is unchanged in this, the first state-wide wilderness bill for Bureau of Land Management (BLM) lands.

WATER RIGHTS DISPUTE

The single item of serious disagreement which I have with this legislation concerns the statutory federal water rights language. Several of my colleagues in the Arizona Congressional Delegation share this concern.

Our concern is not with whether there should be federal reserved water rights granted to these wilderness areas. There is no dispute among us about that basic issue. Our disagreement is with the manner and forum in which those rights are quantified and adjudicated. It's really a basic states' rights issue in our view. Our conviction is that these federal rights should be applied for, quantified, and adjudicated within the established water adjudication system in the State of Arizona. It's a simple concept, but one which has, as of the filing of this Report, eluded our best efforts to find in the English language the right combination of words accurately to enunciate that concept.

Another problem is that as it currently stands, the statutory language in the bill and the explanation of it in the Majority's Report are diametrically opposed to each other. If this were to be litigated

in the bill's present form, judicial history is clear that the statutory language would win out over the non-binding Report language.

Simply put, the bill language says that the federal water rights reserved by the bill "shall be in addition to any water rights which may have been previously obtained by the United States for other than wilderness purposes." Even the Arizona Department of Water Resources (DWR) opposes that language. In its transmittal Memo of January 24, 1990, of preferred Report language, DWR expressed its expectation that "Wilderness Water Rights will not result in 'double-counting' of rights wholly additive to those already obtained."

DWR's draft Report language (which is included in the Majority's Report essentially verbatim) clearly states DWR's position that "the reservation in this Act will operate to protect water for wilderness purposes to the extent, if at all, that such protection is not provided by existing water rights held by the United States." In other words, as the DWR Memo states, "in practical effect it (the federal wilderness water right) would come into play only if and to the extent prior rights are insufficient."

Finally, the DWR Memo says, "It would clear up some questions if the last sentence of the section on water in the bill passed out of the subcommittee were struck." But, that was not done. The language appears in the bill as reported from the Committee. Thus, the contradiction exists between the bill language and the Majority's own Report language.

Now, an equally serious flaw in the statutory language concerns the quantification and adjudication of the federal water rights granted in the bill. As mentioned previously, I believe there should be explicit language in the statute to say the federal claim for these water rights should be made first in the Courts of the State of Arizona. These federal claims should be quantified and adjudicated in the context of a State forum where they can be properly considered along with all other water right claims filed by private individuals, other entities, or other government agencies in any given stream adjudication within the State. The U.S. Supreme Court has historically given a clear preference for the quantification and adjudication of federal water rights in State Courts and proceedings. The so-called McCarran Amendment allows the federal government to waive its sovereign immunity when joined by a State in a general stream adjudication.

All we have been asking is for an explicit statutory direction to the Secretary of the Interior that he file claims for the reserved water rights for these Arizona wilderness designations, first in the Courts of the State of Arizona. We are not asking that the Secretary relinquish any future rights he may have in Federal District Court. These issues of federal reserved water rights are federal matters and as such can always be prosecuted in Federal Courts if the outcome at the State level is for some reason not acceptable to federal interests.

Even those who are opposed to our point-of-view say they intend for these federal water rights to be quantified and adjudicated in the Arizona judicial system. But, for some reason, they are unwilling to put that intent in statutory language. We have traded back-

and-forth many versions of possible language to accomplish our goal. But, they as yet will not accept our best, good-faith efforts to resolve this important issue. We may decide to pursue our concerns on the floor of the House of Representatives.

We discussed this issue to some extent on the floor of the House of Representatives on November 17, 1989, during floor debate on an amendment I offered to the Nevada Wilderness Bill (S. 974). Unfortunately, that was not the best forum in which to pursue a high-level, detailed discussion that would contribute to a full understanding of the meaning of my amendment. Simply put, this is a matter of "states' rights" pertaining to the adjudication of western water rights.

The specific discussion at that time, and which I want to pursue for the record in this legislation, pertains to the adjudication of Federal reserved water rights under the so-called McCarran Amendment. The basic argument on the part of those who opposed the Rhodes amendment to the Nevada Wilderness bill was that somehow my amendment (which simply would have added to the water rights language in the bill, the phrase—"pursuant to the laws of the State of Nevada") would deny the provisions of the McCarran Amendment that allow applications to federal courts as well as state courts. That simply is not the intent, and it would not be the end result of my amendment as proposed at that time, nor as we have been discussing in relation to the Arizona wilderness bills we are marking up today.

I want to set forth here the legislation and legal history of the McCarran Amendment, in an effort to help demonstrate its meaning and intent. The fact is, a provision in the original McCarran bill specifically giving the United States a right of removal to the federal court of any suit to which it was a party, was taken out on the basis of testimony by a Justice Department witness opposing Senator McCarran's bill who said:

> . . . But if this legislation as now written is enacted, you will have two procedures in existence in the State, and it would be a serious detriment to the small water user here if he were to sue the United States and we were to remove over here to the city and county of Denver and he would have to come across the mountain to protect his rights. I don't think that is desirable at all . . [2]

In *Colorado River Water Conservation District* v. *United States*, 424 U.S. 800 (1976), where the Supreme Court was faced with choosing between whether a reserved water rights case for Indians should have been transferred to a state court, rather than remaining in the Federal District Court in Denver where it had been properly brought, it was held that a number of factors clearly counseled against concurrent federal proceedings. Most imoprtant was the clear federal policy evinced by the McCarran amendment: ". . . the avoidance of piecemeal adjudication of water rights in a river system" (at 819). This policy was said to be akin to that of avoiding the generation of additional litigation through permitting inconsistent dispositions of property. "This concern is heightened with re-

[2] Hearings on S. 18, Senate Judiciary Committee, 82d Cong., 1st Sess. (1951).

USAV-00004588

spect to water rights, the relationships among which are highly interdependent". (id.) The Court said:

> The consent to jurisdiction given by the McCarran amendment bespeaks a policy that recognizes the availability of comprehensive state systems for adjudication of water rights as a means of achieving these goals. (424 U.S. 800 at 819.)

The Court also found significant: (a) there had not been any real proceeding in the District Court, (b) the extensive involvement of state water rights with 1000 defendants having been named, (c) the 300 mile distance between the District Court and the courthouse where state proceedings would take place, and (d) existing participation by the Federal government in other water proceedings in the state. All of these factors, but "particularly the policy underlining the McCarran Amendment" were found to have justified the dismissal of the case brought in federal court, even though it had been filed six weeks earlier than the state court suit (at 820).

That decision by the Supreme Court in 1976 in *Colorado River Water Conservation District* v. *United States* relied heavily on two earlier Supreme Court cases in which the River District had also been a major participant. These cases were *United States* v. *District Court in and for the County of Eagle et al.,* 401 U.S. 520 (1971) and *United States* v. *District Court in and for Water Division No. 5 et al.,* 401 U.S. 527 (1971). In the first case, *Eagle County,* the United States had been served by the River District, as provided under 43 U.S.C. § 666 (the McCarran Amendment), in a supplemental water adjudication wherein the Colorado Court issued a notice asking owners and claimants of water rights in the streams affected "to file a statement of claim and to appear . . in regard to all water rights owned or claimed by them" (401 U.S. at 522). The United States moved to be dismissed as a party asserting that the McCarran Amendment did not constitute consent to have adjudicated in a state court the reserved water rights of the United States. When the state district court overruled the U.S. objections, the government sought a writ of prohibition to the Colorado Supreme Court, which affirmed the lower court. The United States then sought certiorari from the U.S. Supreme Court which the River District, acting as counsel for the Colorado courts, supported, in order to get the high court to rule on the case. In accepting the case and ruling on it the Court had no difficulty brushing aside various U.S. objections, holding McCarran to be "an all-inclusive statute concerning 'the adjudication of rights to the use of water of a river system', which in § 666(a)(1) has no exceptions and which as we read it includes appropriative rights, riparian rights and reserved rights" (at 524). In response to a claim that the *Eagle County* case was not a "general" adjudication the Court pointed out that the proceeding involved was not a private one to determine whether a few named claimants had priority over the United States. The Court noted that "the whole community of claims is involved" and resorting to the statute's legislative history, cited to Senator McCarran who said in the course of Senate deliberations that his bill was not intended to be used for any other purpose:

> . . . than to allow the United States to be joined in a suit herein it is necessary to adjudicate all of the rights of various owners on a given stream. This is so because unless all of the parties owning or in the process of acquiring water rights on a particular stream can be joined as parties defendant, any subsequent decree would be of little value.

(401 U.S. at 525).

A further technical objection as to how a priority for a reserved right could be integrated into the priority system was also brushed aside by the Court on the basis that once the claims of the United States had been presented, if any collision developed between already adjudicated rights and any reserved rights of the United States, that all such questions, including the volume and scope of particular reserved rights:

> . . . are federal questions which, if preserved, can be reviewed here after final judgment by the Colorado court.

(at 526).

Similarly, in the *Water Division No. 5* case, the Court rejected an argument that a general adjudication was not involved. It affirmed that McCarran did not cover consent by the United States to be sued in a private suit to determine its rights against a few claimants but found that this suit included vastly more extensive water rights than those involved in the *Eagle County* case, pointing to the existence of four separate national forests in the area, the activities of several bureaus of the Department of the Interior and the Navy oil shale reserves. This suit, however like, *Eagle County*, "reaches all claims, perhaps month by month, but inclusively in the totality." The Court repeated its statement in *Eagle* to the effect that the Federal question with respect to reserved rights and any collision with prior adjudicated rights could be preserved in the state decision and brought to the Supreme Court for review, if necessary (401 U.S. at 530).

Thus, these several cases demonstrate that State adjudications are the appropriate forum to try the water claims of the United States, from whatever source derived. Indeed, these cases make abundantly plain that the Congressional purpose reflected in the McCarran Amendment to avoid piecemeal litigation, makes the state court the *preferred* forum for the quantification of all claims to the use of water. This preference was particularly marked in the 1976 *Colorado River Water Conservation District* v. *U.S.* case where claims on behalf of Indian Tribes were specifically involved together with assertions that such claims would not get fair treatment in unfriendly state courts, not unlike the apprehensive arguments by Mr. Vento that states might ignore the need "for at least some water being allocated to keep plants and animals [in wilderness areas] alive"; or that state court judgments might not be sound or in accordance with law. Such claims in the cited Colorado cases to the effect that state courts were prejudiced, were totally ignored by the Supreme Court.

Finally, it may be fairly asserted on the basis of the Supreme Court's construction of McCarran, that the Nevada bill, in light of the legislative history produced in the context of the Rhodes

amendment to S. 974, in effect collides with the central purpose of McCarran to require the U.S. to appear and adjudicate its claim in state proceedings when joined as a necessary party. The argument that the Rhodes proposal would deny McCarran provisions allowing applications to Federal courts, could be asserted to build into McCarran a right of removal to a Federal Court which was taken out of the original bill by Senator McCarran, and which Congress later refused to insert. That there is no undisputed right to remove at the present time is made crystal clear from the following statement by a Justice Department witness in Congressional hearings [3], after the Court's opinions in *Eagle County and Water Division No. 5* had been announced:

> Again, as stated above with respect to the question whether or not 43 U.S.C. 666 consents to the adjudication of water rights reserved for the benefits of Indians or Indian tribes, the surest resolution of this problem would be legislation making clear that the United States shall have an undisputed right to remove to the United States District Court any suit which purports to join the United States as a defendant under authority of this statute. You may be interested to know that S. 18, this bill which was eventually enacted as 43 U.S.C. 666, as originally introduced, contained such a provision. This provision was eliminated after a witness speaking for this Department objected to it. However, the Department has since changed its views on the question of removing these cases to the Federal district courts.
>
> We suggest that now may be an appropriate time for the Committee on the Judiciary to alleviate some of the problems which have plagued our lawyers for years in the defense of actions against the government under this statute and to consider an amendment which could alleviate the problems created in 1951 when the Department's spokesman objected to the removal provision which was then in S. 18.

Despite this exhortation and others made during the hearings that Congress take some action, it has not seen fit to do so. There should be no permissible implication, as a consequence of the Nevada wilderness debate, that McCarran has now somehow become a tool to get reserved rights cases into Federal court, when McCarran's clear purpose was to permit water users to get Federal claimants into State court, where all water claims should be adjudicated.

JOHN J. RHODES III.

---

[3] Hearings by the Subcommittee on Practice and Procedure, Senate Judiciary Committee, Administrative Practices and Procedures Relating to the Protection of Indian Natural Resources, 92d Cong 1st Sess (1971-72), Part 1, p. 14.

USAV-00004591

## APPENDIX A.—GRAZING GUIDELINES

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture"

The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas designated in 1964 by the Wilderness Act, Congress has designated a large number of wilderness areas, including areas which are managed the Forest Service, Fish and Wildlife Service, and Bureau of Land Management. A number of these areas contain active grazing program, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress that the cited language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies.

To avoid any possible confusion, however, the Committee believes it would appropriate to reiterate the guidelines and policies (which have been set out previously in the Committee's Report on H.R. 5487 of the 96th Congress, House Report N. 96-617) that are to be utilized by BLM in implementing the relevant provisions of the Wilderness Act with respect to livestock grazing in the wilderness areas designated by this bill. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this bill, and that they be promptly, fully, and diligently implemented and made available to Bureau of Land Management personnel at all levels and to all holders of permits for grazing in the wilderness areas designated by this bill.

The guidelines and policies are as follows:

1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used as an excuse by administrators to slowly "phase out" grazing. Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the number of livestock permitted to graze in wilderness would remain at the approximate levels at the time an area enters the wilderness system. If land manage-



USAV-00004592

ment plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness. Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.

4. The construction or new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved. However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible. This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

USAV-00004593

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.

USAV-00004594

## APPENDIX B.—WILDLIFE MANAGEMENT GUIDELINES

Subsection 2(h) of H.R. 2570 explicitly provides that, in furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats that support those populations may be carried out in wilderness areas, where consistent with relevant wilderness management plans, in accordance with appropriate policies and guidelines.

The Committee has reviewed the existing BLM policies and guidelines for fish and wildlife management in Bureau of Land Management wilderness areas, as set out in BLM's wilderness management manual, and has found them to be in furtherance of the purposes and principles of the Wilderness Act. Those policies and guidelines are as follows:

### A. PURPOSE

This statement of policy and the following guidelines are intended to provide guidance to State and Federal personnel for the management of fish and wildlife in wilderness in accordance with the Wilderness Act of 1964 (16 USC 1131-1136). Both State and Federal agencies are responsible for fostering mutual understanding and cooperation in the management of fish and wildlife in wilderness. These guidelines should serve as a framework for cooperation among the Forest Service, Bureau of Land Management, and the States in the coordination of fish and wildlife management and in the development of cooperative agreements or other management plans.

These policies and guidelines were developed within the overall context of the purpose and direction of the Wilderness Act, and they should be made available to all agencies responsible for management of the National Wilderness Preservation System, to appropriate State fish and wildlife agencies, and to other interested parties.

### B. GENERAL POLICY

Fish and wildlife management activities in wilderness will be planned and carried out in conformance with the Wilderness Act's purpose of securing an "enduring resource of wilderness" for the American people. The wilderness resource is defined in section 2(c) of the Act, as an area essentially "untrammeled by man", where natural ecological processes operate freely and the area is "affected primarily by the forces of nature." The National Wilderness Preservation System will be managed to ensure that ecological succession, including fire and infestation of insects, operate as freely as possible with only minimum influence by humans.



USAV-00004595

Fish and wildlife management activities will emphasize the protection of natural processes. Management activities will be guided by the principle of doing only the minimum necessary to manage the area as wilderness.

Section 4(d)(7) of the Wilderness Act stipulates that "Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests." Angling, hunting, and trapping are legitimate wilderness activities, subject to applicable State and Federal laws and regulations.

This nation is fortunate in having a National Wilderness Preservation System encompassing a wide range of ecosystems. Specific on-the-ground conditions will result in slightly different application of these guidelines in so vast a system. These different applications are spelled out in National Forest Plans or wilderness management plans. This is both appropriate and proper, if we are to allow nature to play the dominant role.

*1. Use of motorized equipment*

Section 4(c) of the Wilderness Act states:

Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

The emphasis is on the management of the area as wilderness as opposed to the management of a particular resource. This language is viewed as direction that all management activities within wilderness be done without motor vehicles, motorized equipment, or mechanical transport, unless truly necessary to administer the area or are specifically permitted by other provisions in the Act. It means that any such use should be rare and temporary; that no roads can be built; and that wilderness managers must determine such use is the minimum necessary to accomplish the task. Any use of motorized equipment or mechanical transport requires advance approval by the administering agency.

*2. Fish and wildlife research and management surveys*

Research on fish and wildlife, their habitats and the recreational users of these resources is a legitimate activity in wilderness when conducted "in a manner compatible with the preservation of the wilderness environment" (Sec. 4(d)(1) of the Wilderness Act). Methods that temporarily infringe on the wilderness environment may be approved if alternative methods or other locations are not available. Research or management surveys must be approved in writing, on a case-by-case basis, by the administering agency.

Helicopters and fixed-wing aircraft overflights may be used to conduct approved fish and wildlife research activities. Aircraft

USAV-00004596

must be used in a manner that minimizes disturbance of other users, including humans and wildlife.

All fish and wildlife studies within and over wilderness must be conducted so as to preserve the natural character of the wilderness. Aerial counts and observations of wildlife may be permissible for management of wilderness wildlife resources. Capturing and marking of animals, radio telemetry, and occasional temporary installations (such as shelters for cameras and scientific apparatus and enclosures and exclosures essential for wildlife research or management surveys) may be permitted, if they are essential to studies that cannot be accomplished elsewhere.

*Guidelines*

a. Obtain specific written approval or permits from the administering agency before erecting any structure, enclosure, or exclosure.

b. Locate and construct all structures so as to make them unobtrusive on the landscape.

c. Construct structures of native materials or camouflage to make them blend with their natural surroundings.

d. Plan aircraft flights over wilderness to minimize disturbance. Consider time of day, season of the year, route and altitude of flight, and location of landing areas on the perimeter of the wilderness.

e. Research projects underway when a wilderness is designated may continue, but modify research methods to minimize disturbance of the wilderness environment.

f. Installation of permanent base stations within wilderness is not permitted for monitoring of radio-instrumented animals.

g. The administering agency should only approve capture methods that minimize the impact on the wilderness environment.

*3. Facility development and habitat alteration*

In rare instances, facility development and habitat alteration may be necessary to alleviate adverse impacts caused by human activities on fish and wildlife. For the benefit of wildlife that spend only part of the year in wilderness, give first priority to locating facilities or habitat alterations outside wilderness.

Flow-maintenance dams, water developments, water diversion devices, ditches and associated structures, and other fish and wildlife habitat developments necessary for fish and wildlife management (which were in existence before wilderness designation) may be permitted to remain in operation.

Clearing of debris that impedes the migratory movements of fish on primary spawning streams may be permitted, but only in a manner compatible with the wilderness resource.

Maintenance of existing water supplies and development of additional water supplies may be permitted, but only when essential to preserve the wilderness resource and to correct unnatural conditions resulting from human influence.

*Guidelines*

a. Submit proposals for new structures or habitat alterations to the administering agency for approval.

USAV-00004597

b. Build or maintain new and existing structures permitted for wildlife management in a manner that minimizes the visual impacts on the landscape.

c. Limit clearing of debris from spawning streams to those identified in the wilderness management plan as being critical to the propagation of fish.

d. Use only nonmotorized equipment to clear debris. Use explosives only when the use of hand tools is not practical, and only outside of heavy visitor-use periods.

e. The administering agency and the State agency will jointly make decisions to remove existing water related improvements.

f. If it is necessary to restore essential food plants after human disturbance, use only indigenous plant species.

*4. Threatened and endangered species*

Many wilderness areas provide important habitat for Federally listed threatened and endangered species of wildlife. Actions necessary to protect or recover threatened or endangered species, including habitat manipulation and special protection measures, may be implemented in wilderness. But such actions must be necessary for the perpetuation of recovery of the species and it must be demonstrated that the actions cannot be done more effectively outside wilderness. Use only the minimum actions necessary and the methods most appropriate in wilderness.

*Guidelines*

a. Manage wilderness to protect known populations of Federally listed threatened or endangered species where necessary for their perpetuation and to aid in their recovery in previously occupied habitat.

b. When alternative areas outside of wilderness offer equal or better opportunities for habitat improvement or species protection, take actions to recover threatened or endangered species outside of wilderness first.

c. Threatened and endangered species may be transplanted into previously occupied habitat within wilderness.

d. All transplants or habitat improvement projects require approval by the administering agency.

e. To prevent Federal listing, protect indigenous species that could become threatened or endangered or are listed as threatened or endangered by States.

*5. Angling, hunting and trapping*

Angling, hunting and trapping are legitimate wilderness activities subject to applicable State and Federal laws and regulations.

*6. Population sampling*

Scientific sampling of fish and wildlife populations is an essential procedure in the protection of natural populations in wilderness.

*Guidelines*

a. Use only methods that are compatible with the wilderness environment.

USAV-00004598

b. Gill netting, battery-operated electrofishing, and other standard techniques of population sampling may be used.

c. Closely coordinate sampling activities with the administering agency and schedule them to avoid heavy public-use periods.

*7. Chemical treatment*

Chemical treatment may be necessary to prepare waters for the reestablishment of indigenous species, to protect or recover Federally listed threatened or endangered species, or to correct undesirable conditions resulting from the influence of man. Species of fish traditionally stocked before wilderness designation may be considered indigenous if the species is likely to survive. Undesirable conditions and affected species shall be identified in wilderness plans.

*Guidelines*

a. Use only registered pesticides according to label directions.

b. In selecting pesticides, give preference to those that will have the least impact on non-target species and on the wilderness environment.

c. Schedule chemical treatments during periods of low human use, insofar as possible.

d. Immediately dispose of fish removed in a manner agreed to by the administering agency and the State agency.

*8. Spawn taking*

The collection of fish spawn shall be permitted from wilderness when alternative sources are unavailable or unreliable, or where spawn taking was an established practice before wilderness designation.

*Guidelines*

a. Do not use motorized equipment to assist in collecting and removing spawn.

b. Use of techniques and facilities necessary to take spawn, which were in existence before wilderness designation, may continue as provided for in the wilderness management plan.

c. Facilities for spawn-taking stations approved after wilderness designation must be removed after the termination of each season's operation.

d. Decisions to prohibit spawn taking, where it was an established practice before wilderness designation, will be made jointly by the administering agency and the state agency.

*9. Fish stocking*

Fish stocking may be conducted by the State agency in coordination with the administering agency, using means appropriate for wilderness, when either of the following criteria is met: (a) to reestablish or maintain an indigenous species adversely affected by human influence; or (b) to perpetuate or recover a threatened or endangered species.

Selection of species for stocking will be determined jointly by the administering agency and the state agency. Exotic species of fish shall not be stocked. The order of preference for stocking fish species is (a) Federally listed threatened or endangered indigenous spe-

USAV-00004599

cies, (b) indigenous species. Species of fish traditionally stocked before wilderness designation may be considered indigenous if the species is likely to survive. Numbers and size of fish and time of stocking will be determined by the State agency.

Barren lakes and streams may be considered for stocking, if there is mutual agreement that no appreciable loss of scientific values or adverse effects on wilderness resources will occur.

*Guidelines*

a. The State agency shall make fish stocking schedules available to the administering agency, indicating what species and numbers are planned for each water within a wilderness.

b. Adjust stocking rates to minimize the likelihood of exceeding the carrying capacity of the water being stocked so as to reduce the chance of producing a population imbalance and to minimize the likelihood of attracting overuse detrimental to the wilderness resource.

*10. Aerial fish stocking*

Aerial stocking of fish shall be permitted for those waters in wilderness where this was an established practice before wilderness designation or where other practical means are not available. Aerial stocking requires approval by the administering agency.

*Guidelines*

a. As justification for aerial stocking, the State agency will supply the administering agency a list of those waters where stocking with aircraft was an established practice before wilderness designation, indicating the type of aircraft used (fixed-wing or helicopter). This justification will become a part of the wilderness management plan.

b. To stock waters that had not been aerially stocked before wilderness designation, the State agency will demonstrate to the administering agency the need for using aircraft.

c. Plan aircraft flights over wilderness to minimize disturbance. Consider season of year, time of day, route and altitude of flight, and location of landing areas on the perimeter of the wilderness.

*11. Transplanting wildlife*

Transplants (removal, reintroduction, or supplemental introduction) of terrestrial wildlife species in wilderness may be permitted if necessary: (a) to perpetuate or recover a threatened or endangered species; or (b) to restore the population of an indigenous species eliminated or reduced by human influence.

Transplants shall be made in a manner compatible with the wilderness character of the area. Transplant projects, including follow-up monitoring, require advance written approval by the administering agency.

*Guidelines*

a. Motorized methods and temporary holding and handling facilities may be permitted if they are the minimum necessary to accomplish an approved transplant.

USAV-00004600

*12. Wildlife damage control*

Wildlife damage control in wilderness may be necessary to protect Federally listed threatened or endangered species, to prevent transmission of diseases or parasites affecting other wildlife and humans, or to prevent serious losses of domestic livestock. Control of nonindigenous species, also may be necessary to reduce conflicts with indigenous species, particularly if the latter species are threatened or endangered.

*Guidelines*

a. Acceptable control measures include lethal and nonlethal methods, depending upon need, justification, location, conditions, efficiency and applicability of State and Federal laws.

b. Control measures will be implemented by the Animal and Plant Health Inspection Service, the administering agency, the State fish and wildlife agency, or other approved State agency, pursuant to cooperative agreements or memoranda of understanding. Wildlife damage control must be approved by the administering agency on a case-by-case basis.

c. Direct control at individual animals causing the problem.

d. Use only the minimum amount of control necessary to solve the problem.

e. Use pesticides only where other measures are impractical. Use only registered pesticides according to label directions and subject to the following restrictions:

(1) Pesticides may be applied only by certified pesticide applicators.

(2) The placement of pesticides shall be accurately indicated on the largest scale USGS map available.

(3) Place warning signs at the entrance to the area where pesticides are being used to warn the public of any dangers to themselves or their pets.

(4) In the selection of pesticides, give preference to those that will have the least impact on non-target species and on the wilderness environment.

*13. Visitor management to protect wilderness wildlife resources*

Many wildlife species are sensitive to human encroachments on their ranges. Grizzly bear, bighorn sheep, elk, mountain goat, birds of prey (such as peregrine falcon and bald eagle), other migratory and resident birds, and certain other wilderness wildlife species cannot tolerate excessive human disturbance, particularly during certain seasons of the year.

When necessary to reduce human disturbance to a wildlife species, the administering agency, in coordination with the State agency, may take direct or indirect management actions to control visitor use.

*Guidelines*

a. Specify in the wilderness management plan the management actions necessary and the agency responsible to reduce conflicts with wildlife.

USAV-00004601

b. If and when it becomes apparent that public use is significantly degrading the wilderness wildlife resources, limitations on visitor use may be imposed and enforced by the appropriate agency. Any limitations will be applied equitably to all wilderness visitors.

*14. Management of fire*

The objectives of fire management in wilderness are to: (a) permit lightning-caused fires to play, as nearly as posible, their natural ecological role within wilderness and (b) reduce, to an acceptable level, the risks and consequences of wildfire within wilderness or escaping from wilderness. Fire ignited by lightning will be permitted to burn or will be suppressed as prescribed in an approved plan. Prescribed fires ignited by man may be permitted to reduce unnatural buildup of fuels only if necessary to meet objectives (a) and (b) above. Although additional benefits may result from man-ignited prescribed fire, vegetative manipulation will not be used to justify such fires.

○

USAV-00004602