

Congressional Record -- Senate

Saturday, October 27, 1990;
(Legislative day of Tuesday, October 2, 1990)

101st Cong. 2nd Sess.

136 Cong Rec S 17473

REFERENCE: Vol. 136 No. 150 -- Part 2

TITLE: ARIZONA DESERT WILDERNESS ACT

SPEAKER: Mr. ARMSTRONG ; Mr. BENTSEN ; Mr. DeCONCINI ; Mr. DOMENICI ; Mr. GRAMM ; Mr. McCAIN ; Mr. SANFORD ; Mr. SIMPSON ; Mr. WALLOP ; Mr. WILSON ; Mr. DeCONCINI

TEXT: [*S17473] Mr. SANFORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 677, H.R. 2570, a bill to provide for the designation of certain public lands as wilderness in the State of Arizona.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2570) to provide for the designation of certain public lands as wilderness in the State of Arizona.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

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

TITLE I -- DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

SEC. 101. 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" and dated February 1990, and which shall be known as the Mount Nutt Wilderness: PROVIDED, That the existing water pipeline for the town of Oatman, together with the right of ingress and egress thereto, may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values;
- (4) certain lands in Mohave County, Arizona, which comprise approximately 90,600 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 La Paz Counties, Arizona, which comprise approximately 41,600 acres, as generally depicted on a map entitled "Rawhide Mountains Wilderness" [*S17474] 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 126,760 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 89,000 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;
- (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: PROVIDED, That 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. The Secretary of the Interior, acting through the Bureau of Indian Affairs, shall administer that portion of the Black Rock Wash Road located within the boundaries of the San Carlos Apache Reservation so as to allow reasonable use of the road for private and administrative purposes and may permit limited public use of such road for the purpose of access to the public lands outside the reservation boundary;

(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 and Cochise Counties, 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 and Mohave Counties, 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 LaPaz 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 60,800 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 Yavapai and Mohave Counties, Arizona, which comprise approximately 27,900 acres, as generally depicted on a map entitled "Upper Burro Creek Wilderness" and dated June 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;
- (36) certain lands in Yavapai 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 La Paz County, Arizona, which comprise approximately 21,680 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 Pinal 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 are hereby incorporated in and shall be deemed to be a part of the Aravaipa Canyon Wilderness (designated in Public Law 98-406, 98 Stat. 1491).

(b) Management. -- Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary of the Interior (hereinafter in this title 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 title 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 title, except that correction of clerical and typographical errors in such legal description and map may be made. Copies of 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, and in [*S17475] the appropriate office of the Bureau of Land Management in Arizona.

(d) No Buffer Zones. -- The Congress does not intend for the designation of wilderness areas in the State of Arizona pursuant to this title 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 title 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 title, 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 administered 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 title.

(g) Water. -- (1) With respect to each wilderness area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this title. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) The Secretary and all other officers of the United States shall take steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(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 designated by this title, 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).

(i) Military Activities. -- Nothing in this title shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

(j) Mineral Exchanges. -- It is the intent of Congress that private mineral rights within wilderness areas designated by this title be acquired as expeditiously as possible by the Secretary using existing authority to acquire such rights by exchange.

(k) Amendment. -- Section 101(a)(23) of the Arizona Wilderness Act of 1984 (98 Stat. 1487) is amended by striking "the governmental agency having jurisdictional authority may authorize limited access to the area, for private and administrative purposes, from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock;".

SEC. 102. AREAS RELEASED.

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 title, 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.

TITLE II -- DESIGNATION OF THE GILA BOX RIPARIAN NATIONAL CONSERVATION AREA

SEC. 201. DESIGNATION AND MANAGEMENT.

(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 title 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 United States House of Representatives and the Committee on Energy and Natural Resources of the United States 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 the 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 title.

(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 subsection (g).

(e) Withdrawal. -- 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.

(f) Water. -- (1) 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.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal rights reserved by this title are specific to the conservation area located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(g) 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 (hereinafter in this title referred to as the "management plan") 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.

(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 (h)) 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 boundary of the Apache National Forest to the confluence of Eagle Creek with the Gila River (this area is hereafter referred to in this title 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 [*S17476] 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.
- (h) Acquisition and Boundary Adjustments. -- (1) Subject to the limitations set forth in paragraph (3), the Secretary is authorized to acquire non-Federal lands or interests therein within the boundaries of the conservation area 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.
- (i) No Buffer Zones. -- 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 that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.
- (j) 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 among recommendations submitted by the Governor of Arizona, one member shall be appointed from among recommendations submitted by the Graham County Board of Supervisors and one member shall be appointed from among recommendations submitted by the Greenlee County Board of Supervisors. The remaining members shall be persons recognized as experts in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the purposes for which the conservation area is established.

(k) 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 United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the implementation of this title, 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.

(l) Enforcement. -- Any person who violates any regulation promulgated by the Secretary to implement this title 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.

(m) Authorization. -- There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this title.

TITLE III -- DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 301. DESIGNATION AND MANAGEMENT

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

(1) certain lands in the Havasu National Wildlife Refuge, Arizona, which comprise approximately 14,606 acres, as generally depicted on a map entitled "Havasu Wilderness" and dated March 13, 1990, and which shall be known as the Havasu Wilderness;

(2) certain lands in the Imperial National Wildlife Refuge, Arizona, which comprise approximately 9,220 acres, as generally depicted on a map entitled "Imperial Refuge Wilderness" and dated March 13, 1990, and which shall be known as the Imperil Refuge Wilderness;

(3) certain lands in the Kofa National Wildlife Refuge, Arizona, which comprise approximately 511,000 acres, and certain other public lands comprising approximately 5,300 acres which are hereby added to and incorporated within such refuge (and which shall be managed accordingly), all as generally depicted on a map entitled "Kofa Wilderness" and dated March 13, 1990, and which shall be known as the Kofa Wilderness; and

(4) certain lands in the Cabeza Prieta National Wildlife Refuge, Arizona, which comprise approximately 803,418 acres, as generally depicted on a map entitled "Cabeza Prieta Wilderness" and dated March 13, 1990, and which shall be known as the Cabeza Prieta Wilderness.

(b) Management. -- Subject to valid existing rights, the wilderness areas designated under this title shall be administered by the Secretary of the Interior (hereinafter in this title 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 title.

(c) Map and Legal Description. -- As soon as practicable after enactment of this title, 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 and the Committee on Merchant Marine and Fisheries of the United States House of Representatives and with the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate. Such map and description shall have the same force and effect as if included in this title, 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, United States Fish and Wildlife Service, United States Department of the Interior.

(d) Water. -- (1) With respect to each wilderness area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this title. The priority date of such reserved rights shall be in the date of enactment of this Act.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate steam adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water right reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(e) No Effect on Colorado River Dams. -- Nothing in this title shall be construed to affect the operation for flood control purposes of Federally owned dams located on the Colorado River.

(f) Military Activities. -- Nothing in this title including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as –

- (1) precluding or otherwise affecting continued low-level overflights by military aircraft over such refuge or the maintenance of existing associated ground instrumentation, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or
- (2) precluding the Secretary of Defense from entering into new or renewed agreements with the Secretary concerning use by military aircraft of airspace over such refuge or the maintenance of existing associated ground instrumentation, consistent with management of the refuge for the purpose for which such refuge was established and in accordance with laws applicable to the National Wildlife Refuge System. (g) Law Enforcement Border Activities. -- Nothing in this title, including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as -- (1) precluding or otherwise affecting continued border operations by the Immigration and Naturalization Service, the Drug Enforcement Administration, or the United States Customs Service within such refuge, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or (2) precluding the Attorney General of the United States or the Secretary of the Treasury from entering into new or renewed agreements with the Secretary concerning Immigration and Naturalization Service, Drug Enforcement Administration, or United States Customs Service border operations within such refuge, consistent with management of the refuge for the purpose for which such refuge was established, and in accordance with laws applicable to the National Wildlife Refuge System.

The PRESIDING OFFICER. Are there amendments to the bill?

AMENDMENT NO. 3199

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

[*S17477] The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson], for Mr. McClure, proposes an amendment numbered 3199.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3199) was agreed to.

Mr. SANFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COLORADO RIVER WATER

Mr. ARMSTRONG. Among the amendments offered by the Senator from Arizona is a title III addition which states that "no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise."

Mr. McCAIN. That is correct. The language the Senator cited refers to the proposed wilderness within the Havasu and Imperial National Wildlife Refuges. These are the only two areas to be designated wilderness by this legislation which are in close geographic proximity to the Colorado River. It is important to note that the wilderness boundary in both areas was drawn at the high water mark of the 1983 floods, so it is unlikely that any Colorado River water would flow through the wilderness areas. Consequently, we believed these areas would not qualify for wilderness water rights from the Colorado River. Nevertheless, to avoid any confusion, we unequivocally state that no such rights are reserved.

Mr. ARMSTRONG. I thank the Senator for that clarification. It is my understanding that the words "water of the Colorado River" mean all the water in the Colorado River flowing from the upper basin to the lower basin at Lee's Ferry regardless of the water's origin, including water from Colorado River tributaries in the upper basin.

Mr. McCAIN. The Senator from Colorado is correct. We thank him for helping make that clarification. It is truly an important one to make.

Mr. McCAIN. Mr. President, I am pleased to bring H.R. 5063, the Fort McDowell Indian Community Water Rights Settlement Act, before the Senate. This bill reflects more than 5 years of intense efforts by the Department of the Interior, the Yavapai Indians at Fort McDowell, the Central Arizona Water Conservation District, the Salt River Project, the Roosevelt Water Conservation District, the State of Arizona and numerous municipalities to resolve conflicting claims to water. Many individuals have devoted countless hours to the negotiations which led to this settlement. As is the case with all true compromises, no party is entirely satisfied with the final settlement agreement. Virtually every party had to accept terms which they find to be somewhat unsatisfactory. I want to commend and congratulate all of the parties to this settlement. The leadership and spirit of cooperation which led to the settlement will serve the parties, the State of Arizona and the entire Nation well in the years ahead.

I particularly want to thank Representatives Udall and Rhodes for their efforts. Without their leadership, we would not be able to consider this legislation today. I also want to express special thanks to Secretary Lujan and the employees of the Department of the Interior for their outstanding assistance.

As passed by the House, H.R. 5063 is identical to S. 2900 which I sponsored and which was favorably reported to the Senate by the Select Committee on Indian Affairs on September 25, 1990. H.R. 5063 and the settlement agreement quantify the Fort McDowell Indian community's total water rights, from all sources, at 36,350 acre-feet per year. The water is intended to be sufficient to irrigate 4,000 acres of agricultural land and to develop 18,350 acres for urban and other uses within the reservation. The Salt River Project [SRP] will contribute 6,730 acre-feet of water and the Roosevelt Water Conservation District 3,200 acre-feet. SRP will also provide storage capacity behind the Bartlett and Horseshoe Dams on the Verde River to enable the community to gain full use of its 7,060 acre-foot Kent decree water rights.

The bill confirms existing agreements between the United States and the Salt River Project and among SRP, Phelps Dodge Corp. and the defense plant corporation regarding storage of water at Horseshoe and Bartlett Dams. It requires the Secretary of the Interior to acquire 13,933 acre-feet of water either from sources in the Harquahala Valley West of Phoenix, from entities along the Verde River upstream from Fort McDowell or from any other sources available to the United States. The bill also provides the Secretary with the necessary authority to acquire and deliver such water to the Fort McDowell Indian Community via exchanges with SRP. In addition, it authorizes the community to lease its allocation of 4,300 acre-feet of central Arizona project water to the city of Phoenix.

The bill provides for the creation of a Community Development Trust Fund, into which would be deposited the Fort McDowell Indian Community's water lease revenues, \$2,000,000 to be contributed by the State of Arizona, and a Federal appropriation of \$23 million. The community would also receive a \$13 million loan for which it has applied under the small reclamation projects act in lieu of \$7 million which the United States is otherwise required to expend to construct water delivery facilities on the community's reservation as part of the Central Arizona Project.

The bill provides that the benefits to the community's members from the settlement constitute full satisfaction of all of their claims for water rights under Federal and State laws, and authorizes the United States and the community to waive and release the community's past, present, and future claims to water.

Upon the waiver of those claims, the Secretary of the Interior will have no further authority under the Colorado River Basin Project Act to withdraw any portion of the community's reservation for purposes of a dam and reservoir at the confluence of the Salt and Verde Rivers.

Local contributions to the settlement include approximately 12,000 acre-feet of water annually with an estimated value of \$3,000 per acre-foot, lease revenues, and a State appropriation of \$2 million. The local parties estimate their additional costs as a result of water quality deterioration and loss of exchange capacity and other indirect cash costs at \$8 million, bringing the total local costs of the settlement to approximately \$44 million. Federal costs would be at least \$36 million for the development fund appropriation and the loan which is repayable at no interest.

The total cost of the settlement to the Federal Government will not be known until the Secretary determines from which source or sources he will obtain the 13,933 acre-feet of water needed to fulfill the community's water entitlement and what share of the costs of obtaining that water will be attributable to the community's settlement. The ratio of local to Federal costs is thus likely to be approximately 50-50.

The settlement will not become effective until the Secretary publishes findings that the major actions required by the bill and the settlement agreement have been accomplished, including the Secretary's signing of the final version of the agreement.

Mr. President, I believe that this is a fair settlement and that H.R. 5063 is good legislation. I urge my colleagues to give it their support.

Mr. DeCONCINI. I would like to ask the distinguished vice chairman of the Select Committee on Indian Affairs to clarify for the record the relationship between section 6(a)(3) and section 13 of H.R. 5063.

Mr. McCAIN. I would be happy to respond to the Senator's questions.

Mr. DeCONCINI. Section 6(a)(3) authorizes and directs the Secretary, in the event he cannot acquire 13,933 acre-feet of water for Fort McDowell from either the Harquahala Valley Irrigation District or from sources in the [*S17478] Big Chino Valley, to acquire that amount of water from all resources at the disposal of the United States.

Section 13 States that nothing in the settlement agreement or the legislation shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than Fort McDowell.

Is my understanding correct that these provisions, read together, mean that the Secretary would be precluded from using the so-called Ak Chin surplus water in the Fort McDowell settlement?

Mr. McCAIN. The Senator is correct. The Ak Chin water is included in legislation currently being considered by the Congress for use in the settlement of the claims of the San Carlos Apache Tribe. For the Secretary to consider using it for Fort McDowell would clearly be adverse to the San Carlos settlement and contrary to section 13.

This reasoning also applies to the other sources of water proposed for use in the San Carlos settlement legislation.

Both the House Interior Committee and the Senate Select Committee on Indian Affairs amended section 6 to eliminate provisions that specifically authorized the Secretary to use Ak Chin water for Fort McDowell. Both committee's reports cited opposition by the administration and parties in Arizona to using Ak Chin water for the Fort McDowell settlement.

Mr. DeCONCINI. I thank the Senator for his response.

Is my understanding also correct that section 13 is intended to mean that the Secretary, should he exercise his authority under section 6(a)(3), could not do so in such a manner as to adversely affect his ability to deliver water to the Tohono O'odham Nation under the provisions of the Southern Arizona Water Rights Settlement Act [SAWARSA] of 1982?

Mr. McCAIN. The Senator's understanding is correct.

Mr. DeCONCINI. I thank the Senator.

Mr. McCAIN. And I extend my appreciation to the Senator for his cosponsorship of S.2900, the Senate version of this bill and for his assistance in moving this legislation forward.

ARIZONA DESERT WILDERNESS ACT OF 1990

Mr. DOMENICI. Mr. President, I would like to ask the sponsors of the bill, the distinguished Senators from Arizona, Mr. DeConcini and Mr. McCain, if they would clarify a provision of the bill for me.

Mr. DeCONCINI. I will gladly yield to my friend, the Senator from New Mexico [Mr. Domenici] for a question.

Mr. DOMENICI. I would say to my friends that it came to my attention several months ago that the original provisions of the bill now before the Senate, H.R. 2570 -- the Arizona Desert Wilderness Act of 1990, could have jeopardized the opportunity for New Mexico to use water rights granted to New Mexico. These water rights were reserved for the Hooker Dam project or a suitable alternative by Public Law 90-537, the law that authorized the central Arizona project.

Specifically, my major concern was with the water reservation proposed in the bill for the Gila Box Riparian National Conservation Area and the adverse effects that such a reservation could have on New Mexico's ability to use senior water rights held on the Gila River System. That reservation as proposed was simply not acceptable to me or the people of New Mexico.

Because of this and other provisions of the bill affecting water rights in the Upper Colorado River Basin, I could not vote in favor of the Arizona Desert Wilderness Act when it was considered by the Energy and Natural Resources Committee.

Since that time, the New Mexico State Engineer and the Director of the Arizona Department of Water Resources, the officials responsible for the protection of water rights in their respective States, have jointly developed language to amend section 201 of this bill to protect New Mexico's interests.

I would ask my friends from Arizona, am I correct in understanding that section 201 of the bill as amended clarifies that no provisions in the bill -- including implied water reservations, if any -- will impair or conflict with New Mexico's ability to implement the authorization contained in section 304(f) of Public Law 90-537, the Colorado River Basin Project Act, which authorizes 18,000 acre-feet of central Arizona project water to be delivered annually through exchange agreements to users in New Mexico on the Gila River System?

Mr. DeCONCINI. The Senator from New Mexico is correct in his understanding of section 201.

The purpose of section 201 is to clarify that the designation of the Gila Box Riparian Conservation Area will not impact the allocation of water to the State of New Mexico pursuant to the Colorado River Basin Project Act of 1968.

Mr. McCAIN. I also agree with the Senator from New Mexico's explanation of section 201.

Section 201 will ensure that the designation of the Gila Box Riparian Conservation Area will not affect the implementation of the authorities granted to the Secretary of the Interior to contract with New Mexico for Gila River water, as established in the Colorado River Basin Project Act of 1968.

Let me add that section 201 in no way attempts to quantify the amount that New Mexico is authorized to receive nor entitle the State of New Mexico to any water rights that did not exist prior to passage of this legislation.

Mr. DOMENICI. I thank the Senators. I want to acknowledge my appreciation for the willingness of both of my colleagues from Arizona to work with me and the people of New Mexico to resolve this important issue and to protect New Mexico's water rights.

COLORADO RIVER

Mr. WILSON. With respect to its effect on water interests in the lower Colorado River Basin, with which the Senator and I are always concerned, I would like to ask the Senator a few questions. First, does the fact that the amendment with regard to the law of the river in the upper basin, which has just been accepted, relates only to the upper Colorado River

Basin imply that something in the bill does supersede existing compacts, treaties, Federal statutes or Supreme Court decrees governing interstate or intrastate water allocations in the lower basin?

Mr. McCAIN. No. That is not its intent and it should not be so construed. For the reasons detailed in the committee report on the bill, the lower basin States were satisfied that existing allocations were in no way affected, which is our intent.

Mr. WILSON. I further want to thank the Senators from Arizona for their amendment to section 301(e) to make it clear that operations of the lower basin reservoirs on the Colorado River are not affected in any way by this bill. In this regard, will the Senator please indicate whether there is any significance in the fact that it refers only to title III of the bill, while the amendment with regard to the law of the river in the upper basin refers to titles I, II, and III.

Mr. McCAIN. I would be pleased to do so. The lower basin States were only concerned with two Fish and Wildlife Service wilderness areas designated in title III -- areas within the Havasu and Imperial National Wildlife Refuges. They are the only areas designated wilderness by this legislation which are in close geographic proximity to the main stream of the Colorado River. The upper basin desired broader protections, partially because of the potential impact on New Mexico's allocation of the Gila, which we have specifically safeguarded under another amendment. Although it was our strong belief that the bill as it was reported by the Energy Committee in no way affected the upper Colorado River Basin we have accepted the language to make it unequivocally clear that it does not. I would like to note also that the broad language of the upper basin amendment would not work for the lower basin due to the inclusion of tributaries since certain wilderness areas designated in this bill may affect tributaries in Arizona. I would further add that tributaries in the lower basin are not accounted for as a part of the Colorado River flow and we do not want to imply that they are by applying the upper basin amendment to the [*S17479] lower basin. The language on operations of reservoirs under section 301(e) should not be interpreted to imply any alteration in the application of the law of the river to lower basin States, including, but not limited to, the allocations and priorities set forth in the decree in Arizona versus California and the Colorado Basin Project Act.

Mr. WILSON. I thank the Senator for his explanation.

Mr. ARMSTRONG. Senator Wallop and I would like to ask our colleagues from Arizona a question about the effect of the amendment to section (301)(e) of the bill as it pertains to the operation of dams on the Colorado River.

Mr. McCAIN. We would be pleased to answer any questions our friends may have.

Mr. WALLOP. Are we correct that the designation of wilderness within Arizona and the amendment to section 301(e) will in no way affect the operation of dams in the upper basin of the Colorado River or its tributaries?

Mr. McCAIN. That is correct. The amendment pertaining to the upper basin reinforces full and unequivocal protection. That is to say, the designation of wilderness within the State of Arizona does not affect the law of the river which includes the operation of existing and future dams in the upper basin. The amendment to section 301(e) does not cloud or affect those protections in any way. The amendment simply provides tailored protection to the operation of dams on the Colorado River in the lower basin.

CLARKS FORK WILD AND SCENIC RIVER

Mr. WALLOP. Mr. President, I am especially proud to see my colleagues' approval of the Clarks Fork Wild and Scenic River Act because this is the year of Wyoming's centennial celebration.

Everyone wins with this bill, Mr. President. The Federal Wild and Scenic River System gains a stunning new addition, we provide protection for one of America's most outstanding rivers and canyon and, importantly, the Clarks Fork is given Federal designation without doing great damage to the State water system.

The bill before us today is the result of much hard work and compromise and there are changes from the language we originally introduced. Probably the most significant is the deletion of a provision which drew a fair share of controversy. The 50-percent interim flow quantification, designed to insure that the courts do not make the most basic water decisions for the State of Wyoming, is no longer in the bill.

While the measure does not foreclose appeal to the State courts on the determination of quantification, it respects the State process by ensuring that the State engineer makes the determination at the outset rather than having the courts do so. Court review is available only if there is no satisfactory resolution. The bill includes a narrow preemption of State law for beneficial uses, not a total preemption of the job of the Wyoming State engineer by the black robes on the courts.

Deletion of the interim flow provision does not mean the river will be jeopardized in any way. Every knowledgeable person agrees that there will be no threat to the flows during the pending investigations to determine the appropriate amount of water necessary to protect the river's wild and scenic values. Not only would upstream development be nearly impossible, the Governor has assured us, that because of the beauty of the basin, he does not favor damming the upper reaches of the Clarks Fork drainage under any circumstances.

The new water section provides a process for the Secretary of Agriculture to follow in quantifying the water right reserved for the purpose of the Clarks Fork River designation. It does not require the State to wait for a general stream adjudication where the State engineer is just one of many parties. Under this act, the procedural requirements of Wyoming State law will be followed including water right application to the Wyoming

State engineer, adjudication by the Wyoming State Board of Control and with review of these matters provided by the Wyoming administrative procedures.

These procedures are equally available and adhered to by all appropriators in the State of Wyoming. There is no reason why the Federal Government should not submit to state process to avoid a lingering unquantified right which casts a cloud on any subsequent appropriation and frustrates State administration. I would note that the State of Wyoming administers all water rights including those held by the Federal Government through preemption. This requirement is consistent with legislation for the Cache La Poudre River designation in that the Secretary is required to perfect a reserved water right through procedures of State law. In the case of Colorado, that is through the State water court; in Wyoming the applicable process is through the State engineer.

The language declares that flows for the purpose of this designation are a beneficial use of water and fixes the priority date of the water and fixes the priority date of the water right reserved as the date of this act. The intent of Congress is to declare the designated purposes a beneficial use, while directing the Secretary to proceed with investigations to evaluate the quantities needed to meet the purposes of the designation and to present and defend that information and documentation in the form required by State law to obtain a water right. Technical review, public hearing and approval required by State law will occur with judicial review, if necessary, of administrative decisions by the Wyoming courts..

It is my expectation that the Secretary will make application to the State within 3 to 5 years of the date of enactment and I will work to ensure that the Federal Government has the resources and the resolve to do so. The State requires certainty in the quantification process in a timely manner so that an open ended reservation of water by Congress is not left unresolved.

This meets our intent to allow Wyoming State law to continue to control and administer issues of water resources within her boundaries. Congress must not override the State law decision process which provides equal protection to all interests while addressing the need to protect the values stated in this act.

In addition to the new water section, the authorization for acquiring a scenic easement on the private property located within the designated segment is boosted to the amount of \$750,000. The bill provides that any purchase occur only on a willing buyer/willing seller basis and the owners of the property are willing, and working now with the Forest Service to sell an easement to protect the natural qualities of the wild river. The funding increase should insure that the Federal Government has the ability to keep its side of the bargain.

On another point, I would like to clarify that it is our intent that water from the downstream impoundment will not be allowed to intrude upon the designated segment. In fact, the segment's lower boundary was specifically shortened to prevent such a conflict.

Finally, Mr. President, I would like to thank Senator Bumpers and his staff, Beth Norcross and Tom Williams, for their willingness to work with us to come up with a responsible and balanced measure.

And, I would like to personally thank the minority staff on the Energy Committee for their hard work, professionalism and assistance. Jim Beirne and Gary Ellsworth are two of the best hands around, Mr. President, and Jim O'Toole's help has been most valuable. I thank them and I thank the chair for allowing me to make this statement on the Clarks Fork wild and scenic bill.

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

Mr. BENTSEN. Mr. President, this legislation is the culmination of a great deal of work by the many citizens of San Antonio who strongly support the San Antonio Missions National Historical Park, and I urge its passage by the Senate. The establishment of the San Antonio Missions National Historical Park was one of the more satisfying accomplishments of my Senate career, and I am pleased now to sponsor this needed boundary adjustment. I salute my distinguished colleague in the Texas delegation, the very able Congressman Albert Bustamante, for his leadership in introducing [*S17480] this bill in the House and winning its passage there.

I also want to express my appreciation to the distinguished chairman of the Subcommittee on Public Lands, National Parks, and Forests, Mr. Bumpers, and the chairman of the Committee on Energy and Natural Resources, Mr. Johnston, for their consideration and assistance. They have brought this bill to the floor promptly and without amendments. Thanks to their efforts we are in a position to pass this bill in the Senate and send it directly to the President to be signed into law.

The bill now before the Senate will authorize an expansion of the San Antonio Missions National Historical Park. This expansion will implement recommendations made by the National Park Service in a February 1990 report. This bill would add 335.5 acres to the park, expanding it to 832 acres. Much of the land to be added would be donated by the city of San Antonio, the Catholic church, and the State of Texas. The new boundaries will provide additional protection to these historic resources and improve the administration of the park and the visitor's experience.

The bill will also raise the current \$500,000 authorization ceiling for park development, clearing the way for the appropriation of funds for badly needed improvements to the park, such as a visitor center, in time for the celebration of the Christopher Columbus quincentennial in 1992.

Enacting this bill into law is a most appropriate way to recognize and celebrate National Hispanic Heritage Month. The San Antonio missions are a unique and priceless reminder of our proud Spanish heritage. They date back to the first Spanish settlements in the year 1718. For the better part of three centuries these missions have been active churches.

They are living monuments to the past development of the great Southwest and to the impact of the Spanish component of our heritage on our entire Nation.

The San Antonio Missions National Historical Park is strongly supported by the people of San Antonio, the city, other interested organizations and agencies such as the Catholic church and the San Antonio River Authority, and the State of Texas. The San Antonio Conservation Society played a major role in the passage of the legislation establishing the park. The many citizens of San Antonio who are actively interested in the missions have formed a friends organization known as Los Compadres de San Antonio Missions National Historical Park. Los Compadres members now number over 1,300 individuals and businesses, and they have raised over \$1 million in just 6 years for restoration, rehabilitation, and development projects in the park.

This legislation will help provide the additional Federal support needed to complement those local efforts and to make the San Antonio Missions National Historical Park the showcase of our nation's Spanish heritage that it should be.

Mr. President, 12 years ago I sponsored the legislation that established the San Antonio Missions National Historical Park in order to provide needed recognition and protection to these missions and their associated facilities. As a result, the Missions San Jose, Concepcion, San Juan, and Espada and associated structures, such as the acequias and the Espada Dam, are now part of this park.

Twelve years ago the establishment of this park was just a dream, but it was a dream on the verge of fruition. Now the park is an established, successful reality. The San Antonio Missions National Historical Park is the third most popular visitor attraction in San Antonio, and the 10th most popular destination in Texas. It attracts over 500,000 visitors per year. That is the official count, but due to the difficulty of counting the visitors estimates of actual visitation range up to 1.5 million per year. The San Antonio Missions National Historical Park is expected to attract even more visitors in 1992 as a major New World center of the celebration of the Christopher Columbus quincentennial.

However, the visitor and interpretive facilities of this park are totally inadequate, especially in light of the current and expected visitor levels. Since the establishment of the park, not a single dollar of Federal money has been spent for improvements. The annual operating budget is less than half the level projected when the park was established, even though the projected visitation levels have been reached.

This park is expected to be the major U.S. center of the celebration of the upcoming Christopher Columbus quincentennial in 1992. However, if no changes are made the visitors who come to explore the 500-year history resulting from Christopher Columbus' famous voyage of discovery will not even have a visitor center available to help tell the story, and without a visitor center it will be impossible to share with park visitors the impact which 500 years of Spanish influence has had on our continent. The need for a visitor center is further underscored by the fact that the Park Service has been forced to move out of their former quarters at Mission San Jose due to raccoons, rats, mice, and

other visitors which could not be controlled due to the deteriorated condition of the building.

Last year I helped get funds appropriated for planning a badly needed visitor center at Missions San Jose. It is my hope that we will be able to complete this job by appropriating the needed construction funds for that visitor center this year so that it can be ready in time for the celebration of the Christopher Columbus quincentennial in 1992.

The proposed visitor center would be constructed partially on lands added by this bill. Additional lands would be added around Missions San Jose and Concepcion. Additional parts of the acequias for Missions San Jose, San Juan, and Espada would be added, and the Rancho de las Cabras, where livestock was raised for the Espada Mission, would also be added.

Mr. President, this legislation will help provide the additional Federal support needed to support local and state efforts and make San Antonio Missions National Historical Park the showcase of our Nation's Hispanic heritage that it should be. I urge its adoption by the Senate.

LAKE AMISTAD NATIONAL RECREATIONAL AREA

Mr. BENTSEN. Mr. President, this legislation is long overdue, and I urge its passage by the Senate. I salute my distinguished colleague in the Texas delegation, the very able Congressman Albert Bustamante, for his leadership in introducing this bill in the House and winning its passage there.

I also want to express my appreciation to the distinguished chairman of the Subcommittee on Public Lands, National Parks, and Forests, Mr. Bumpers, and the chairman of the Committee on Energy and Natural Resources, Mr. Johnston, for their consideration and assistance. They have brought this bill to the floor without amendments. Thus, Senate passage of this bill today will enable it to be sent directly to the President and signed into law.

The Amistad Dam and reservoir are located on the Rio Grande River just upstream from the cities of Del Rio, TX, and Ciudad Acuna, Coahuila. The U.S. side of the lake is now the Amistad Recreation Area and is managed by the National Park Service under a memorandum of agreement with the International Boundary and Water Commission.

This legislation would elevate the status of this area by making it a national recreation area. This would give the National Park Service a more permanent presence and a stronger mandate to act to preserve the area's cultural resources, which are nationally significant. This legislation is strongly supported by the Texas Historical Commission, which has led the effort to protect the valuable cultural resources of this area. The Amistad area contains the highest concentration of prehistoric dry cave sites in Texas. These remains document 10,000 years of nearly continuous aboriginal prehistoric occupation along the Rio Grande River. The cultural remains at these sites are deeply

stratified and contain textiles, bone and wood implements, decorative ornaments, food remains, and stone tools. Pictograph panels adorn many shelter walls. The human record contained in this area is unsurpassed in the State of Texas and much of North America.

[*S17481] However, many of these priceless sites have not been well cared for over the years. Increased visitation brought about by the completion of Amistad Dam and the filling of the lake has brought with it an increase in vandalism and other damage.

Elevating the status of this important area would provide a new impetus for the conservation, preservation and interpretation of the natural and cultural resources at Amistad. This legislation would allow the lake to continue to be a wonderful spot for public outdoor recreation and enjoyment, while at the same time helping to preserve the priceless national treasures housed in and near this area.

This is a nonpartisan issue, and the legislation has been endorsed by Governor Clements, the Texas Historical Commission, the United States-Mexico International Boundary and Water Commission, and the National Park Service.

This is legislation whose time has, I think, finally come. I first introduced legislation to establish the Amistad National Recreation Area with Congressman O.C. Fisher, Congressman Bustamante's predecessor, in the early 1970's. At that time it was opposed by the agencies involved, and it did not pass. I believe that since that time there has come about an increased sensitivity to the value of these irreplaceable reminders of our human history, and that dispute has now been settled.

Mr. President, this is a good bill. It will not change the existing management program for this area, and visitors who have been using and enjoying the Amistad area will notice no change except possibly the name on the sign out front. However, this change in status will enable Amistad to compete more effectively within the National Park Service budgeting process for funding, and it will highlight the attractiveness of this splendid area for potential visitors. I urge its passage by the Senate.

LAKE MEREDITH NATIONAL RECREATION AREA

Mr. BENTSEN. Mr. President, the legislation now before the Senate will make a significant contribution to the economic growth and development of the northern Texas panhandle area associated with Lake Meredith. I salute my distinguished House colleague, Congressman Bill Sarpalius, for his leadership in developing this legislation and passing it through the House of Representatives. Although only in his first term in Congress, Congressman Sarpalius was quick to recognize the importance of this legislation in terms of the positive impact that it promises for the tourism industry in the Texas Panhandle and for the benefits that it could help provide to the many Texans who now regularly use and enjoy the Lake Meredith area. He has been most effective in moving this bill through the House of Representatives, and I am pleased to be able to work with him in getting it passed in the Senate and sent to the President to be signed into law.

I also want to express my appreciation to the distinguished chairman of the Subcommittee on Public Lands, National Parks, and Forests [Mr. Bumpers] and the chairman of the Committee on Energy and Natural Resources [Mr. Johnston], for their consideration and assistance in bringing this legislation to the floor in a timely fashion and without amendments. Senate passage of this bill exactly as the House has passed it will clear it to be sent to the President and signed into law.

This legislation, which I strongly support, will designate Lake Meredith as a National Recreation Area, thereby making this unique area a full-fledged unit of the National Park System.

Lake Meredith was constructed by the Bureau of Reclamation as a water supply project in the mid 1960's. Since 1965 the area around Lake Meredith has been managed by the National Park Service under a memorandum of understanding with the Bureau of Reclamation, while the dam is operated by the Canadian River Municipal Water Authority.

Designating Lake Meredith as a National Recreation Area would codify the long-standing administrative arrangements between the Bureau of Reclamation and the National Park Service. Also, directing the NPS to assume permanent responsibility for resource protection, visitor services, and development should allow Lake Meredith to compete more effectively within the NPS for development and other funding needs. Just as a farmer can be expected to spend money for improvements on the land that he owns instead of the land that he rents, I think that the NPS may give a little higher priority to Lake Meredith when it is something more than a contract management situation.

This bill will also provide additional recognition to Lake Meredith as a tourist attraction. Lake Meredith is now the second most popular facility in the NPS southwest region, attracting some 1.5 million visitors annually.

In addition, the Lake Meredith park area already contains the Alibates Flint Quarries National Monument, which is the only National Monument in the State of Texas. This unique area was a source of flint for ancient Indian tribes throughout much of the American Midwest, and it contains over 400 archeological sites, some of which are over 12,000 years old.

Mr. President, this bill will not in any way affect the management of Lake Meredith. The average visitor will notice no difference. Existing activities, such as hunting on these public lands, will be preserved unchanged. Oil and gas production, of which there is a considerable amount in the Lake Meredith area, will continue unchanged.

No visitor fees will be charged as a result of this legislation. I might add that the NPS already has the authority to charge entrance fees at Lake Meredith. It is the same authority that they have for other units of the National Parks System. This bill will not change that authority. The NPS has chosen not to charge entrance fees at Lake Meredith

simply because they felt that the nature of the park made it too difficult administratively to collect such fees.

This legislation would grant long-overdue recognition to this area and would codify the long-standing and amicable relationship between the NPS, the Bureau of Reclamation, and the CRMWA. Mr. President, this legislation is most timely and helpful to the Panhandle area. I urge its passage by the Senate.

AMISTAD NATIONAL RECREATION AREA

Mr. GRAMM. Mr. President, I rise today in support of H.R. 967, a bill to establish the Amistad National Recreation Area which is a title of the pending bill H.R. 2570.

This legislation would create a unique resource at the International Amistad Reservoir along the Texas-Mexico border near Del Rio, TX. This area is managed by the National Park Service in conjunction with the International Boundary and Water Commission under a memorandum of agreement. Therefore, this bill would recognize the significance of these resources and establish a permanent method of preserving them.

Along the banks of the reservoir are prehistoric cave sites which contain numerous examples of rock art and pictographs and document nearly 10,000 years of continuous prehistoric occupation. In addition, there are numerous other cultural resources in the surrounding area resulting from early efforts to settle the area and the second transcontinental railroad.

The Amistad Reservoir is visited by nearly 1 million people each year, and the area is a popular site for outdoor activities, including fishing, boating, scuba diving, and hunting.

Mr. President, this legislation would ensure that these important artifacts, which are significant to the Nation, are preserved for the education and enjoyment of future generations of scholars and tourists. I thank you for this opportunity and urge my colleagues to give their approval to this bill.

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARKS

Mr. GRAMM. Mr. President, I rise today in support of H.R. 4811, which will expand the boundaries of the San Antonio Missions National Historical Parks, which is a title of the pending bill.

This legislation would add over 300 acres to this system of parks which comprise one of the greatest concentrations of Spanish Colonial architecture in the New World. A recent study [*S17482] identified additional historic resources that were not included when the parks system was originally designated. These include the Rancho de las Cabras, the working ranch which supported Mission Espada, in Floresville, TX.

The Missions National Historical Parks are the 10th most popular tourist destination in Texas. Local leaders estimate that over 1 million visitors tour the missions annually. During the economic summit of last July, First Lady Barbara Bush hosted a tour of Mission San Jose for the spouses of the G-7 leaders.

In addition, a citizens group, Los Compadres de San Antonio Missions National Historical Park, has supported the park through extensive private fundraising efforts. These efforts have resulted in physical improvements to the park, including the new visitors center at Mission Concepcion, as well as archeological research and architectural restoration.

This legislation would also permit the development of additional visitors centers and interpretive displays at the missions. It is my hope that these improvements can be completed in time for the upcoming quincentennial celebration of Christopher Columbus' discovery of the New World so that visitors will be provided with additional information regarding the role of the missions in the development of Texas and the West.

These parks play an important role in the economy of San Antonio and the surrounding area and are strongly supported by the community. Mr. President, I urge my colleagues to show their support for the missions as well and to act favorably upon this legislation.

Mr. DeCONCINI. Mr. President, I rise today in strong support of H.R. 2570 the Arizona Desert Wilderness Act of 1990. This legislation represents almost 2 years of continuous work by the Arizona congressional delegation and I am proud to have played role in its drafting and ultimate enactment.

As the Senate considers this legislation, a brief history of how we arrived at this point is in order. H.R. 2570 represents the consensus Arizona congressional delegation position on wilderness in our State. It is, with several exceptions, identical to S. 2117, the second wilderness bill that my colleague Senator McCain and I have introduced this Congress. The first, S. 1080, was introduced last May and it would have designated as wilderness 895,150 acres of Bureau of Land Management and Fish and Wildlife Service lands. That legislation, for the most part, adopted the BLM recommendations on suitable acreage for wilderness designation in my State. At that time, I stated that we were introducing that legislation to elicit a thorough and candid analysis of this issue by our colleagues and constituents. Also, last year in the House, the senior member of the Arizona delegation, Chairman Udall, introduced two wilderness bills that would have placed over 2.7 million acres of Federal land in the wilderness preservation system.

Our second wilderness bill, S. 2117 and the bill before the Senate today, H.R. 2570, reconciles the differences between Chairman Udall's original bill and S. 1080.

Mr. President, I am happy to tell you and the Members of this body that my goal of a thorough and candid analysis has indeed been accomplished. After many months of discussions among members of the Arizona delegation, hearings both in Arizona and Washington, meetings with constituents and staff, we have arrived at the bill before you

today -- a consensus Arizona wilderness bill. This bill reflects what, in my opinion, is widespread agreement throughout my State on what wilderness should be in Arizona. While it does not contain everything that everybody wanted, this legislation is a fair and balanced wilderness bill.

This consensus bill designates, as wilderness, approximately 1.1 million acres out of the 2.1 million acres of BLM land currently in wilderness study status in Arizona. The land that is not designated as wilderness by this act will be released to multiple-use management. A particular emphasis of this bill is the protection of Arizona's rapidly disappearing desert riparian areas. Out of the seven riparian areas considered for wilderness suitability by the BLM, six are included in the wilderness preservation system and one, the Gila Box, will be made a National Riparian Conservation Area.

The major difference between Senator McCain's and my original bill and S. 2117 and H.R. 2570 is the inclusion of two large wildlife refuges: The Kofa and Cabeza Prieta National Wildlife Refuges. When we introduced our first bill last year, I had concerns that the designation of these refuges as wilderness would impact the ability of the refuge managers to manage the very significant wildlife resources within them. However, in testimony before the House Interior committee, John Turner, the Director of the Fish and Wildlife Service, allayed these concerns. He stated:

[T]he analysis and selection of management methodologies that comprise the requisite minimum tools for use in a wilderness area have not precluded positive management actions.

And --

On the KOFA Refuge, maintenance of approximately 80 existing wildlife watering facilities and construction of 7 new sites has occurred since the original [wilderness] proposal was submitted to Congress. On the Cabeza Prieta Refuge, similar habitat management efforts have also been implemented. We have modified methods of personnel and material transport from wheeled vehicles to helicopters where appropriate, but such modifications have not caused us to deay or forgo in any manner management actions considered necessary to further our mission in the administration, protection, and enhancement of the lands and wildlife for which we are responsible.

There are a number of other issues concerning this wilderness bill that I would like to touch upon briefly. The vast majority of the wilderness areas designated by this bill are in a desert environment with very little, if any, water associated with them. The question of whether a wilderness designation implies an additional water right has always been very controversial in the West and it was difficult for the delegation to reach a consensus on this issue. However, we in the Arizona delegation consider ourselves fortunate to have two outstanding water lawyers, Jon Kyl and John Rhodes. They worked with Chairman Udall and the Arizona Department of Water Resources to draft an amendment to the House bill that addresses the issue of the Federal reserve water rights in wilderness areas. I do not believe it is an issue as to whether or not the creation of a wilderness area creates

a reserve water right. Rather, I believe it to be an issue of how and in what arena these water rights will be quantified. The language that was adopted by the House states clearly that it is Congress' intent that these reserve water rights be quantified and clarified in the courts of the State. Furthermore, the language declares that this approach only applies to this bill. It is my belief that these issues should be resolved on a State-by-State basis. The water language in this bill is an Arizona solution for an Arizona wilderness bill.

There is an additional water issue that affects only two proposed wilderness areas; the Swansea Wilderness Study Area [WSA] and the Rawhide Mountains WSA. It is my understanding according to the participants in the water rights discussion, that this issue was not part of the agreement on the water rights language, that this issue was not part of the agreement on the water rights language. These two areas are in the Bill Williams watershed. This watershed contains the only significant unappropriated water rights in the State and the Arizona Department of Water Resources has indicated that there is a pending application for the unappropriated water in this watershed. It is our intent that the priority date for the reserve water right created by this legislation is the priority date of enactment and therefore, junior to both senior vested rights and pending applications for unappropriated water filed before the date of enactment.

Another wilderness issue that the Arizona delegation addressed was the issue of management of wildlife in wilderness areas. It is my personal opinion that Congress needs to further clarify and define the appropriate role of wildlife managers and Federal agencies in the management of wildlife within the wilderness areas designated by this legislation. As I stated earlier, [*S17483] many of the areas designated as wilderness by this bill are in a desert environment. Development pressures have greatly reduced the natural habitat of many species of wildlife. For example, the migratory patterns of the desert bighorn sheep have been disrupted by roads and other man-made obstacles. This prevents this species, in many instances, from seeking out its natural waters. In many of the areas designated as wilderness by this legislation, there do not exist natural sources of water and as a result the wildlife managers have had to undertake measures to provide it. The Arizona delegation wanted to ensure that these practices would be able to continue in wilderness areas. The bill before us today reflect this desire. We came to the conclusion that by including the wilderness wildlife management guidelines developed by the International Association of Fish and Wildlife Agencies in the committee report with a statutory reference in the bill, this will state, clarity, that wildlife management is compatible with wilderness.

Concerning cattle grazing, the delegation agreed that the guidelines contained in the Colorado bill, Public Law 96-560, have been successful in allowing for the proper management of livestock grazing in wilderness areas. The committee report includes these guidelines and the bill we are considering today contains a statutory reference to them.

As I stated earlier, a particular emphasis of this bill is the protection of Arizona's rapidly disappearing riparian areas. With the indulgence of the committee, I would like to take a moment to highlight two of these areas and outline briefly issues that we would like to

have addressed by the committee. The one area that, in my mind, typifies the cooperative spirit in which this bill was drafted in White Canyon. White Canyon is located within an hour's drive of Arizona's largest metropolitan area. It is an area of tremendous beauty containing a deep and dramatic gorge with a perennial stream flowing through it. A significant number of wildlife species make their home in White Canyon. These include the mountain lion and black bear as well as a number of special status species. A major mining company, ASARCO Minerals, expressed to the delegation very significant concerns that the creation of this wilderness area would hamper its ability to develop its significant mineral resource in the vicinity. At the suggestion of the Arizona congressional delegation, ASARCO, wilderness proponents and BLM sat down and came to an agreement that will allow this area to become a wilderness area. It was agreed that with a modest boundary adjustment and report language recognizing the possible existence of this mine and stating that the designation of this wilderness area is not intended to prevent them from developing their resources outside the boundary, they would be able to continue with plans for this mine. The committee report accompanying this bill contains this language.

An area that is also worthy of mention is Upper Burro Creek. This area was not recommended for wilderness by BLM because the State of Arizona-owned three key sections bordering the 8.5 miles of Burro Creek within the WSA. Those State land sections have since been acquired by BLM making it a much more manageable wilderness area. This unit consists of a steep, scenic canyon along Burro Creek and a large mesa. Upper Burro Creek is estimated to contain more than 25 percent of the wildlife species occurring in Arizona; more than any other BLM WSA. This area also contains many National Register quality archaeological sites. Santa Fe Minerals still holds substantial subsurface mineral rights within the Upper Burro Creek wilderness area. It is important for me to note at this point that this company has been a responsible corporate entity in Arizona. This is evidenced in part by the fact that Santa Fe negotiated the exchange of approximately 140,000 acres of subsurface mineral rights which enabled eight areas to be designated as wilderness by this bill. I have significant concerns that we are forcing this company to enter into another exchange so that they will not have to deal with the difficulties inherent with developing their resources in a wilderness area. Accordingly, at both Senator McCain's and my request, statutory language was included in the bill to make it clear that it is Congress' intent that it is in the public interest to acquire the private subsurface mineral estate within the wilderness area.

Mr. President, Senator McCain and I have a number of amendments that are, for the most part, technical in nature. Those that are not include an amendment clarifying that the flood control operations of Alamo Dam and the dams of the Colorado River are not to be affected by this legislation. Also, responding to the concerns of the senior Senator of New Mexico, we are offering an amendment that clarifies that the creation of the Gila Box Riparian National Conservation Area will not impact the allocation of water to the State of New Mexico pursuant to the Colorado River Basin Project Act of 1968. Mr. President, in coming to agreement on this wilderness bill, Arizona has once again demonstrated why its delegation is unique among those in Congress. We don't always see eye-to-eye on every issue, but we are able to put aside partisan differences for the good of the State we

serve. This consensus wilderness bill is further example of this cooperative spirit. Each and every member of the Arizona delegation has made his mark on this legislation.

I particularly want to thank my colleague, Senator McCain, for his tireless efforts in working with me on this bill. Without the hard work of Senator McCain and John Raidt of his staff, we would not be in a position to pass this legislation. It has been a pleasure to work with the both of them.

I also want to say a few words about my good friend, Mo Udall, chairman of the House Interior Committee. Over the years, he has earned my respect and admiration for his leadership on natural resource issues. He kept the delegation moving forward toward a compromise bill. His commitment to seeking this work completed has been an inspiration to me.

I want to also express our appreciation to the Governor of Arizona, Rose Mofford and her staff, particularly Bill Plummer of the department of water resources and Duane Shroufe with the game and fish department. Their expertise and counsel has been helpful and appreciated by this Senator. Their suggestions have been constructive and have made the Arizona wilderness bill a better bill.

Mr. President, almost 60 percent of the total landmass in Arizona is owned by the Federal Government. In Arizona, we are fortunate to have outstanding land managers who administer this land. The process by which this bill was drafted has once again reinforced this fact in my mind. The Arizona Desert Wilderness Act designates both BLM and Fish and Wildlife Service lands as wilderness. Beau McClure and Dean Bibles of the BLM and Mike Spear, Jennifer Fowler-Propst, Bob Schumaker, and Milton Haderlie of the Fish and Wildlife Service deserve special recognition for all of their assistance to the delegation as we proceeded with this legislation.

I also want to extend my gratitude to Chairman Johnston and Senator McClure for their efforts in ensuring the timely consideration of this legislation. Also, the chairman and ranking member of the Public Lands Subcommittee, Senator Bumpers and Senator Wallop, have played a critical role in the passage of the Arizona Desert Wilderness Act. Their counsel, and that of their staff -- David Brooks, Tom Williams, and Jim Beirne -- has been constructive and in my opinion, resulted in a better bill. The Arizona delegation has worked long and hard to get to this point and without their assistance it would have all been for naught.

As codrafters of this legislation, I have a number of issues I would like to raise with my colleague Senator McCain, in order that our intent concerning this bill is clarified.

PRIVATE OWNERSHIP WITHIN THE WILDERNESS AREAS DESIGNATED BY H.R. 2570

Within the boundaries of the upper Burro Creek Wilderness Study Area for example, there are approximately 6,000 acres of private mineral estate beneath the federally owned

surface estate. H.R. 2570 was amended to include [*S17484] language stating that it is Congress' intent that private mineral estates should be acquired by the Secretary of the Interior in as timely fashion as possible.

Mr. McCAIN. The senior Senator from Arizona is correct. Because development of the private mineral estate is likely to be incompatible with the wilderness values of the area. I believe that it would be in the public interest for the Secretary to acquire the private mineral estate ownership by exchange not only in this wilderness area, but the others designated by this legislation. H.R. 2570 was amended which will hopefully facilitate such exchanges. This provision is contained in section 101(j) of H.R. 2570.

Mr. DeCONCINI. I thank the Senator. He and I are in agreement on this issue. It is certainly in the public interest for the Secretary to use his existing authority to acquire the private mineral estate in the wilderness areas designated by this legislation and I hope he would do so in as timely a fashion as possible.

SANTA RITA AMENDMENT

Mr. McCAIN. The intent of title V of Public Law 100-696 was: First, to satisfy the debt of the State of Arizona for State land taken by the Bureau of Reclamation for construction of the Central Arizona Project [CAP]; and second, to provide for the acquisition of all State lands described in the act through exchange or eminent domain. The eminent domain authority was included because of the uncertainty under Arizona law whether the State would have exchange authority. The Arizona Supreme Court, in a subsequent decision, held that it did not.

The legislation identifies six State areas -- Black Canyon Corridor, Lake Pleasant, Catalina State Park, Arivaca Lake, Madera-Elephant Head and Buenos Aires National Wildlife Refuge -- for Federal acquisition and provides for the termination of several withdrawals on four Federal parcels to allow for disposal -- Santa Rita Experimental Range, Red Mountain, and Fish and Wildlife Service's lands in the Havasu and Imperial National Wildlife Refuges. Title V was a plan worked out between the Federal and State land management agencies to better serve the public and to improve the management and administration of the lands involved.

Appraisals for the CAP, Federal and State land areas reflects a Federal deficit of \$26.5 million. In an effort to accomplish the intent of title V, the BLM and the State looked to section 28 of the State's Enabling Act to satisfy the CAP debt and looked at public lands outside those specifically identified in title V to compensate the State for lands to be taken by eminent domain.

Unfortunately, the Department of the Interior Field Solicitor has determined that section 501 of the act precludes the use of section 28 of the Enabling Act to satisfy the CAP debt and that lands other than those specifically described in the act cannot be used to compensate the State for lands taken by eminent domain.

This opinion is inconsistent with the intent of title V. The authors of the legislation had no intention or expectation that section 501 of the act would eliminate the option of using section 28 of the State's Enabling Act to satisfy the remainder of the CAP debt to the State. Furthermore, this opinion is inconsistent with the intent of the law as described in section 502(a), which is to acquire all State lands listed in the act. Therefore, technical amendments to title V of Public Law 100-696 clarifying our original intent are necessary. The amendments will allow the satisfaction of the CAP debt, the acquisition of all State trust lands described in title V and the transfer of lands to the State which have value for the school trust.

Mr. DeCONCINI. That is correct. These amendments clarify that title V does not preclude the State's selection rights for the CAP compensation under section 28 of the State's Enabling Act. The amendments reaffirm that section 502(b) authorizes compensation in the form of additional public lands determined by the Secretary of the Interior to be of equal value to lands taken from the State by eminent domain. Also, the amendments clarify that lands described in section 507 can be used as compensation for State lands acquired under the act.

Mr. McCAIN. That is correct. Title V provides an additional authority, not the sole authority, for satisfying the CAP debt. It is also important to point out that this clarification of section 502(b) does not establish new exchange authority. It is strictly limited to the payment in public lands for the State lands described in title V that are taken by eminent domain.

Mr. DeCONCINI. That is my understanding also. The Arizona Supreme Court has ruled that State exchanges are unconstitutional and that a constitutional amendment is required to allow future exchanges. Although a constitutional amendment will be on November's ballot, there is no assurance that the initiative will pass. If it does not pass, the possibility of being able to acquire in the foreseeable future these State lands, which have very significant natural resources values, will be lost. Therefore, it is extremely important that these technical amendments be made at this time so that the results of our efforts in 1988 can be realized.

Mr. McCAIN. I ask unanimous consent that a letter from the Arizona State Land Department requesting the clarification involved in these amendments be included in the Record. Also, we are expecting a letter from the Department of the Interior in the near future requesting that clarifying technical amendments be introduced so that the intent of title V can be realized.

There being no objection, the material was ordered to be printed in the Record, as follows:

Arizona State Land Department,
Phoenix, AZ, September 24, 1990.

Hon. John McCain,
Russell Senate Office Building,
Washington, DC.

Dear Senator McCain: I am writing to ask for your support for including a Technical Amendment to Title V of the Arizona-Idaho Conservation Act of 1988 as part of the Arizona Wilderness Bill. The amendment would enable the Arizona State Land Department and the Departments of the Interior and Agriculture to proceed with the Santa Rita Public Lands Exchange that was authorized by the Arizona-Idaho Conservation Act.

The Santa Rita Public Lands Exchange will allow the State and the Federal Government to reposition state trust and federal public lands with major environment benefits. Trust lands inside parks, wildlife refuges and archeological areas will become Federally owned, and Arizona's University system will acquire the Santa Rita Experimental Range, an important wildland research area.

The Santa Rita Project has been three years on the making and is authorized by State legislation and Title V of the Arizona-Idaho Conservation Act. Unfortunately, Title V does not do all that we set out to do. It confines the State's selection rights to the Santa Rita Experimental Range and it does not authorize the Bureau of Land Management to add additional Federal lands to compensate the State for the higher value Trust lands that are designated for Federal acquisition by Title V.

We have reviewed the technical amendment that has been prepared for inclusion in the Arizona Wilderness Bill, and wholeheartedly endorse its inclusion so that we can proceed with the Santa Rita Public Lands Exchange project that is so vital to both Arizona, and the Departments of the Interior and Agriculture.

Please support the amendment.

Sincerely,
M.J. Hassell,
Commissioner.

SAFFORD DOMESTIC WATER SUPPLY

Mr. DeCONCINI. In addition to designating BLM and Fish and Wildlife Service lands as wilderness, H.R. 2570 also created the Gila Box Riparian National Conservation Area. This conservation area encompasses approximately 20,900 acres of prime riparian habitat along the Gila River and Bonita Creek. It is my understanding that the city of Safford obtains approximately 80 percent of their domestic water supply from Bonita Creek. Additionally, there are also several water delivery facilities within the conservation area that the city must have access for maintenance purposes. It is our intent that Safford's water supply from Bonita Creek as well as their ability to maintain these facilities not be

adversely impacted by the designation of the Gila Box Riparian National Conservation Area.

Mr. McCAIN. I am in absolute agreement with my colleague in this regard. It is my understanding from the BLM that there is a road that runs along Bonita Creek and is used by the city of Safford to maintain their water delivery [*S17485] facilities. The BLM feels that there is adequate administrative authority for them to continue to allow this use in the conservation area. It is my expectation that as the BLM prepares its management plan for the Gila Box Conservation Area, this historical use be recognized and allowed to continue.

WATER RIGHTS

Mr. McCAIN. Mr. President, as my colleague, Senator DeConcini, alluded to previously, the water rights language in this bill is the product of long and arduous negotiations involving a number of parties including, among others, members of the Arizona congressional delegation and the Arizona Department of Water Resources. I think that the language included in the bill is a sound and rational approach to deal with this controversial issue. However, after the bill was marked-up, an additional issue was raised concerning the Federal reserve water right created by this legislation and its relationship to pending applications for water filed with the Arizona Department of Water Resources. Two areas designated as wilderness by this legislation are in the Bill Williams watershed which contains the only significant unappropriated water in the State of Arizona. The city of Scottsdale has an application pending for the unappropriated water rights in this watershed. It is my understanding that under Arizona water law, the Arizona Department of Water Resources is bound to approve applications for water rights if they do not, among other things, conflict with vested rights. In view of the fact that the priority date of pending applications is the date they are filed with the Arizona Department of Water Resources and the priority date of the reserve water rights created by this legislation is the date of enactment, it is my understanding that the Federal reserve right would be considered junior to pending applications. Without commenting on the merits of this application, we believe that Arizona law allows the Arizona Department of Water resources to consider the pending application unimpeded by the existence of the Federal right.

Mr. DeCONCINI. My distinguished colleague has correctly assessed the situation with respect to the Swansea and Rawhide Mountains Wilderness Areas, the two areas in the Bill Williams watershed. Our intent always has been that the priority of date of the rights is the date of enactment and therefore junior to senior vested rights and pending applications filed before the date of enactment.

BLACK ROCK WASH ROAD

Mr. DeCONCINI. It is my understanding this amendment is intended to provide authority to the Secretary of the Interior and the Secretary of Agriculture for signing, fencing and

maintenance of that section of Black Rock Wash Road located within the boundary of the San Carlos Apache Reservation.

Mr. McCAIN. That is correct. This is a matter of particular concern to Congressman Kolbe who has requested the addition of this amendment. The Black Rock Wash Road is the sole access route for ranchers whose homes are adjacent to the Santa Teresa Wilderness area. In addition, the BLM and Forest Service need to use the road for administrative purposes. Therefore, upkeep of the road is important and the reason we are authorizing cooperative agreements to provide for maintenance.

Mr. DeCONCINI. There is some question as to whether the portion of Black Rock Wash Road located within the reservation boundary is a tribal road or a public road, how is that question affected by this amendment?

Mr. McCAIN. This amendment does not expressly or impliedly attempt to address the road ownership question. Resolving this longstanding controversy is beyond the scope of the wilderness bill and it would be inappropriate to address it in H.R. 2570.

WHITE CANYON

Mr. DeCONCINI. Mr. President, in a number of areas that we have considered for wilderness designation, there have been many existing mining claims and, additionally, a lot of expressed interest in mineral potential. By working cooperatively with the mining interests, the wilderness proponents, and the Bureau of Land Management, we have arrived at agreements that have allowed us to make some significant wilderness recommendations.

One such area that has been included in this bill is the White Canyon Wilderness Area. However, an additional concern of the mining interests in this area is the long planned development of significant mineral resources not far from the wilderness boundaries.

In making this recommendation, we are fully aware that these mining activities, as the company points out, could impact the White Canyon Wilderness in terms of noise, dust, vehicle emissions, or the other unusual byproducts of mine development. Nonetheless, Senator McCain and I have agreed that wilderness designation is very important in providing other protection to this unique and beautiful canyon.

Mr. McCAIN. That is certainly correct, Mr. President. This is a very significant riparian area and one which we felt deserved to be given wilderness protection. It is within a short driving distance from Phoenix, Arizona's largest metropolitan area; and, will certainly be under increased recreational pressure in the upcoming years. I think it is significant to also point out that the proposed mining operations are downstream from the canyon and that neither water quality nor quantity in the canyon should be affected in any way.

Mr. DeCONCINI. Mr. President, Asarco Mining Co., which is the company with mining interests in the area, has been very cooperative from the start in working with the Bureau

of Land Management and with the Arizona congressional delegation. They are willing to forego future mining opportunities within the canyon area, but have expressed serious concerns as to how wilderness designation would effect mining operations which are planned in the immediate vicinity. Again, there is no doubt that dust, noise, and other impacts of normal mining activities could be detected within the boundaries of the White Canyon Wilderness area.

Knowing that, we have recommended this wilderness designation with the expressed understanding that it is not our intent, nor the intent of Congress, to limit or restrict normal mining activities because of those effects. In fact, language was included in the committee report addressing this concern. The committee recognized that large-scale mining operations may be developed in relatively close proximity to the boundaries of the White Canyon Wilderness and it is not our intent to establish a wilderness area to impede or unduly limit those normal activities.

Mr. McCAIN. I would further point out, Mr. President, that the development and operation of these mining activities would be subject to all relevant Federal environmental laws and regulations and to all State and local laws, regulations, and permit requirements and I would hope that the company will do everything to mitigate impact to the greatest extent possible.

SAN CARLOS INDIAN COMMUNITY LAND CLAIMS

Mr. McCAIN. Certain lands within the Gila Box Riparian National Conservation Area are subject to claims by the San Carlos Apache Indian Tribe. Is it correct to say that the inclusion of these lands within the NCA is not intended to decide or in any way adversely affect the claims of the San Carlos Apache Tribe?

Mr. DeCONCINI. That is right. The inclusion of lands in the NCA is not intended to affect the claims of the San Carlos Apache Tribe. If through appropriate legal channels the boundary of the reservation is determined to include lands within the NCA, adjustment of the tribal boundary would in no way be affected or prejudiced by the NCA status.

Mr. McCAIN. Would the Senator agree that the inclusion of the lands claimed by the San Carlos Apache Tribe within the NCA will provide the area with more protection for the lands pending the resolution of the tribe's claims, than it would without the special status, where the land would be subject to mineral claims and other uses, and that the more protective NCA status benefits the tribe should its claims be found to be meritorious?

[*S17486] Mr. DeCONCINI. I believe that clearly to be the case.

The PRESIDING OFFICER. If there is no objection, the bill is deemed read the third time and passed.