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TITLE: NEVADA WILDERNESS PROTECTION ACT OF 1989

SPEAKER: Mr. BILBRAY; Mr. CHAIRMAN; Mr. DeFAZIO; Mr. GEPHARDT; Mr. KYL; Mr. LAGOMARSINO; MR. LEHMAN OF CALIFORNIA; Mr. MARLENEE; Mr. MICHEL; Mr. MILLER of California; Mr. RHODES; Mr. ROBERT F. (BOB) SMITH; Mr. SKAGGS; Mr. THOMAS of California; Mr. VENTO; Mrs. VUCANOVICH; Mr. VUCANOVICH; Mrs. VUCANOVICH

TEXT: Text that appears in UPPER CASE identifies statements or insertions which are not spoken by a Member of the House on the floor.

[\*H8894] The SPEAKER pro tempore. Pursuant to House Resolution 289 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 974.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 974) to designate certain lands in the State of Nevada as wilderness, and for other purposes, with Mr. Montgomery (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the amendment offered by the gentlewoman from Nevada [Mrs. Vucanovich] had been disposed of.

Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. WILDERNESS REVIEW CONCERNS.

(a) Findings. -- The Congress finds that --

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Nevada and of the environmental impacts associated with alternative allocations of such areas.

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

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Nevada, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Nevada;

(2) with respect to --

(A) the National Forest System lands in the State of Nevada that were reviewed by the Department of Agriculture in the second roadless area review and evaluations (RARE II); and

(B) the lands described in subsection (d),

that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Nevada reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness in section 2 shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604): PROVIDED, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Nevada are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and other applicable law, areas not recommended

for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purposes of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600-1614) and other applicable law; and

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

(c) Revisions. -- As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), the term "revision" shall not include an "amendment" to a plan.

(d) Application of Section. -- Lands identified by reference to this subsection are –

(1) National Forest System roadless lands in the State of Nevada of less than 5,000 acres; and

(2) Those National Forest System roadless areas, or portions thereof in the State of Nevada, identified in the unit plans listed below, which are not designated as wilderness in section 2: NATIONAL FOREST

	UNIT PLAN
Humboldt	Santa Rosa
Humboldt	Ruby Mt./E. Humboldt
Toiyabe	Mt. Charleston
Toiyabe	Central Nevada

The CHAIRMAN pro tempore. Are there amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

#### SEC. 6. GRAZING IN WILDERNESS AREAS.

(a) Livestock Grazing. -- Grazing livestock in wilderness areas designated in section 2 that was established prior to the date of enactment of this Act shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and section 108 of the Act entitled "An Act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion

in the National Wilderness Preservation System, and for other purposes (16 U.S.C. 1133 note).

(b) Review. -- The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in National Forest Wilderness areas in Nevada in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Reports -- Not later than 1 year after the enactment of this Act, and at least every [\*H8895] 5 years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the House or Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing the progress made by the Forest Service in carrying out the provisions of subsections (a) and (b).

The CHAIRMAN pro tempore. Are there amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

#### SEC. 7. PROHIBITION OF BUFFER ZONES.

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

The CHAIRMAN pro tempore. Are there amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

#### SEC. 8. WATER ALLOCATON AUTHORITY.

(a) Within the wilderness areas designated by this Act, there is hereby reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas created by this Act.

(b) The priority date of the water rights reserved in paragraph (a) shall be the date of enactment of this Act.

(c) The Secretary shall file a claim for the quantification of the water rights reserved in paragraph (a) in an appropriate stream adjudication and shall take all steps necessary to protect such rights in such an adjudication.

(d) The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously reserved or obtained by the United States for other than wilderness purposes.

#### AMENDMENT OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows: Amendment offered by Mrs. Vucanovich: Page 10, strike out line 17 and all that follows through line 6 on page 11 (all of section 8), and insert in lieu thereof the following:

#### SEC. 8. WATER RIGHTS.

(a) Within the State of Nevada, nothing in the Wilderness Act, this Act, or any other Act designating lands as wilderness shall constitute or be construed to constitute either an expressed or implied reservation of water or water rights for any purpose. Subject to the substantive and procedural requirements of the laws of the State of Nevada, the United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated by this Act as wilderness or special management areas. This section shall not affect any reserved water right which the United States may have acquired within the State of Nevada before the date of enactment of this Act.

(b) Reasonable access and means of access are hereby authorized for construction, completion, operation, repair, maintenance, or replacement of water facilities needed to exercise water rights existing on the date of enactment of this Act in areas designated wilderness under this Act and for facilities authorized by section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)). In the event that a natural occurrence prevents reasonable repair in the original location of a facility, then the facility may be relocated, or partially relocated, to a place where the replacement facility will operate in a comparable cost and manner as the original. A reasonable effort shall be made to conserve wilderness resources and locate the facility as close as possible to the original location.

Mrs. VUCANOVICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

Mrs. VUCANOVICH. Mr. Chairman, this amendment would replace section 8, the water allocation section of S. 974, with substitute language. As it reads now, this bill would establish a dangerous precedent of creating an expressly reserved water right to the

Federal Government for wilderness purposes above and beyond that already existing right to water under the Winters doctrine. That water right was impliedly granted, said the Supreme Court, when forest reserves were created by Congress about the turn of the century. We believe that this is sufficient water for wilderness purposes as well as for "forest creation."

The States of the arid West that allocate water under the doctrine of prior appropriation jealously guard the sovereignty that the courts have generally conceded rest with the States on this issue. I believe that the language of section 8 as now written would gratuitously toss this jurisdiction aside to grant a Federal preemption. True, the bill directs the Secretary to file the allocation with the State of Nevada, but it gives the Federal Government all the cards in the deck. The State of Nevada would be precluded now and evermore from adjudicating the basis of the right. The State could not deny a right although I acknowledge that our State engineer has testified that Nevada recognizes instream flows as a beneficial use for which a right may be sought. Furthermore, the State could not diminish the quantity that the Federal Government maintained is that necessary for wilderness purposes.

I have heard the argument, "Don't worry, all of Nevada's water is fully allocated anyway, so this bill will have no practical effect." We believe that this is all the more reason to demand that the language of section 8 be amended. There is absolutely no reason to preempt State sovereignty unless a compelling national need exists. Just last week this body debated whether such a Federal preemption was necessary on the oilspill liability question. I voted that it was not and so did a majority of the House. In this case, the answer is even more clear cut -- no Federal purpose is threatened by the State of Nevada's jurisdiction to adjudicate water rights, therefore do not preempt that jurisdiction.

Paragraph (a) of my amendment would instead clarify that no reserved water right is created by this act. It is limited to Nevada and even grandfathers whatever rights the courts may someday find to have been impliedly reserved in the Jarbidge Wilderness in 1964.

Mr. Chairman, I emphasize that this amendment does no harm whatsoever to the fish and fowl, game and plant species in the proposed wilderness. The water in these headwaters regions would remain protected by the Wilderness Act. The Winters rights are not under attack. This amendment simply states that another increment of water will not be automatically established by dint of this act, a perfectly reasonable approach. The Forest Service would not be precluded from seeking additional water rights, they simply would have to go to the appropriate State adjudication to do so and they would stand in line like anyone else must do.

Furthermore, paragraph (b) of my amendment would merely clarify the rights of grazing permittees and other with existing rights in the proposed wildernesses to be able to maintain stock watering improvements and the like after designation.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mrs. VUCANOVICH. I am very happy to yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentlewoman for yielding. I was going to make the same point that she just made.

Just last week we passed an amendment on the House floor which disallowed Federal preemption of State laws pertaining to oilspill cleanup and the gentlewoman's amendment is calling for similar treatment here.

Mrs. VUCANOVICH. The gentleman is correct.

Mr. LAGOMARSINO. I would like to also point out that the California Farm Bureau Federation is very concerned, and especially with the reserved water language in the bill, and opposes the bill because of that. They are concerned, as is the gentlewoman, with the precedent that this language in the bill will set. So I would urge my colleagues to support the gentlewoman's amendment.

MR. CHAIRMAN, I RISE TODAY IN SUPPORT OF THE AMENDMENT OFFERED BY MY COLLEAGUE, CONGRESSWOMAN VUCANOVICH, TO THE NEVADA WILDERNESS PROTECTION ACT. BY STATING THAT NOTHING IN THIS ACT SHALL CONSTITUTE OR BE CONSTRUED TO CONSTITUTE EITHER AN EXPRESS OR IMPLIED RESERVATION OF WATER OR WATER RIGHTS FOR ANY PURPOSE, THIS AMENDMENT ASSURES CONTINUATION OF A STATE'S RIGHT TO REGULATE WATER USE WITHIN ITS BORDERS.

JUST LAST WEEK WE PASSED AN AMENDMENT ON THE HOUSE FLOOR WHICH DISALLOWED FEDERAL [\*H8896] PREEMPTION OF STATE LAWS PERTAINING TO OILSPILL CLEANUP. SIMPLY PUT, MRS. VUCANOVICH'S AMENDMENT CALLS FOR SIMILAR TREATMENT FOR STATE LAWS PERTAINING TO WATER RIGHTS.

CURRENTLY, THE LANGUAGE IN S. 974 APPEARS TO BE AN ATTEMPT TO ESTABLISH A FEDERAL PREEMPTION OF WATER RIGHTS IN FUTURE WILDERNESS AREAS. SINCE ALL OF THE WILDERNESS AREAS DESIGNATED IN S. 974 CONTAIN HEADWATERS ONLY, THERE SEEMS TO BE NO VALID REASON FOR INCLUSION OF PREEMPTIVE WATER RIGHT LANGUAGE IN THIS BILL. IN ADDITION, BY CHANGING LONGSTANDING LEGAL PRECEDENT WHICH ENSURED SUFFICIENT RESERVED WATER RIGHTS FOR PUBLIC LANDS IN THE PAST, THE LANGUAGE IN S. 974 WILL MOST CERTAINLY COURT FUTURE LITIGATION.

THE VUCANOVICH AMENDMENT REPLACES UNNEEDED, GRATUITOUS LANGUAGE WITH LANGUAGE WHICH ASSURES NEVADA'S SOVEREIGNTY PERTAINING TO WATER RIGHTS. FURTHER, THE AMENDMENT CONTINUES LONGSTANDING PROVEN POLICY BY ALLOWING THE FOREST SERVICE TO

SEEK NEEDED WATER THROUGH NEVADA STATE LAW. I SUPPORT THE VUCANOVICH AMENDMENT AND URGE BY COLLEAGUES TO VOTE IN FAVOR OF IT.

California Farm Bureau Federation,  
Sacramento, CA, November 10, 1989.

Hon. Robert J. Lagomarsino,  
U.S. House of Representatives, Washington, DC.

Dear Representative Lagomarsino: The California Farm Bureau Federation wishes to state its opposition to S. 974, the Nevada Wilderness Protection Act. Our special concern is the language for a reservation of water for wilderness areas.

We are concerned with any legislation which would automatically create a federally reserved water right for wilderness areas. This issue is presently the subject of litigation in the Federal Courts of Appeals. We cannot forecast the manner by which such reservation would be effected, or the priority, relative to other pre-existing water rights, which such reserved rights would have. Most of the agricultural producers are downstream of the areas or within the areas that a wilderness designation would affect. These lands in most cases already have long standing high priority rights to the use of water, and in many cases the streams are already fully appropriated.

However, we would support an amendment to S. 974 which would do the following: (1) denies the automatic creation of a wilderness water right as the result of wilderness designation; (2) provides that a water right may be established if it is established in compliance with state water laws; and (3) preserves those water rights which have already been acquired by the federal government.

There are many appropriate rights to water in California which were acquired before 1914. Many of these rights could be affected since they are sequential, and can take water that riparian users do not need.

A proposed wilderness could sometimes be downstream of water-producing and water-consuming areas. If the wilderness areas carry a federally reserved water right, the upstream owners, could find their land restricted to future uses which do not exceed the quantity of present uses, even though their present riparian or groundwater rights were unexercised. This is not purely speculative since several years ago in Nevada the federal government required a private landowner to restrict groundwater pumping in favor of spring water supplied for desert pupfish.

It is critical that any wilderness designation should not force the western states into a legal straight jacket as far as water development is concerned. It is equally important that wilderness designations should respect existing property rights, particularly prior water rights. Therefore, we urge your support of the substitute language in paragraph three.

Sincerely,  
Bob L. Vice,  
President.

Mrs. VUCANOVICH. I thank the gentleman and urge support of this amendment.

Mr. VENTO. Mr. Chairman, I rise in opposition to this language.

The language in the bill that the Senate has sent to us is a good compromise. The Senate has made it quite clear in recent years that it would not allow any wilderness bill to become law without specific water rights language, and the present language of the bill is a carefully crafted bipartisan compromise approved by the Senate. As my colleague, the gentleman from Nevada [Mr. Bilbray] will point out, this language is supported by the Forest Service in specific testimony before our body and before the Senate. The fact is that the Forest Service and professional land managers favor the water rights language that is in the bill.

The current language expressly reserves water rights for wilderness areas designated in this bill. The language is included to make explicit Congress's intent to provide sufficient water to fulfill the statutory purposes for which the areas are set aside.

The express reservation of water in this act does not indicate and should not be read to mean that the absence of water rights language in other wilderness legislation reflects congressional intent not to reserve water for the areas designated in that legislation. To the contrary, silence on water rights has been taken to mean that Congress was relying on the long-established doctrine of Federal reserved water rights. The reservation of water is inferred as a necessary requirement to achieve the statutory purposes of the reservation of land.

Legal uncertainties have arisen since 1988, created by an erroneous Interior Department solicitor's opinion, about the application of the Federal reserved water doctrine to wilderness.

This bill expressly reserves water rights to avoid the risk that a court might interpret silence on water rights today as a decision by Congress not to provide water for Nevada wilderness, or worse, that Congress agrees with the 1988 solicitor's opinion. On July 23, 1988, the solicitor put out this opinion. We think it is false and we have to respond to it.

Existing water users in Nevada will be unaffected by this bill. The wilderness areas are all part of the headwaters of streams and high quality unpolluted water will flow out of the wilderness areas and be available to downstream users in the same quantity and quality as today. In fact, wilderness designation will ensure that water, so important to the people in Nevada, remains unpolluted by development and available in a high-quality state for their use.

Furthermore, the language specifically provides that wilderness will have a priority date junior to that of all existing water users.

The language in this amendment does not just deal with this bill. It is a clear attempt to void any water rights for wilderness areas across the 90-million-acre system of wilderness in this Nation.

I suggest that this is anything but a States rights amendment. The language that we have in the bill is being attacked as opposed to States rights when in fact it preserves the adjudication process for the allocation of water that has historically taken place in the States under State law, in accordance with the McCarren Act. It sets up a process where any water rights for wilderness that are effective on this date would go into this same allocation process within the State.

The State water engineer for the State of Nevada, who is a strong advocate for States rights with regards to water, testified in favor of the present language in the bill. Not a single Senator objected to these particular provisions. Obviously, the language in this bill is very good.

I am concerned that the protestations from the other side may in fact make the language seem to be less than it is. I would suggest it is very good language, and that we ought to concentrate our efforts on what is in the bill rather than on the creative sort of arguments which seem to abound on the other side of the aisle.

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN. I rise today to speak on one of the most valuable and fundamental property rights in the Western areas of the United States -- the right to access water.

Out West, where a shortage of water means the difference between life and death, we have a system that has stood the test of time.

Since 1866, Congress has repeatedly deferred to this system and the States rights to implement it.

But today we are throwing away over 100 years, of historical precedent, and for what? For nothing.

I submit to you that this bill's water rights language serves absolutely no environmental purpose; it is simply gratuitous.

I submit to you that the real purpose of this language is to set a precedent for other, more controversial wilderness legislation that this House will be considering in the near future.

Let me give you a little background into this issue.

The pioneers of Oregon and other States in the West were a hardy people who settled in arid, rugged and often unfriendly country.

[\*H8897] Faced with severe shortages of water, they were forced to develop a water-use system that would enable them to live in the semidesert climate. So they worked out a priority system for water use which is based on a simple concept, "first in time, first in right."

This early system has evolved into the backbone of modern water delivery, where water users are required to file their water rights, and claims are adjudicated in court. Judges quantify the amount of water entitled, and give each claim a ranking based on the date of the original claim.

Now in certain instances, the Federal Government has reserved a water right to itself. This has been an established practice since 1908, when -- in the Winters versus United States case -- the Supreme Court held that there are Federal water rights that accompany Indian reservations, national parks, and national forests.

However, until very recently, Congress has assumed that wilderness is a land management decision and has no effect on water rights, whatsoever. So unlike parks and Indian reservations, historically there has been no implied Federal water right for wilderness areas.

In the last 4 years, this issue has come before the courts.

In one Federal district court ruling in Colorado, referred to as the Kane decision -- 1985 - - the court found that creating a wilderness area implies a Federal reserved water right under the Wilderness Act of 1964.

In a conflicting decision, referred to as the Molybdenum case, the Federal District Court for New Mexico -- 1988 -- ruled that Congress did not intend to imply a Federal reserved water right for wilderness under the passage of the 1964 Wilderness Act.

Both of these decisions are being appealed, and the Supreme Court will probably be called upon to determine what the Congress really meant when it passed the Wilderness Act of 1964.

But today, we are sending an implicit message to the courts. We are telling them to disregard State sovereignty of water rights.

Now last week the House of Representatives debated at great length the issue of States rights when it considered the Oil Spill Prevention and Compensation Act.

I recall many Members pounding their fists, stomping their feet and turning red in the face over this issue.

So the House adopted amendments that protected States rights to enforce their own environmental laws.

We adopted these amendments even at the risk of creating a patchwork system for oilspill prevention and compensation that might actually slow down the very process we were seeking to speed up.

States rights are just that important.

So why aren't States rights important this week? Why should the House adopt language that is unnecessary, that is contradictory to current law in the West, and that sends a dangerous signal to the courts?

The arguments I have heard for doing so are weak, at best.

Without good cause we are threatening the viability of a water-allocation system that has been in use for over 100 years. Without good cause we are threatening the economy of every water dependent community in the West.

There are no objectives to be achieved by this bill which are not already fully achieved under existing law.

Due to the topography of these wilderness areas, the reservation of a Federal water right is really just a preemption of State law for preemption's sake.

The water resources in these areas are located in high altitudes, called headwaters, where there is no danger of diversion of the water.

So while there is nothing to be gained by this provision, there is a lot to be lost: I believe, along with my western colleagues, that this provision will be used as a model for future wilderness areas.

If the Congress adopts this language today, it will be a boilerplate provision when we create wilderness in downstream areas.

In these areas where the water is already appropriated for agriculture and municipal use we cannot afford to lose even one drop.

If the Congress wants to amend the Wilderness Act of 1964 and reserve a blanket water right for wilderness areas, so be it. While I would not support such an effort, at least the Congress would be clear on the issue.

But I simply cannot stand by and support legislation that will amount to nothing more than an invitation for lawyers across the West to make vast sums of money in an attempt to interpret what the Congress did or did not intend.

Let's say what we mean, and mean what we say. That's what we get paid for.

During hearings on this bill we were assured that this language refers only to Nevada, and is not intended to signal any court as to the intent of Congress for wilderness areas other than those created by this bill. I can say with confidence that not one western member of the Interior Committee minority supports including this water language in the bill.

I submit to you that this language will be used as a model for other wilderness areas.

I ask my colleagues to defer to the Members from the West who have lived this debate their whole lives.

I ask you to leave in place a water allocation system that has been relied on for over a century.

I ask that you refrain from sending a confusing signal to the courts currently debating this issue.

Please vote to delete this dangerous precedent from S. 974, and support the Vucanovich amendment to this legislation.

Under this amendment, the wilderness areas we're creating will be safe.

But if we do not accept the Vucanovich amendment, we stand to lose the entire war before we've fought any of the battles by setting a precedent over Federal water rights in wilderness areas.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to stipulate that the gentleman did not read the entire paragraph. I do not know that he wants to.

Mr. ROBERT F. (BOB) SMITH. I have read the entire paragraph, I followed the reading as the chairman read it. The interpretation is the way I see it.

Mr. BILBRAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, supporters of this amendment are trying to characterize this issue as a vote for States rights. That simply is not true.

I am a western Democrat, Mr. Chairman, born and raised in the State of Nevada. I am also a strong supporter of States rights, like many of my other colleagues from the West. The fact of the matter is, Mr. Chairman, is that the water language contained in S. 974 in no way infringes upon or preempts Nevada State law.

The Governor of Nevada, Bob Miller, knows this, and that is why he supports the bill; he even went so far as to write a letter to Speaker Foley in support of the water language. The State water engineer, Pete Morros, knows this, and that is why he testified in both the Senate and the House in strong support of this language. Let me quote some of Mr. Morros' testimony for my colleagues:

It is important to note at the outset that it has been my long standing position, and continues to be my position, that the State's authority and jurisdiction over our limited water resources must be protected. I have in the past opposed and will continue to oppose any attempt by Federal agencies or other federal interests to usurp, impede or in any way adversely impact this jurisdiction and authority ...

Mr. Morros goes on to conclude:

It is my opinion and conclusion that provisions, criteria and conditions set forth under Sec. 8, of S. 974, adequately protect the continuing authority and jurisdiction of the State of Nevada.

And finally, Mr. Chairman, if my Republican colleagues will not take the word of the Governor of Nevada and our State water engineer, let them [\*H8898] take the word of their own colleague from Idaho, Senator James McClure. Senator McClure, the ranking minority Member on the Senate Environment and Public Works Committee, which has jurisdiction over the bill and which held a hearing in July that dealt primarily with the water rights issue, Senator McClure is the gentleman most responsible for the language before us today; it is his language. It was written to satisfy his concerns over protecting the State's authority, and it subsequently passed the Senate by a voice vote.

Mr. Chairman, the need for this language is evidenced by the July 23, 1988 opinion of the Solicitor of the Department of the Interior which overturned the opinion of the previous Departmental Solicitor. This new opinion, which was adopted by former Attorney General Meese as the policy of the Federal Government, effectively denies a reserved water right for wilderness areas unless express language by Congress is enacted.

I might also add that the Congressional Research Service concluded in a detailed report, which I would urge all of my colleagues to read, that the Solicitor's opinion is very likely in error.

Mr. Chairman, it seems only logical that the designation of lands for wilderness purposes would necessarily include the reservation of water in order to preserve the natural wilderness character and ecology of the protected lands, and that is precisely why Congress should state so in its legislation. The risk of dried up, lifeless wilderness areas

is too great to permit a wilderness bill to be passed without an express reservation of water rights.

I strongly urge my colleagues to vote "no" on the Vucanovich amendment.

Mr. THOMAS of California.

Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise to indicate to the gentlemen that none of us is opposed to express language. The requirement of the Forest Service was that, "Please specify what you want with express language." It is the kind of language that you have expressed that we are concerned about.

I would ask my colleagues from Oregon if he might assist me in understanding exactly the points that have been made in some of the recent comments.

The language in this bill, as I understand it, provides water rights for the wilderness area that is designated to be placed in Nevada. And the areas that we are talking about are headwater areas.

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. ROBERT F. (BOB) SMITH. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct.

Mr. THOMAS of California. So we have the initial land contract, if you will, with a watershed drainage which is in the wilderness area. Although I know last night one of our colleagues read what is meant by wilderness area, if we are not exactly meeting the criteria in terms of total pristineness, certainly what we are not going to have in the wilderness area is, for example, a dam to divert the water.

Mr. ROBERT F. (BOB) SMITH. Never.

Mr. THOMAS of California. We are not going to have a residential community built to consume the water.

Mr. ROBERT F. (BOB) SMITH. Impossible.

Mr. THOMAS of California. We are not going to have an industrial plant developed to utilize it in some processing.

Mr. ROBERT F. (BOB) SMITH. You cannot carry concrete there.

Mr. THOMAS of California. And what we have is a desire, it appears, to create a precedent to have water rights in an area in which you cannot have any manmade use of the water and in which the water originates in the first place, is that what we are dealing with here?

Mr. ROBERT F. (BOB) SMITH. I think, if the gentleman would yield further, I think he is exactly correct, which brings us to the question: Why are we trying to establish a water right when obviously, as the gentleman's examples exceedingly indicate, there is no purpose for it?

Mr. THOMAS of California. I guess perhaps the gentleman from Oregon, not having dealt with folks perhaps as long as I have, might want to focus on the fact that it is worthwhile establishing a precedent when no one can argue with you, why not have water rights in wilderness areas, which are headwaters, to begin with? The problem is, when you establish water rights in wilderness areas, you establish water rights in a wilderness area not necessarily at the headwaters. Not necessarily at the headwaters. That if water rights are carried in wilderness areas, and wildernesses are developed downstream, then I think we have a significant precedent for what we can do upstream users, what we can do to downstream users, and what we can do with long-established traditional water rights.

Mr. ROBERT F. (BOB) SMITH. If the gentleman will continue to yield, that is exactly the center of this debate.

While the idea to establish a water right in Nevada for wilderness may, in itself, not endanger the future of Nevada, it certainly does establish a precedent by this Congress which we are concerned about, which, as the gentleman knows, boilerplate language starts this way.

As I mentioned, we are going to be facing 15 wilderness bills in downstream, lower elevation areas, and if this same language is included, which it is likely to be, then in the West in California and Oregon and the arid parts of the West, there will be an implication on upstream and downstream water rights. We will literally choke away the future of agriculture for the future. We have vast lands, and by the way this applies to underground water, I might add to the gentleman from Colorado, so we are talking about water above and below the ground which suddenly will be captured for wilderness without any other opportunity for use.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman.

We are not opposed to express language, the concept of putting a clear understanding in the bill. It is the language that the gentleman used, expressly stated, that we are concerned about.

We are not concerned about water rights in the headland area. It is what happens later that we are concerned about.

I appreciate my colleagues on the other side of the aisle wringing their hands about the difficulty they have in reconciling the different opinions issued. The program is -- why do we always reconcile it in the direction of establishing a precedent at the current time overreaching, but which later on will be included as boilerplate language in every wilderness bill, distorting water rights from now on?

This is a classic example of overreaching. The gentlewoman from Nevada's amendment is to make sure, as we enter this area, as we deal with water rights in headland areas, in wilderness areas, that we understand exactly what we are doing that is not always going to be the case in front of Members.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I am trying to find out what the gentleman's concern was with the language that is in the bill. I fail to understand what his concern is.

I have heard the series of questions, but I do not understand what the concern is. Does the gentleman disagree with the quantification of water rights reserved in the actions, date of enactment? Does the gentleman assume we can have wilderness areas with plants and animals, communities without some water?

Mr. THOMAS of California. The gentleman understands the difference between God's water, landing in the wilderness area, and water rights, and your ability to use that water for various purposes?

Of course, I am not opposed to water rights as God intended, but as I am concerned and the gentleman knows and he has no desire to hear a lecture on the Federal system and ability to deal with States in ways that States do not want to be dealt with, but when [\*H8899] the Federal Government sets a precedent, when the Federal Government overreaches in terms of a complete usurpation of a right in a given area, I think the folks have a right to say exactly what do we mean by water rights in a wilderness area.

I appreciate the gentleman's painting a picture of why in the world would anyone be opposed to giving total control of water rights to the Federal Government in a wilderness area, especially when it is a headwater area. I can understand the gentleman's incredulity in not believing someone might say, "Wait a minute, how about understanding specific State relationships at this point."

Mr. MILLER of California. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I strongly support the water rights language in the Nevada wilderness bill, as reported by the Interior Committee.

This is the same language written and passed by the Senate.

In the past, it has been our position that we did not need language in wilderness bills specifically addressing water rights.

It was generally understood -- and supported by a long line of court cases -- that when we established a wilderness area or other Federal reservation of land, the water would go with it. This was a commonsense interpretation. We certainly would not set aside an area only to have to dewatered, any more than we would expect it to be clear-cut.

This position was turned upside-down by the Reagan administration. An opinion by Attorney General Meese said the executive branch would not claim water for wilderness unless specifically directed to do so by legislation.

The Meese opinion means the Congress must now specifically state its intent on water rights. If we don't, the Federal agencies will not enter into stream adjudications or State proceedings for water rights sufficient to protect the wilderness.

I strongly disagree with the Meese opinion. It runs counter to a long line of court decisions. It runs counter to common sense. But, as long as the Meese opinion stands, the Congress has to state its intention. That is the reason for the language in the bill.

I have never understood the deep-seated animosity some feel toward Federal reserved water rights. Water for wilderness is a non-consumptive use. It just flows through the area and can be used for other purposes.

The language in the bill is not an infringement on or preemption of State laws. The Federal Government will proceed through the State's process to obtain its water right. This is how it has been done in the past and it has worked. Without this language, the Federal Government -- because of the Meese opinion -- won't have a seat at the table. With this language, it will.

The State engineer of Nevada has no problem with this language. The Governor of Nevada has no problem.

This language is similar to that which we have adopted for other wilderness areas.

My reaction when I first saw what the Senate sent over is that we may be putting some of the acrimony on this issue behind us. I hope this is the case. This is a reasonable, moderate position. I urge my colleagues to reject the Vucanovich amendment and retain the water rights language in the bill before us.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. Vento].

Mr. VENTO. Mr. Chairman, I appreciate the gentleman's statement, and I concur.

I would like to point out that the gentleman that spoke prior to my colleague, the gentleman from California [Mr. Thomas], said that he has nothing against an implied reservation of water. The language that is being offered as an amendment specifically says that nothing in this act or the Wilderness Act, will be construed as either an express or implied reservation of water rights for any purpose. That is what it says and it is not consistent with my colleagues statement.

In other words, this amendment would give us wilderness that will be bone dry. Not only that, but this language allows motorized use within wilderness for construction and reconstruction of facilities. This is not in concert with the concept of wilderness.

The language in the bill is a compromise which does properly recognize the State's role in terms of adjudication while at the same time it recognizes existing Federal water rights. It sets up a system that is a balanced one. We have had different water rights language in a variety of different bills that have come before Members. These include bills involving Native American lands, military reservations, and a whole host of other types of reservations that occur on public domain and national forest land.

Therefore, I would hope that we would recognize that the language presently in the bill is in concert with the rights of States with regard to the water rights. I see this as being very good language, and I think something is being made of this whole issue that is incorrect.

I thank the gentleman for his statement.

Mr. MILLER of California. Mr. Chairman, I absolutely agree with the gentleman from Minnesota [Mr. Vento]. I hope we support the committee's position.

Mr. RHODES. Mr. Chairman, I move to strike the last word.

First of all, I think we need to make a correction for the Record. It has been stated on at least a couple of occasions during the course of this debate that the language we are discussing here is language which was written by and approved by Senator McClure, and therefore we should all accept it. While I am sure Senator McClure is very flattered by the proposition that if it is his language, it must be good language and we should accept it. It simply is not the case.

I mean to read a portion of a letter dated October 19, 1989, from Senator McClure to the gentlewoman from Nevada [Mrs. Vucanovich], and the pertinent section reads as follows:

"Prior to offering the language, I made certain that it was in fact the intent of the two Senators," meaning the Senators from Nevada, "to make the express reservation and to quantify the right of in-stream adjudication rather than under State procedural law. I want to emphasize that I am not endorsing the substance of the amendment as a good idea for Nevada or for any other State, but I am willing to defer to the delegation from that State when they choose to pre-empt the laws of their State."

The letter has more material in it, all relating to the same subject matter. I have not taken it out of context. There is nothing else in the letter that would indicate that this is in fact Senator McClure's language or something he thinks is a good idea. He did this at the request of the two Senators from Nevada, and in fact he does not think it is a particularly good idea.

Now, much has been said here today about setting a precedent. I think we all need to be concerned about that. But in fact there can be no precedent in water rights determinations for wilderness areas. Each of those has to be determined on a case-by-case basis.

The fact of the matter in this particular case is there is no need for this language. This is forest service land. Therefore, its waters are protected by the Winter's Doctrine. This is headwaters land. There are no diversions from the water that flow through these wilderness areas. There is no consumptive use of the waters that flow through these wilderness areas.

We are talking and in-stream flows. Those in-stream flows are protected by the Winter's Doctrine because this is forest land.

There is no upstream user. There is no upstream diversion, because there is no upstream. This is where the stream starts. Therefore, in this case, in the Nevada Forest Service Wilderness bill, there is no need to discuss, no need to determine, no need to say anything about water rights. The rights are there, the rights exist, and the rights are protected under existing law. This language is surplusage and should not remain in the bill.

Of course Nevada officials support this language. They have no reason not to. It does not mean a thing. This [\*H8900] bill would be just as good for Nevada without this language.

Consequently, because of the protection of the water rights by existing law, because of the headwater nature of the streams in question, and because we do not want to set in motion a process which might spill over into other areas, we certainly do think that the amendment of the gentleman from Nevada [Mr. Vucanovich] is appropriate and in order. I hope also we have clarified the issue of Senator McClure's role played in getting this language in the bill, as opposed to the two Senators from Nevada.

Mr. SKAGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am fortunate to represent a State with some of the world's most magnificent wilderness land, and I wholeheartedly believe that the Federal Government

has a responsibility to protect our Nation's irreplaceable wilderness for future generations. I also have some understanding of the kind of effort that goes into bringing a bill like this to the floor. So, I congratulate the distinguished Chairman, the gentleman from Minnesota, for his work on this important legislation.

It would be a great shame to come so close to passing this momentous bill only to see the wilderness it would preserve put at risk by a weakening amendment. The gentlewoman from Nevada has introduced an amendment to this bill to strike provisions establishing a Federal reserved water right for the newly-designated wilderness areas. In addition to undermining the objectives of this bill, I think the gentlewoman's amendment could have far-reaching, negative effects on future wilderness designations.

Now, those of my colleagues who do not hail from the West may not fully understand why this amendment -- cloaked in the appealing, yet inappropriate, veil of States rights -- would jeopardize the lands this bill seeks to protect. Let me tell you why. In short, it's simply an empty exercise to say we are preserving wilderness if we don't also preserve water to go with it. The reserved water right that accompanies a wilderness designation is a right to leave water in its natural stream; it's a right not to drain the wilderness, but to sustain it. If we care enough to protect a wilderness, let's make sure nobody dries up the streams and rivers that are the lifeblood of its ecosystems.

We should also take note of the fact that the wilderness areas designated in this bill are all "headwaters" areas, and any wilderness water rights can't and won't compromise downstream use. In fact, reserving wilderness water benefits those with downstream rights by assuring that the maximum quantity of water flows out of the wilderness areas and down to those users.

So, I don't really understand why my colleague from Nevada has concerns about the water language. The bill specifically provides that the new reserve water rights be established upon enactment. It requires the Federal Government to quantify water rights in accordance with Nevada water law. Any argument saying that reserved water rights somehow skirts States rights is simply not accurate. It's red herring.

Finally, I ask my colleagues to ask themselves one simple question: Do we who are here now have the right to rob the future of the chance to know -- to experience -- this creation of nature in all its pristine perfection?

I say: we do not.

If you agree, vote for the bill and against the Vucanovich amendment.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am just going to take a moment, because I concur with those Members who want to protect a Federal reserve right for this wilderness area. It is important for us to do.

I am going to speak in a moment on the Rhodes amendment, because it will make crystal clear what several of the previous speakers have alluded to, and that is that these water rights should be adjudicated pursuant to State law.

In a few moments, after we are done voting on the Vucanovich amendment, we will have an opportunity to make it crystal clear that the water rights to be reserved here will be adjudicated in State court pursuant to State law.

I hope that my colleagues who have been arguing against the Vucanovich amendment on the basis that State law will prevail in this adjudication will be willing to reconfirm that when we have an opportunity to simply put those plain words in the statute after the Rhodes amendment is offered. I will be speaking on that amendment.

Mr. MARLENEE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

Mr. MARLENEE. Mr. Chairman, the amendment offered by my colleague and friend, the gentlewoman from Nevada [Mrs. Vucanovich], has implications far, far beyond the boundaries of the State of Nevada. It has implications on State law and State adjudication processes.

Mr. Chairman, a vote for the Vucanovich amendment is a vote to preserve the principle of State sovereignty in water rights that has helped create the most productive agricultural economy in the history of the universe. I urge that my colleagues support the gentlewoman from Nevada and her amendment, which preserves to the States the right to make the decisions about the adjudication of water. MR. CHAIRMAN, I RISE IN STRONG SUPPORT OF THE AMENDMENT OFFERED BY THE GENTLELADY FROM NEVADA [MRS. VUCANOVICH]. S. 974 IN ITS CURRENT FORM WOULD CREATE A RESERVED FEDERAL WATER RIGHT TO THE FEDERAL GOVERNMENT FOR WILDERNESS.

IT WOULD REPLACE THE CURRENT SYSTEM OF WATER RIGHTS BASED ON STATES RIGHTS AND REPLACE IT WITH CONTROL FROM FEDERAL BUREAUCRATS IN WASHINGTON WHO TAKE THEIR CUE FROM THE FERN FEELERS WHO RUN NATIONAL ENVIRONMENTAL GROUPS.

THE LONG-HELD PRINCIPLE OF STATE SOVEREIGNTY OVER WATER RIGHTS HAS CONVERTED VAST EXPANSES OF THE ARID WEST INTO SOME OF THE MOST PRODUCTIVE AGRICULTURAL LANDS IN THE HISTORY ON MANKIND.

AS THE SAYING GOES, IF IT AIN'T BROKE DON'T FIX IT. S. 974 SEEKS TO KILL THE GOOSE THAT LAID THE GOLDEN EGG -- KNOWN AS STATE ADJUDICATION OF WATER RIGHTS -- AND REPLACE IT WITH A RADICAL

AND UNTESTED THEORY THAT ORIGINATED IN THE BOARD ROOMS OF WEALTHY ENVIRONMENTAL GROUPS LOCATED THOUSANDS OF MILES FROM THE ARID WEST.

WITHOUT THE VUCANOVICH AMENDMENT, S. 974 WOULD THREATEN BOTH FUTURE WATER RIGHTS AND EXISTING WATER RIGHTS.

MOREOVER, IT WOULD BE USED AS A PRECEDENT FOR BLM WILDERNESS AREAS THAT ARE TYPICALLY DOWNSTREAM FROM MAJOR AGRICULTURAL PRODUCING AREAS. IN THESE CASES IT IS POSSIBLE THAT WATER FOR CROP PRODUCTION COULD BE DENIED IN ORDER TO AVOID STREAM DEPLETION DOWNSTREAM IN WILDERNESS.

THE VUCANOVICH AMENDMENT IS STRONGLY SUPPORTED BY THE 3.7 MILLION MEMBER AMERICAN FARM BUREAU FEDERATION, THE NATIONAL CATTLEMEN'S ASSOCIATION, AND MANY OTHER FOLKS WHO DEPEND ON A ORDERLY SYSTEM OF STATE WATER ADJUDICATION TO EARN THEIR LIVELIHOODS.

MR. CHAIRMAN, A VOTE FOR THE VUCANOVICH AMENDMENT IS A VOTE TO PRESERVE THE PRINCIPLE OF STATE SOVEREIGNTY IN WATER RIGHTS THAT HAS HELPED CREATE THE MOST PRODUCTIVE AGRICULTURAL ECONOMY IN THE HISTORY OF THE UNIVERSE. I URGE MY COLLEAGUES TO ADOPT IT.

Mr. DeFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment and in support of the committee position and the position of the two Senators and my colleague from Nevada.

The fact is now, as has been pointed out by a previous speaker, we are going to have to make a determination each and every time we pass a wilderness bill in this House of whether or not to preserve water rights, because of a radical departure from past practice of the past administration, an administration that literally seemed to hate wilderness, hate land that was not despoiled. They made an interpretation that the Federal Government has not previously reserved these rights through wilderness actions, and we have to specify.

So in this matter we are merely specifying something that has been customary for some time in this country. The fact is you cannot have a wilderness if you dewater the river that flows through that wilderness. It is no longer untrampled by the actions of man. Nor can you have a wild and scenic river should we be looking at the bed of the river rather than the water and

[\*H8901] So, Mr. Chairman, I rise in strong support of this, and we are not setting a precedent that has to be adhered to, that has to be to the detriment of any other uses. We

will consider each and every wilderness bill on its merits as it comes forward and do the appropriate reservations that are necessary.

So, therefore, I rise in strong support and ask my colleagues to oppose the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Nevada [Mrs. Vucanovich].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mrs. VUCANOVICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were -- ayes 118, noes 285, not voting 30, as follows:

(See Roll No. 365 in the ROLL segment.)

The Clerk announced the following pair:

On this vote:

Mr. Denny Smith for, with Mr. Annunzio against.

Mr. PALLONE and Mr. DINGELL changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there further amendments to section 8?

#### AMENDMENT OFFERED BY MR. RHODES

Mr. RHODES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rhodes: On Page 11, Line 1, after "adjudication" insert "pursuant to the laws of the State of Nevada".

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. RHODES. Mr. Chairman, my amendment is a very simple amendment. It is a technical and clarifying amendment. It simply sets into the bill the stated intentions of the proponents of the bill, and it is, I believe, readily acceptable by the other side.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I understand the gentleman's intentions, but I am going to have to oppose the amendment and will do so on my own time. I know the gentleman may need his time, unless the gentleman wants to yield further.

Mr. RHODES. No; no, thank you. I will go ahead and explain my very simple, technical, clarifying amendment.

Mr. Chairman, let me just briefly read to the Members from section 8 of the bill, because this is really the nuts and bolts of what we are talking about. It says, "Within the wilderness area designated by this act, there is hereby reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas."

Section (c) of section 8 says:

The Secretary shall file a claim for the quantification of the water rights reserved in paragraph (a) in an appropriate stream adjudication and shall take all steps necessary to protect such rights in such an adjudication.

Please note that no place in this section is the State of Nevada referred to, and please note further that no place in this section are the laws of the State of Nevada referred to.

My amendment simply inserts after the words "appropriate stream adjudication" the words "pursuant to the laws of the State of Nevada."

The chairman of the subcommittee, the gentleman from Minnesota [Mr. Vento], has stated frequently that it is his intention that these water rights shall be adjudicated and quantified according to the laws of the State of Nevada, and in a Nevada adjudicatory proceeding. I have simply taken the step of clarifying that intention and placing those words in the bill so that [\*H8902] there is no question and can be no question in the future, that if it is necessary to adjudicate the water rights reserved in this bill, that it shall be done according to the Nevada process and in a Nevada proceeding. No place in this bill is this spelled out.

The purpose is to simply state in clear terms the intent as they have stated it, of the proponents of this bill.

We will hear in rebuttal about the McCarran amendment. That amendment, in essence, waives Federal sovereign immunity and allows the Federal Government to be joined in the adjudication of Federal reserve water rights in State courts. However, that amendment allows concurrent jurisdiction in Federal district courts as well. The fact is that while it may be the intent of the Federal Government to file for a wilderness water right within the State court system, the Federal Government does have the option of initial filing and subsequent appeal within the U.S. district court system.

Also, and more importantly, any potential intervenor may file actions in this regard in the U.S. court and use the Federal, not the State, courts system to prosecute the Federal reserve water rights without necessarily even stepping into a Nevada adjudicatory process and without necessarily complying with State water adjudication procedures, water priority-setting schemes, or other State requirements.

The fact is that the prosecution of a Federal reserve water right granted by this bill could very likely be determined not in Nevada courts but solely in the Federal court systems. If it is truly the intent of the gentleman from Minnesota that this process should be followed in Nevada, in the Nevada system, then this amendment should be accepted.

I might also point out that going through the State court system does not, repeat does not preclude a filer or an intervenor from access to the Federal court system if the result is not to his or her liking. There is direct appeal to the Supreme Court of the United States to protect the rights of the State of Nevada.

I urge the Members to support this amendment.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first, the language that the gentleman from Arizona [Mr. Rhodes] offers is unnecessary. The present water-rights language in the bill already allows the water to be adjudicated in accordance with the State laws by stating that the quantification will take place, and I read from the bill before us, "In an appropriate stream adjudication." Such adjudications are, of course, performed by the States, as my colleagues who are familiar with this procedure are well aware.

Secondly, the amendment would deny the Federal Government any recourse if the State refuses to acknowledge that wilderness should have water. This amendment would prevent recourse to the Federal court if the State ignores the imperative need for at least some water being allocated to keep the plants and animals that are in the wilderness alive.

Mr. Chairman, this is not a throwaway amendment that is harmless. It has significant effects upon the workability of the water quantification process that would be accorded to wilderness. Under this amendment you would go through a State court process and ultimately you could appeal to the U.S. Supreme Court, but, Mr. Chairman, this would be extremely awkward and unwarranted procedure in light of the existing law. It would deny the provisions of the McCarran Act that allow application to Federal courts. It is up to the

plaintiff to have access to the court that he chooses. Being able to go to the Federal court has profound effect on State courts to encourage them to make judgments that are sound and in accordance with law.

The most that can be said about this amendment by its proponents is that it would be repeating something already there. But the fact is that it is an effort to channel Federal reserve water cases solely into State court.

This would be very harmful. If Members believe that the wilderness should have some reserved water rights, as many Members on the other side of the aisle have agreed. In fact the House just voted reasoundingly, nearly 3 to 1 in favor of reserved water rights for wilderness. This amendment is disingenuous at best in terms of what its impact would be.

I would suggest that the House already has debated this. The House already has spoken. In essence this is the same type of vote that we just had, Mr. Chairman. I would ask the House to defeat this amendment.

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take a long time. We have debated this issue at some length before the House.

But I want to reiterate the purpose of this amendment, which I thought during the debate was agreed to, and it simply is that the State of Nevada or any other State is not going to be preempted by language, by the action of Congress and the language in this bill. That is what I heard, but obviously now we have the exact program before us, and that is simply that the Congress is declaring a water right which is in opposition to all of the historical water rights in this country since the Winter's provision and since 1866.

By declaration, the Congress is establishing a water right in the State of Nevada, and the chairman is exactly right when he said yes, this would be horrible if this were adopted, because the States could deny these water rights under the provisions of their own water laws. That is exactly what we are talking about here. That is exactly the violation that I am concerned about, and that is exactly the precedent we are making today by allowing this language to sustain itself without amendment.

The gentleman from Arizona knows as well as I, in dry parts of this country water rights are the only thing we live by in our future. We know that. To drain what little water we have left for these kinds of purposes may inhibit even consumption use of water in the future or agricultural use of water in the future.

To deny the States the opportunity to control water is a precedent. It is being done today, and we are going to have to live with it. I hope Members understand the magnitude of the decision they are making with respect to eliminating States rights to control their own water.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, not to be argumentative on the gentleman's time, but I would just point out, of course, I do not agree with the explanation of the impact. That is not our intent. The point is for the plaintiff to have access to either the district or to the State courts as they choose. The concern was not to say that the State would not under some circumstances deny if there is no water to be allocated. Obviously that constitutes a problem and, therefore, there would be no further water to that wilderness under those circumstances. In other words, the question here is when there is litigation involved, where do you go with it, and I appreciate the gentleman yielding.

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I am happy to yield to the gentleman, and with that answer I am sure he will accept my amendment which is coming up next.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Just quickly, Mr. Chairman, this is essentially a rerun of the vote we just had. I think this language is unnecessary.

The legislation before the House now requires that the Federal Government go through the appropriate stream adjudication process within the State. The Governor of the State has sent us a letter saying that he yields to no one in protecting Nevada's rights in connection with its water, and he supports this legislation, as do both Senators, as well as the gentleman from Nevada [Mr. Bilbray] and various people involved with this issue. We are [\*H8903] trying to create an issue where there is none.

The people in the State of Nevada believe that the rights have been protected, and the Governor has spoken on their behalf. This is essentially the same vote we just took. We ought to reject this language and stand by the language in the legislation brought here by the committee, and I hope Members will oppose this amendment.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope that my colleagues will just lend an ear for a moment to what I have to say, because in some respects I disagree with the arguments that have been made on both sides of the aisle. I would like to identify this issue for precisely what it is.

The question involved here is simply whether water rights should be adjudicated in Federal court or State court. That is the issue that is before us.

I know something about this issue, Mr. Chairman. I think I am the only person in this body who has adjudicated this issue in the U.S. Supreme Court. So I do speak with some authority when I state what the issue is all about.

The issue here is not about denying Federal reserved water rights, because I would be the first among my colleagues to say we need to have Federal reserved water rights for wilderness areas. That is a requirement. We cannot have a wilderness area without reserved rights, and the Federal substantive law in this area will be the governing law in adjudications in Federal court or State court.

The only question here is whether or not under the McCarran amendment, which allows adjudication in either Federal or State court, the Congress will specify the State court to be the appropriate place of jurisdiction here.

In the case that I successfully argued to the U.S. Supreme Court we were dealing with Indian reserved water rights, and the Supreme Court has a doctrine there of itself intervening and protecting the rights of our Indian tribes. So the argument there for the protection of rights was even stronger than it is for reserved rights for a wilderness area. And, as here, the argument was made in the Supreme Court that it would not be a wise idea to allow these rights to be adjudicated in the State courts.

The U.S. Supreme Court about 4 years ago, Mr. Chairman, held that that argument was not correct, that it was perfectly appropriate, and in many cases desirable to have these issues adjudicated in State court. Why? Why do we want that to be the case here? Because, my friends, an adjudication means that everybody's rights are determined vis-a-vis everybody else's rights. In other words, everybody who has a claim has to come into the same forum and at one time argue their claims, one against the other.

What the court ends up doing is to say all right, this right is No. 1, this right is No. 2, this right is No. 3, and so on, until we get to the point where we are out of water.

But what water rights have preeminence here? The instream rights that are crucial to a wilderness area are not inconsistent with consumptive rights that people may have on the stream downstream, because an instream right upstream ironically protects the consumptive water rights of those downstream. It says you have to let that water exist for fish and fowl and so on.

Mr. Chairman, there is no effort here in the Rhodes amendment to deny a Federal reserved water right at all, but rather simply to say that you are going to have to do it in a forum where everybody comes in at one time and lays their cards on the table, and the court then sets out the rights as they exist in priority order.

What the U.S. Supreme Court has said is that it makes no sense to have a situation where you could have two separate adjudications going on, where one claimant is in Federal court and all of the other parties are adjudicating in State court; and that is why the U.S. Supreme Court has held that in these situations it is not only desirable, it is preferable to

have the State court the place of adjudication, including for Federal reserved rights, so that all of the parties are in the same court at the same time arguing to the same judge, who will, when he is done, issue a decree that covers all of the rights.

And the Federal rights are protected here because we in the U.S. Congress are saying in this bill there will be Federal reserve water rights for this wilderness area. There must be. The courts will require that to happen.

If there is any suggestion that somehow Federal rights are being trampled on, there is an appeal. To where? The U.S. Supreme Court.

Mr. VENTO. Mr. Chairman, would the gentleman yield?

Mr. KYL. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, obviously the quantification process that the gentleman speaks to would be done and should be done within the common form in Nevada. That is exactly what takes place in the language that is in the bill.

Mr. KYL. If I may reclaim my time, that is not true. The bill says in "an appropriate adjudication," but it does not say where. "Appropriate" under McCarran would be either the Federal or the State court. What the Rhodes amendment does is to make it clear that we are talking about the State court.

Mr. VENTO. The adjudication, of course, the intent is that it take place, that is to say the quantification of the water rights, takes place in a common location.

The CHAIRMAN pro tempore (Mr. Montgomery). The time of the gentleman from Arizona [Mr. Kyl] has expired.

(On request of Mr. Vento and by unanimous consent Mr. Kyl was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman continue to yield?

Mr. KYL. I yield to the gentleman further.

Mr. VENTO. I thank the gentleman for yielding.

The effect on this amendment, of course, means that you would have to go through the State and local courts, you would have to go through the appeals process if Nevada has appeals level, and finally the supreme court of the State before you can get into the Supreme Court of the United States. So the idea is that you set up a different pattern.

The purpose here, I just want the gentleman to understand -- he and I are not going to agree on this -- but I think that by describing it as such he denies the actual, I think, actual meaning of the amendment in terms of what the purpose is.

I just want to make that clear as I did when Mr. Smith raised the point. I appreciate the gentleman yielding.

Mr. KYL. May I ask a question? Is it the intent of the gentleman that it would be adjudicated in the State court?

Mr. VENTO. The intention is that the quantification process would take place within the State authorities that have responsibility over that process. They have masters that they appoint to deal with the quantification process. But the concern is that when disagreements arise as to that quantification process, that the plaintiff would be able to either go to the State court -- and that is obviously very convenient -- but I think also to have access to the Federal court.

Mr. KYL. That is where the difference arises here, I think, because the Rhodes amendment would specify the State court clearly so that all parties would know where they could go, both Federal and State parties.

Mr. MARLENEE. Mr. Chairman, I rise to strike the requisite number of words, and I yield to my colleague from Arizona in order to propound a question.

Am I to understand the gentleman's argument that if we adjudicate in Federal court it is done in a piecemeal basis?

Mr. KYL. That is the problem because you would have State parties adjudicating their claims in a State court and presumably the Federal Government could go to the U.S. district [\*H8904] court. You could have two conflicting decrees as a result.

Mr. MARLENEE. That is one of the problems we have within the Farm Credit System, we cannot get everybody into the same room to discuss the claims against the Farm Credit System or to try resolve the bankruptcy that producers are having out there. I would foresee the same kind of difficulty should this language not be modified.

Mr. KYL. I just want to reiterate here that it would not be my intention to deny the validity of a Federal reserved water right, but simply to say that it makes no sense to have two piecemeal adjudications, as the gentleman just suggested here. And that since this has to be done pursuant to State law anyway, which everybody has recognized, since the State parties would be going into State court, it makes sense to have all off those claims adjudicated in the State court.

It is rather beyond me, Mr. Chairman, why anybody is objecting to the simple insertion of the phrase "pursuant to the State law" when everybody seems to suggest that that is what

they are for. That is why I do not understand why we do not put the simple words in here to make it clear.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. Mr. Chairman, I yield to the sponsor of the amendment.

Mr. RHODES. I thank the gentleman for yielding.

Mr. Chairman, I appreciate my friend, the gentleman from Arizona [Mr. Kyl], for making a very significant point. Please do not let anybody come to this floor with the idea that my amendment in some way is going to do away with the water right that is reserved in this language. That is not true. This is not another vote on the same thing.

Mrs. Vucanovich's amendment did not pass. The original language in the bill is right here, and it says, "There is hereby reserved." And nothing in this amendment affects that. That water right language is still in this bill.

You have said on the other side it is clear that this will be adjudicated under Nevada law. It is not clear. It does not say so. It does not say how this is to be accomplished and where. This is just simply to say to the State of Nevada there is a right here and at some appropriate time the Secretary of the Interior will come into your system and attempt to quantify and adjudicate that right. That is all.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona [Mr. Rhodes].

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were -- ayes 139, noes 261, not voting 33, as follows:

(See Roll No. 366 in the ROLL segment.)

The Clerk announced the following pairs:

On this vote:

Mr. Quillen for, with Mr. Annunzio against.

Mr. Ridge for, with Mr. Nelson against.

Mr. CARR and Mr. RINALDO changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

## LEGISLATIVE PROGRAM

(By unanimous consent, Mr. Michel was allowed to speak out of order.)

Mr. MICHEL. Mr. Chairman, I have asked for this time with the distinguished majority leader on the floor, that we might interrupt these proceedings to have the schedule clarified to the best knowledge that the majority leader might be able to impart to the Members at this time.

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield?

[\*H8905] Mr. MICHEL. I am happy to yield to my friend, the distinguished majority leader.

Mr. Chairman, I thought it would be good to bring Members up to date on where we are today and how we think the schedule will work for the rest of the period.

We will finish the Nevada wilderness bill here in a few minutes. Then we intend to bring up the conference report on intelligence. Then we will go to 13 suspension bills, which have been gone over with the minority. At the end of that we will finish for the day.

We do believe that there are other matters that could be coming from the Senate, other conference reports and other matters that may take our attention. So we may be here into the evening, 9, maybe even 10 o'clock, before we are able to finish for today.

Again, as I announced yesterday, the likelihood of votes tomorrow, they are unlikely, highly unlikely. Again, we do not want to make an ironclad, concrete, money-back guarantee that there will be no vote tomorrow. But again, I think it is highly unlikely.

We then hope to come in on Sunday afternoon, our intention is at 1 o'clock. However, we know that may be inconvenient for Members. If we can do it later than that, we will announce that prior to that time so that Members have plenty of notice.

Then, of course, if we have to be here on Monday and Monday evening to finish up on reconciliation, we will do that.

We now believe that the reconciliation bill, as I said yesterday, will be in front of us on Sunday along with the other matters that have to be finished up.

Mr. MICHEL. Mr. Chairman, I thank the gentleman from Missouri [Mr. Gephardt], the distinguished majority leader, and, if I might just make an observation, particularly for those ranking members on our side who would be responsible for the suspensions that will be occurring. I hope they take special note that it is their role and responsibility to be here to handle that, and, if they need a list to get themselves informed, it is available.

The CHAIRMAN pro tempore. Are there other amendments to section 8?

The Clerk will designate section 9. The text of section 9 is as follows:

#### SEC. 9. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Nevada with respect to wildlife and fish in the national forests in Nevada.

The CHAIRMAN pro tempore. Are there amendments to section 9?

The Clerk will designate section 10.

The text of section 10 is as follows:

#### SEC. 10. CLIMATOLOGICAL DATA COLLECTION.

Subject to such reasonable terms and conditions as the Secretary may prescribe, nothing in this Act or the Wilderness Act shall be construed to prevent, where appropriate, the installation and maintenance of hydrologic, meteorologic, or climatological collection devices within the wilderness areas or additions thereto designated by this Act, where such facilities and access thereto are essential to flood warning, flood control and water reservoir operation purposes.

The CHAIRMAN pro tempore. Are there amendments to section 10?

The Clerk will designate section 11.

The text of section 11 is as follows:

#### SEC. 11. LOW ALTITUDE FLIGHT ACTIVITIES.

(a) Nothing in this Act nor the Wilderness Act (78 Stat. 890) shall preclude, limit, or otherwise affect current or future 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 the Alta Toquima, Arc Dome, Currant Mountain or Table Mountain Wilderness areas.

(b) Subject to such reasonable terms and conditions as the Secretary in consultation with the Secretary of Defense, may prescribe, nothing in this Act nor the Wilderness Act shall be construed to prevent the installation, operation, or maintenance of essential ground instrumentation devices associated with those activities, and within those wilderness areas, referenced in subsection (a).

#### COMMITTEE AMENDMENT

The CHAIRMAN pro tempore.

The Clerk will report the committee amendment.

The Clerk read as follows: Committee amendment: Page 11, strike line 22 and all that follows through page 12, line 11 and insert the following:

#### SEC. 11, LOW ALTITUDE FLIGHT ACTIVITIES.

Nothing in this Act 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 the Alta Toquima, Arc Dome, Currant Mountain or Table Mountain Wilderness areas.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, this is an amendment that was drafted with the concurrence of the minority and the interested groups with regard to low altitude flights over the wilderness. I do not believe it is controversial.

Mr. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I have no objection to the amendment.

Mr. VENTO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

MR. LEHMAN OF CALIFORNIA. MR. CHAIRMAN, I RISE TODAY IN SUPPORT OF S. 974, A BILL WHICH WOULD DESIGNATE 733,000 ACRES OF NATIONAL FOREST LAND AS WILDERNESS IN NEVADA.

AS A MEMBER OF THE INTERIOR COMMITTEE, I HAVE SEEN THIS ISSUE COME BEFORE THE COMMITTEE ON THREE SEPARATE OCCASIONS -- IN THREE DIFFERENT CONGRESSES. IN YEARS PAST THE HOUSE OF REPRESENTATIVES WOULD APPROVE A BILL, ONLY TO FIND IT LANGUISHING IN THE OTHER BODY.

UNTIL THIS YEAR, UNDER THE ABLE LEADERSHIP OF SENATOR REID AND SENATOR BRYAN, DID THE OTHER BODY FINALLY ACT. NOW WE ARE PRESENTED WITH LEGISLATION SUPPORTED BY THE TWO NEVADA SENATORS AND CONGRESSMAN BILBRAY. THESE THREE NATIVE NEVADANS HAVE LITERALLY DEVOTED YEARS TO CONSTRUCTING THIS COMPROMISE LEGISLATION. IN FACT, 11 SEPARATE OFFICIAL COMMITTEE HEARINGS HAVE BEEN CONDUCTED ON THIS ISSUE ALONE. FIVE OF THOSE HEARINGS WERE FIELD HEARINGS HELD BY THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE IN THE STATE OF NEVADA. IN ADDITION, NUMEROUS INFORMAL MEETINGS HAVE BEEN CONDUCTED IN THE STATE. IT IS HARD TO IMAGINE A MORE COMPREHENSIVE HEARING RECORD.

AS A WESTERNER, I UNDERSTAND THE CONCERN OF MANY OF MY COLLEAGUES THAT STATE WATER LAW SHOULD BE RESPECTED AND ADHERED TO. LET ME JUST REPEAT THAT THE LANGUAGE IN THIS BILL WITH RESPECT TO WATER IS NOT AN INFRINGEMENT ON, OR PREEMPTION OF, STATE LAWS. THE FEDERAL GOVERNMENT WILL PROCEED THROUGH AN APPROPRIATE STREAM ADJUDICATION, PURSUANT TO NEVADA LAW, TO QUANTIFY ITS WATER RIGHT. IN FACT, ANY WILDERNESS WATER RIGHT WOULD BE JUNIOR TO EXISTING WATER RIGHTS.

S. 974 IS A GOOD, SOUND COMPROMISE BETWEEN THE 1.4 MILLION ACRES PROPOSED BY CONGRESSMAN DARDEN AND THE 132,000 ACRES PROPOSED BY CONGRESSWOMAN VUCANOVICH. I URGE BY COLLEAGUES TO REJECT ANY WEAKENING AMENDMENT TO THIS BILL.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

According the Committee rose, and the Speaker pro tempore [Mr. Fascell] having assumed the chair, Mr. Montgomery, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 974) to designate certain lands in the State of Nevada as

wilderness, and for other purposes, pursuant to House Resolution 289, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. Fascell). Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

#### RECORDED VOTE

Mrs. VUCANOVICH. Mr. Speaker, I demand a recorded vote. A recorded vote was ordered.

[\*H8906] The vote was taken by electronic device, and there were -- ayes 323, nays 75, not voting 35, as follows:

(See Roll No. 367 in the ROLL segment.)

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### ROLL:

[Roll No. 365]

AYES – 118

Anderson  
Baker  
Bentley  
Bliley  
Bunning  
Campbell (CO)

Archer  
Ballenger  
Bereuter  
Broomfield  
Burton  
Chandler

Armey  
Bateman  
Bilirakis  
Brown (CO)  
Callahan  
Coble

Coleman (MO)  
Dannemeyer  
Dornan (CA)  
Duncan  
Frenzel  
Gingrich  
Grant  
Hancock  
Hefley  
Hopkins  
Hyde  
Kolbe  
Lent  
Lightfoot  
Lukens, Donald  
Martin (IL)  
McMillan (NC)  
Miller (OH)  
Morrison (WA)  
Oxley  
Pashayan  
Rhodes  
Roberts  
Rohrabacher  
Schaefer  
Shumway  
Slaughter (VA)  
Smith, Robert (OR)  
Stangeland  
Thomas (CA)  
Vander Jagt  
Walsh  
Wolf  
Young (FL)

Combest  
DeLay  
Douglas  
Emerson  
Gallegly  
Goodling  
Gunderson  
Hansen  
Herger  
Houghton  
Inhofe  
Kyl  
Lewis (CA)  
Livingston  
Madigan  
Martin (NY)  
Meyers  
Miller (WA)  
Myers  
Packard  
Petri  
Ridge  
Robinson  
Roth  
Schulze  
Shuster  
Smith (NE)  
Solomon  
Stump  
Thomas (WY)  
Vucanovich  
Weber  
Wylie

Craig  
Dickinson  
Dreier  
Fields  
Gekas  
Grandy  
Hammerschmidt  
Hastert  
Holloway  
Hunter  
Ireland  
Lagomarsino  
Lewis (FL)  
Lowery (CA)  
Marlenee  
McCandless  
Michel  
Moorhead  
Nielson  
Parris  
Quillen  
Ritter  
Rogers  
Saiki  
Sensenbrenner  
Skeen  
Smith (TX)  
Spence  
Sundquist  
Upton  
Walker  
Whittaker  
Young (AK)

NOES – 285

Ackerman  
Andrews  
Atkins  
Bartlett  
Bennett  
Bilbray  
Bonior  
Boucher  
Browder

Akaka  
Anthony  
AuCoin  
Bates  
Berman  
Boehlert  
Borski  
Boxer  
Brown (CA)

Alexander  
Applegate  
Barnard  
Beilenson  
Bevill  
Boggs  
Bosco  
Brennan  
Bruce

Buechner  
Cardin  
Chapman  
Clement  
Collins  
Cooper  
Courter  
Crockett  
de la Garza  
Derrick  
Dingell  
Downey  
Dymally  
Eckart  
English  
Evans  
Feighan  
Foglietta  
Frank  
Gaydos  
Geren  
Gilman  
Gordon  
Gray  
Hall (OH)  
Harris  
Hayes (LA)  
Hertel  
Hochbrueckner  
Hubbard  
Jacobs  
Johnson (SD)  
Jones (NC)  
Kaptur  
Kennedy  
Kleczka  
LaFalce  
Leach (IA)  
Levin (MI)  
Lloyd  
Luken, Thomas  
Markey  
Mavroules  
McCollum  
McEwen  
McMillen (MD)

Byron  
Carper  
Clarke  
Clinger  
Conte  
Costello  
Cox  
Darden  
DeFazio  
DeWine  
Dixon  
Durbin  
Dyson  
Edwards (CA)  
Erdreich  
Fawell  
Fish  
Ford (MI)  
Frost  
Gejdenson  
Gibbons  
Glickman  
Goss  
Green  
Hall (TX)  
Hatcher  
Hefner  
Hiler  
Horton  
Huckaby  
James  
Johnston  
Jontz  
Kasich  
Kennelly  
Kolter  
Lancaster  
Leath (TX)  
Lewis (GA)  
Long  
Machtley  
Martinez  
Mazzoli  
McCurdy  
McGrath  
McNulty

Campbell (CA)  
Carr  
Clay  
Coleman (TX)  
Conyers  
Coughlin  
Coyne  
Davis  
Dellums  
Dicks  
Dorgan (ND)  
Dwyer  
Early  
Engel  
Espy  
Fazio  
Flake  
Ford (TN)  
Gallo  
Gephardt  
Gillmor  
Gonzalez  
Gradison  
Guarini  
Hamilton  
Hayes (IL)  
Henry  
Hoagland  
Hoyer  
Hughes  
Johnson (CT)  
Jones (GA)  
Kanjorski  
Kastenmeier  
Kildee  
Kostmayer  
Laughlin  
Lehman (CA)  
Lipinski  
Lowey (NY)  
Manton  
Matsui  
McCloskey  
McDermott  
McHugh  
Mfume

Miller (CA)  
Mollohan  
Morella  
Murphy  
Natcher  
Nowak  
Obey  
Owens (NY)  
Panetta  
Paxon  
Pease  
Perkins  
Porter  
Pursell  
Ravenel  
Richardson  
Ros-Lehtinen  
Roukema  
Sabo  
Savage  
Scheuer  
Schroeder  
Shaw  
Sisisky  
Slattery  
Smith (IA)  
Smith, Robert (NH)  
Spratt  
Stark  
Stokes  
Tallon  
Tauzin  
Torres  
Traficant  
Unsoeld  
Visclosky  
Waxman  
Wheat  
Wilson  
Wyden

Mineta  
Montgomery  
Morrison (CT)  
Murtha  
Neal (MA)  
Oakar  
Olin  
Owens (UT)  
Parker  
Payne (NJ)  
Pelosi  
Pickett  
Poshard  
Rahall  
Ray  
Rinaldo  
Rose  
Rowland (GA)  
Sangmeister  
Sawyer  
Schiff  
Schuette  
Shays  
Skaggs  
Slaughter (NY)  
Smith (NJ)  
Snowe  
Staggers  
Stearns  
Studds  
Tanner  
Taylor  
Torricelli  
Traxler  
Valentine  
Volkmer  
Weiss  
Whitten  
Wise  
Yates

Moakley  
Moody  
Mrazek  
Nagle  
Neal (NC)  
Oberstar  
Ortiz  
Pallone  
Patterson  
Payne (VA)  
Penny  
Pickle  
Price  
Rangel  
Regula  
Roe  
Rostenkowski  
Roybal  
Sarpalius  
Saxton  
Schneider  
Schumer  
Sikorski  
Skelton  
Smith (FL)  
Smith (VT)  
Solarz  
Stallings  
Stenholm  
Swift  
Tauke  
Thomas (GA)  
Townsend  
Udall  
Vento  
Walgren  
Weldon  
Williams  
Wolpe  
Yatron

NOT VOTING – 30

Annunzio  
Brooks  
Condit

Aspin  
Bryant  
Crane

Barton  
Bustamante  
Donnelly

Edwards (OK)  
Fascell  
Garcia  
Jenkins  
Levine (CA)  
Molinari  
Russo  
Synar

Flippo  
Hawkins  
Lantos  
McCrery  
Nelson  
Sharp  
Watkins

Florio  
Hutto  
Lehman (FL)  
McDade  
Rowland (CT)  
Smith, Denny (OR)

[Roll No. 366]

AYES – 139

Applegate  
Baker  
Bateman  
Bilirakis  
Brown (CO)  
Burton  
Chandler  
Coleman (MO)  
Cox  
Davis  
Dickinson  
Douglas  
Edwards (OK)  
Frenzel  
Gillmor  
Gradison  
Gunderson  
Hansen  
Herger  
Hopkins  
Hyde  
Johnson (CT)  
Kyl  
Lewis (CA)  
Livingston  
Madigan  
Martin (NY)  
McCollum  
Meyers  
Miller (WA)  
Murphy  
Oxley  
Pashayan  
Regula

Archer  
Ballenger  
Bentley  
Bliley  
Buechner  
Callahan  
Clinger  
Combest  
Craig  
DeLay  
Dorgan (ND)  
Dreier  
Emerson  
Gallegly  
Gingrich  
Grandy  
Hammerschmidt  
Hastert  
Hiler  
Houghton  
Inhofe  
Kasich  
Lagomarsino  
Lewis (FL)  
Lowery (CA)  
Marlenee  
Martinez  
McEwen  
Michel  
Moorhead  
Myers  
Packard  
Paxon  
Rhodes

Armey  
Bartlett  
Bereuter  
Broomfield  
Bunning  
Campbell (CO)  
Coble  
Coughlin  
Dannemeyer  
DeWine  
Dornan (CA)  
Duncan  
Fields  
Gekas  
Goodling  
Grant  
Hancock  
Hefley  
Holloway  
Hunter  
Ireland  
Kolbe  
Lent  
Lightfoot  
Lukens, Donald  
Martin (IL)  
McCandless  
McMillan (NC)  
Miller (OH)  
Morrison (WA)  
Nielson  
Parris  
Ravenel  
Ritter

Roberts  
Robinson  
Roth  
Sensenbrenner  
Shuster  
Smith (NE)  
Smith, Robert (OR)  
Stangeland  
Sundquist  
Thomas (WY)  
Vucanovich  
Weber  
Wylie

Rogers  
Schaefer  
Shaw  
Skeen  
Smith (TX)  
Solomon  
Stearns  
Tauke  
Upton  
Walker  
Whittaker  
Young (AK)

Rohrabacher  
Schulze  
Shumway  
Slaughter (VA)  
Smith (VT)  
Spence  
Stump  
Thomas (CA)  
Vander Jagt  
Walsh  
Wolf  
Young (FL)

NOES – 261

Ackerman  
Anderson  
Atkins  
Bates  
Berman  
Boehlert  
Borski  
Boxer  
Brown (CA)  
Campbell (CA)  
Carr  
Clay  
Collins  
Conyers  
Courter  
Darden  
Dellums  
Dixon  
Dwyer  
Early  
Engel  
Espy  
Fawell  
Fish  
Foglietta  
Frank  
Gaydos  
Geren  
Glickman  
Goss

Akaka  
Andrews  
AuCoin  
Beilenson  
Bevill  
Boggs  
Bosco  
Brennan  
Bruce  
Cardin  
Chapman  
Clement  
Condit  
Cooper  
Coyne  
de la Garza  
Derrick  
Downey  
Dymally  
Eckart  
English  
Evans  
Fazio  
Flake  
Ford (MI)  
Frost  
Gejdenson  
Gibbons  
Gonzalez  
Gray

Alexander  
Anthony  
Barnard  
Bennett  
Bilbray  
Bonior  
Boucher  
Browder  
Byron  
Carper  
Clarke  
Coleman (TX)  
Conte  
Costello  
Crockett  
DeFazio  
Dicks  
Durbin  
Dyson  
Edwards (CA)  
Erdreich  
Fascell  
Feighan  
Flippo  
Ford (TN)  
Gallo  
Gephardt  
Gilman  
Gordon  
Green

Guarini  
Hamilton  
Hayes (IL)  
Henry  
Hochbrueckner  
Huckaby  
James  
Jones (GA)  
Kanjorski  
Kennedy  
Kleczka  
LaFalce  
Leach (IA)  
Levin (MI)  
Lloyd  
Luken, Thomas  
Markey  
Mazzoli  
McDermott  
McMillen (MD)  
Miller (CA)  
Mollohan  
Morrison (CT)  
Nagle  
Neal (NC)  
Oberstar  
Ortiz  
Pallone  
Patterson  
Pease  
Perkins  
Pickle  
Pursell  
Ray  
Roe  
Rostenkowski  
Roybal  
Sangmeister  
Sawyer  
Schiff  
Schuette  
Sikorski  
Skelton  
Smith (FL)  
Smith, Robert (NH)  
Staggers

Hall (OH)  
Harris  
Hayes (LA)  
Hertel  
Hoyer  
Hughes  
Johnson (SD)  
Jones (NC)  
Kaptur  
Kennelly  
Kolter  
Lancaster  
Leath (TX)  
Lewis (GA)  
Long  
Machtley  
Matsui  
McCloskey  
McGrath  
McNulty  
Mineta  
Montgomery  
Mrazek  
Natcher  
Nowak  
Obey  
Owens (NY)  
Panetta  
Payne (NJ)  
Pelosi  
Petri  
Poshard  
Rahall  
Richardson  
Ros-Lehtinen  
Roukema  
Sabo  
Sarpalius  
Saxton  
Schneider  
Schumer  
Sisisky  
Slattery  
Smith (IA)  
Snowe  
Stallings

Hall (TX)  
Hatcher  
Hefner  
Hoagland  
Hubbard  
Jacobs  
Johnston  
Jontz  
Kastenmeier  
Kildee  
Kostmayer  
Laughlin  
Lehman (CA)  
Lipinski  
Lowey (NY)  
Manton  
Mavroules  
McCurdy  
McHugh  
Mfume  
Moakley  
Morella  
Murtha  
Neal (MA)  
Oakar  
Olin  
Owens (UT)  
Parker  
Payne (VA)  
Penny  
Pickett  
Price  
Rangel  
Rinaldo  
Rose  
Rowland (GA)  
Saiki  
Savage  
Scheuer  
Schroeder  
Shays  
Skaggs  
Slaughter (NY)  
Smith (NJ)  
Solarz  
Stark

Stenholm  
Swift  
Tauzin  
Torres  
Traficant  
Unsoeld  
Visclosky  
Waxman  
Wheat  
Wilson  
Wyden

Stokes  
Tallon  
Taylor  
Torricelli  
Traxler  
Valentine  
Volkmer  
Weiss  
Whitten  
Wise  
Yates

Studds  
Tanner  
Thomas (GA)  
Towns  
Udall  
Vento  
Walgren  
Weldon  
Williams  
Wolpe  
Yatron

NOT VOTING – 33

Annunzio  
Brooks  
Crane  
Florio  
Horton  
Lantos  
McCrery  
Moody  
Quillen  
Russo  
Spratt

Aspin  
Bryant  
Dingell  
Garcia  
Hutto  
Lehman (FL)  
McDade  
Nelson  
Ridge  
Sharp  
Synar

Barton  
Bustamante  
Donnelly  
Hawkins  
Jenkins  
Levine (CA)  
Molinari  
Porter  
Rowland (CT)  
Smith, Denny (OR)  
Watkins

[Roll No. 367]

AYES – 323

Ackerman  
Anderson  
Applegate  
Barnard  
Bates  
Bereuter  
Bilbray  
Boehlert  
Borski  
Boxer  
Browder  
Buechner  
Cardin  
Chandler  
Clay  
Coble

Akaka  
Andrews  
Atkins  
Bartlett  
Beilenson  
Berman  
Bilirakis  
Boggs  
Bosco  
Brennan  
Brown (CA)  
Byron  
Carper  
Chapman  
Clement

Alexander  
Anthony  
AuCoin  
Bateman  
Bennett  
Bevill  
Bliley  
Bonior  
Boucher  
Broomfield  
Bruce  
Campbell (CA)  
Carr  
Clarke  
Clinger

Coleman (MO)  
Condit  
Cooper  
Courter  
Crockett  
de la Garza  
Derrick  
Dingell  
Douglas  
Dwyer  
Early  
Engel  
Espy  
Fawell  
Fish  
Foglietta  
Frank  
Gallo  
Gephardt  
Gillmor  
Glickman  
Gordon  
Grant  
Guarini  
Hall (TX)  
Hatcher  
Hayes (LA)  
Hertel  
Hochbrueckner  
Houghton  
Huckaby  
Ireland  
Johnson (CT)  
Jones (GA)  
Kanjorski  
Kastenmeier  
Kildee  
Kostmayer  
Lancaster  
Leath (TX)  
Levin (MI)  
Lipinski  
Lowery (CA)  
Machtley  
Martin (IL)  
Mavroules

Coleman (TX)  
Conte  
Costello  
Cox  
Darden  
DeFazio  
DeWine  
Dixon  
Downey  
Dymally  
Eckart  
English  
Evans  
Fazio  
Flake  
Ford (MI)  
Frenzel  
Gaydos  
Geren  
Gilman  
Gonzalez  
Goss  
Gray  
Gunderson  
Hamilton  
Hawkins  
Hefner  
Hiler  
Hopkins  
Hoyer  
Hughes  
Jacobs  
Johnson (SD)  
Jones (NC)  
Kaptur  
Kennedy  
Kleczka  
LaFalce  
Laughlin  
Lehman (CA)  
Lewis (FL)  
Lloyd  
Lowey (NY)  
Manton  
Martinez  
Mazzoli

Collins  
Conyers  
Coughlin  
Coyne  
Davis  
Dellums  
Dicks  
Dorgan (ND)  
Durbin  
Dyson  
Edwards (CA)  
Erdreich  
Fascell  
Feighan  
Flippo  
Ford (TN)  
Frost  
Gejdenson  
Gibbons  
Gingrich  
Goodling  
Gradison  
Green  
Hall (OH)  
Harris  
Hayes (IL)  
Henry  
Hoagland  
Horton  
Hubbard  
Inhofe  
James  
Johnston  
Jontz  
Kasich  
Kennelly  
Kolter  
Lagomarsino  
Leach (IA)  
Lent  
Lewis (GA)  
Long  
Luken, Thomas  
Markey  
Matsui  
McCloskey

McCollum  
McGrath  
McMillen (MD)  
Mfume  
Miller (WA)  
Mollohan  
Morrison (CT)  
Murtha  
Neal (MA)  
Oakar  
Olin  
Owens (UT)  
Parker  
Payne (NJ)  
Pelosi  
Petri  
Poshard  
Rahall  
Ray  
Rinaldo  
Ros-Lehtinen  
Roth  
Roybal  
Sangmeister  
Sawyer  
Schiff  
Schuette  
Sensenbrenner  
Sikorski  
Slattery  
Smith (IA)  
Snowe  
Staggers  
Stearns  
Studds  
Tallon  
Tauzin  
Torres  
Traxler  
Upton  
Visclosky  
Walker  
Weiss  
Whitten  
Wise  
Wyden

McCurdy  
McHugh  
McNulty  
Miller (CA)  
Mineta  
Montgomery  
Mrazek  
Nagle  
Neal (NC)  
Oberstar  
Ortiz  
Pallone  
Patterson  
Payne (VA)  
Penny  
Pickett  
Price  
Rangel  
Regula  
Ritter  
Rose  
Roukema  
Sabo  
Sarpalius  
Saxton  
Schneider  
Schulze  
Shaw  
Sisisky  
Slaughter (NY)  
Smith (NJ)  
Solarz  
Stallings  
Stenholm  
Sundquist  
Tanner  
Taylor  
Towns  
Udall  
Valentine  
Volkmer  
Waxman  
Weldon  
Williams  
Wolf  
Wylie

McDermott  
McMillan (NC)  
Meyers  
Miller (OH)  
Moakley  
Morella  
Murphy  
Natcher  
Nowak  
Obey  
Owens (NY)  
Panetta  
Paxon  
Pease  
Perkins  
Pickle  
Pursell  
Ravenel  
Richardson  
Roe  
Rostenkowski  
Rowland (GA)  
Saiki  
Savage  
Scheuer  
Schroeder  
Schumer  
Shays  
Skaggs  
Smith (FL)  
Smith (VT)  
Spence  
Stark  
Stokes  
Swift  
Tauke  
Thomas (GA)  
Traficant  
Unsoeld  
Vento  
Walgren  
Weber  
Wheat  
Wilson  
Wolpe  
Yates

Yatron

NOES – 75

Archer  
Ballenger  
Bunning  
Campbell (CO)  
Dannemeyer  
Dornan (CA)  
Edwards (OK)  
Gallegly  
Hammerschmidt  
Hastert  
Hunter  
Kyl  
Livingston  
Marlenee  
McEwen  
Morrison (WA)  
Oxley  
Pashayan  
Robinson  
Schaefer  
Slaughter (VA)  
Smith, Robert (OR)  
Stump  
Vander Jagt  
Whittaker

Arney  
Bentley  
Burton  
Combest  
DeLay  
Dreier  
Emerson  
Gekas  
Hancock  
Hefley  
Hyde  
Lewis (CA)  
Lukens, Donald  
Martin (NY)  
Michel  
Myers  
Packard  
Rhodes  
Rogers  
Shumway  
Smith (NE)  
Solomon  
Thomas (CA)  
Vucanovich  
Young (AK)

Baker  
Brown (CO)  
Callahan  
Craig  
Dickinson  
Duncan  
Fields  
Grandy  
Hansen  
Holloway  
Kolbe  
Lightfoot  
Madigan  
McCandless  
Moorhead  
Nielson  
Parris  
Roberts  
Rohrabacher  
Skeen  
Smith (TX)  
Stangeland  
Thomas (WY)  
Walsh  
Young (FL)

NOT VOTING – 35

Annunzio  
Brooks  
Crane  
Garcia  
Jenkins  
Levine (CA)  
Molinari  
Porter  
Rowland (CT)  
Shuster  
Smith, Robert (NH)  
Toricelli

Aspin  
Bryant  
Donnelly  
Herger  
Lantos  
McCrery  
Moody  
Quillen  
Russo  
Skelton  
Spratt  
Watkins

Barton  
Bustamante  
Florio  
Hutto  
Lehman (FL)  
McDade  
Nelson  
Ridge  
Sharp  
Smith, Denny (OR)  
Synar