

A. B. 503—Dini, Mello, May, Wagner and Weise, Mar. 5.

Summary—Changes structure and substantive requirements of Tahoe Regional Planning Agency. (BDR 22-1950) Fiscal Note: Effect on Local Government: Yes. Effect on the State or on Industrial Insurance: Yes.

Mar. 5—Read first time. Referred to Committee on Government Affairs. To printer.

Mar. 6—From printer. To committee. 3/29, 4/20

✓ Apr. 20—From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. To printer.

Apr. 23—From printer. To engrossment. Engrossed. First reprint. Placed on General File. Read third time. Passed, as amended. Title approved. To Senate.

Apr. 24—In Senate. Read first time. Referred to Committee on Natural Resources. To committee. 4/25, 4/27, 4/30

✓ May 4—From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. To printer.

May 7—From printer. To re-engrossment. Re-engrossed. Second reprint.

✓ May 8—Taken from General File. Placed on Secretary's desk.

✓ May 24—Taken from Secretary's desk. Placed on General File. Read third time. Amended. To printer.

May 25—From printer. To re-engrossment. Re-engrossed. Third reprint.

✓ May 26—Taken from General File. Placed on Secretary's desk. Taken from Secretary's desk. Placed on General File. Read third time. Amended. To printer.

✓ May 27—From printer. To re-engrossment. Re-engrossed. Fourth reprint. Read third time. Amended. To printer. From printer. To re-engrossment. Re-engrossed. Fifth reprint. Read third time. Amended. Reprinting dispensed with. Passed, as amended. Title approved. Ordered reprinted. To printer.

✓ May 28—From printer. To re-engrossment. Re-engrossed. Sixth reprint. To Assembly. In Assembly. Senate amendments not concurred in. To Senate. In Senate. Senate amendments not receded from. Conference requested. First Committee on Conference appointed by Senate. To Assembly. In Assembly. First Committee on Conference appointed by Assembly. To committee. From committee: Concur in Senate amendments and further amend. First Conference report adopted by Assembly. First Conference report adopted by Senate. To printer. From printer. To re-engrossment. Re-engrossed. Seventh reprint. To enrollment. Enrolled and delivered to Governor. Approved by the Governor. Chapter No. 575.

Sections 3, 4, 5 and 6 of this act effective May 28, 1979. Sections 1 and 2 of this act effective upon proclamation by the governor of this state of the enactment of the amendments to the Tahoe Regional Planning Compact contained in section 1 of this act by the State of California and their approval by the Congress of the United States.

A.B. 503 (chapter 575) Primarily proposes revisions to the Tahoe Regional Planning Compact which are contingent upon California enacting and Congress approving the same revisions. The findings and declarations are significantly changed. The membership is changed from a 10-member governing board with dominance by local representatives to a 14-member board with dominance by state-level representatives. The voting procedures are significantly changed. Generally, approval or amendment of plans, ordinances and regulations would require the positive vote of a majority of the members from each state. Approval of a project would require the positive vote of a majority of the members from the state in which the project is located and the positive vote of a majority of the entire governing body. The Tahoe Regional Planning Agency is required to develop and adopt environmental threshold carrying capacities and to revise the regional plan and ordinances. Specific requirements are stipulated relative to revisions of the transportation element of the regional plan and inclusion of the California Tahoe Regional Planning Agency's plan, ordinances and regulations for the California portion of the basin. In order to slow development while the required planning is being completed, a limited moratorium is established. Future gaming in the basin is restricted by incorporating the provisions of S.B. 323 of the 1979 legislative session into the proposed new compact. Basically, these provisions eliminate the possibility of any new casinos in the basin, prohibit external expansion of existing casinos, and prohibit expansion of the public area associated with existing casinos. The legal provisions for venue, standing to sue and judicial review are specified, and the penalties are increased substantially. The act also requires that an environmental impact statement be prepared prior to the Tahoe Regional Planning Agency's approval or commencement of any project. The contents of the environmental impact statement are specified.

ASSEMBLY BILL NO. 503—ASSEMBLYMEN DINI,
MELLO, MAY, WAGNER AND WEISE

MARCH 5, 1979

Referred to Committee on Government Affairs

SUMMARY—Changes structure and substantive requirements of Tahoe
Regional Planning Agency. (BDR 22-1950)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the Tahoe Regional Planning Agency; changing the composition of its governing body and the requirements for making decisions; restricting certain gaming activities to certain places within the region; changing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

1 SECTION 1. NRS 277.200 is hereby amended to read as follows:
2 277.200 The Tahoe Regional Planning Compact is as follows:
3

4 TAHOE REGIONAL PLANNING COMPACT

5 ARTICLE I. Findings and Declarations of Policy
6

7 (a) It is found and declared that the waters of Lake Tahoe and other
8 resources of the Lake Tahoe region are threatened with deterioration
9 or degeneration, which may endanger the natural beauty and economic
10 productivity of the region.

11 (b) It is further declared that by virtue of the special conditions and
12 circumstances of the natural ecology, developmental pattern, population
13 distribution and human needs in the Lake Tahoe region, the region is
14 experiencing problems of resource use and deficiencies of environmental
15 control.
16

17 (c) It is further found and declared that there is a need to maintain
18 an equilibrium between the region's natural endowment and its man-
19 made environment, to preserve the scenic beauty and recreational oppor-
20 tunities of the region, and it is recognized that for the purpose of
21 enhancing the efficiency and governmental effectiveness of the region, it
22 is imperative that there be established an areawide planning agency with
23 power to adopt and enforce a regional plan, [of resource conservation

1 and orderly development,] to exercise effective environmental controls
2 and to perform other essential functions, as enumerated in this [title.]
3 compact.

4 ARTICLE II. Definitions

5
6 As used in this compact:

7 (a) "Region," includes Lake Tahoe, the adjacent parts of [the
8 Counties of Douglas, Ormsby, and Washoe] *Douglas and Washoe*
9 *counties and Carson City, which for the purposes of this compact shall*
10 *be deemed a county*, lying within the Tahoe Basin in the State of
11 Nevada, and the adjacent parts of the Counties of Placer and El Dorado
12 lying within the Tahoe Basin in the State of California, and that addi-
13 tional and adjacent part of the County of Placer outside of the Tahoe
14 Basin in the State of California which lies southward and eastward
15 of a line starting at the intersection of the basin crestline and the north
16 boundary of Section 1, thence west to the northwest corner of Section
17 3, thence south to the intersection of the basin crestline and the west
18 boundary of Section 10; all sections referring to Township 15 [.] North,
19 Range 16 East, M.D.B. & M. The region defined and described herein
20 shall be as precisely delineated on official maps of the agency.

21 (b) "Agency" means the Tahoe Regional Planning Agency.

22 (c) "Governing body" means the governing board of the Tahoe
23 Regional Planning Agency.

24 (d) "Regional plan" [shall mean] *means* the long-term general plan
25 for the development of the region.

26 (e) ["Interim plan" shall mean the interim regional plan adopted
27 pending the adoption of the regional plan.

28 (f) ["Planning commission" means the advisory planning commis-
29 sion appointed pursuant to paragraph (h) of Article III.

30 [(g)] (f) "Gaming" means to deal, operate, carry on, conduct,
31 maintain or expose for play any banking or percentage game played
32 with cards, dice or any mechanical device or machine for money, prop-
33 erty, checks, credit or any representative of value, including, without
34 limiting the generality of the foregoing, faro, monte, roulette, keno,
35 bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klon-
36 dike, craps, stud poker, draw poker or slot machine, but does not
37 include social games played solely for drinks, or cigars or cigarettes
38 served individually, games played in private homes or residences for
39 prizes or games operated by charitable or educational organizations,
40 to the extent excluded by applicable state law.

41 [(h)] (g) "Restricted gaming license" means a license to operate
42 slot machines on which a quarterly tax is levied pursuant to NRS 463.-
43 373.

44 (h) "Project" means an activity undertaken by any person if the
45 activity may substantially affect the land, water, air, space or any other
46 natural resources of the region.

47 (i) "Criterion of environmental quality" means a physically measur-
48 able standard for some element of the natural environment, such as
49 water purity or clarity, air pollution or noise.

ARTICLE III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency [shall be constituted as follows:

One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Each member shall be a member of the city council or county board of supervisors which he represents and, in the case of a supervisor, shall be a resident of a county supervisorial district lying wholly or partly within the region.

One member appointed by each of the boards of county commissioners of Douglas, Ormsby and Washoe counties. Any member so appointed shall be a resident of the county from which he is appointed and may be, but it not required to be:

(1) A member of the board which appoints him; and

(2) A resident of or the owner of real property in the region, as each board of county commissioners may in its own discretion determine. The manner of selecting the person so to be appointed may be further prescribed by county ordinance.

A person so appointed shall before taking his seat on the governing body disclose all his economic interests in the region, and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. If any board of county commissioners fails to make an appointment required by this paragraph within 30 days after the effective date of this act or the occurrence of a vacancy on the governing body, the governor shall make such appointment. The position of a member appointed by a board of county commissioners shall be deemed vacant if such member is absent from three consecutive meetings of the governing body in any calendar year.

One member appointed by the Governor of California and one member appointed by the Governor of Nevada. The appointment of the California member is subject to Senate confirmation, he shall not be a resident of the region and shall represent the public at large. The member appointed by the Governor of Nevada shall not be a resident of the region and shall represent the public at large.

The Administrator of the California Resources Agency or his designee and the Director of the Nevada Department of Conservation and Natural Resources or his designee.] consists of the following delegations:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the County Board of Supervisors or City Council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this sub-subparagraph shall

1 not be residents of the region and shall represent the public at large
2 within the State of California.

3 (C) One member appointed for a 1-year term by the six other mem-
4 bers from the California delegation. If at least four members of the
5 California delegation are unable to agree upon the selection of a seventh
6 member within 30 days after the effective date of this act or the occur-
7 rence of a vacancy on the governing body for that state, the Governor
8 of the State of California shall make such appointment with the concu-
9 rence of the California Senate.

10 (2) Nevada delegation:

11 (A) One member appointed by each of the boards of county com-
12 missioners of Douglas and Washoe counties and one member appointed
13 by the board of supervisors of Carson City. Any such member may be a
14 member of the board of county commissioners or board of supervisors,
15 respectively, and shall reside in the territorial jurisdiction of the govern-
16 mental body making the appointment.

17 (B) Two members appointed by the governor of Nevada, the secre-
18 tary of state of Nevada or his designee, and the director of the state
19 department of conservation and natural resources of Nevada or his
20 designee. The members appointed pursuant to this sub-subparagraph
21 shall not be residents of the region and shall represent the public at
22 large within the state of Nevada.

23 If any appointing authority under subparagraph (1)(A), (1)(B), (2)(A)
24 or (2)(B) fails to make such an appointment within 30 days after the
25 effective date of this act or the occurrence of a vacancy on the governing
26 body, the Governor of the state in which the appointing authority is
27 located shall make the appointment.

28 The position of a member appointed by a board or the city council
29 shall be deemed vacant if such member is absent from three consecutive
30 meetings of the governing body in any calendar year.

31 Each member shall before taking his seat on the governing body dis-
32 close all his economic interests in the region, and shall thereafter disclose
33 any further economic interest which he acquires, as soon as feasible
34 after he acquires it. Each state may provide by law for the manner of
35 disclosure and elimination of conflicts of interest on the part of members
36 of the governing body appointed from that state.

37 (b) The members of the agency shall serve without compensation, but
38 the expenses of each member shall be met by the body which he repre-
39 sents in accordance with the law of that body. All other expenses incurred
40 by the governing body in the course of exercising the powers conferred
41 upon it by this compact unless met in some other manner specifically
42 provided, shall be paid by the agency out of its own funds.

43 (c) [The] Except as provided in paragraph (a)(1)(C), the term of
44 office of the members of the governing body shall be at the pleasure of the
45 appointing authority in each case, but each appointment shall be reviewed
46 no less often than every 4 years. Members may be reappointed.

47 (d) The governing body of the agency shall meet at least monthly.
48 All meetings shall be open to the public to the extent required by the
49 law of the State of California or the State of Nevada, whichever imposes
50 the greater requirement, applicable to local governments at the time

1 such meeting is held. The governing body shall fix a date for its regular
2 monthly meeting in such terms as "the first Monday of each month,"
3 and shall not change such date oftener than once in any calendar year.
4 Notice of the date so fixed shall be given by publication at least once
5 in a newspaper or combination of newspapers whose circulation is
6 general throughout the region and in each county a portion of whose
7 territory lies within the region. Notice of any special meeting, except
8 an emergency meeting, shall be given by so publishing the date [.] and
9 place and *posting an agenda* at least 5 days prior to the meeting.

10 (e) The position of a member of the governing body shall be con-
11 sidered vacated upon his loss of any of the qualifications required for
12 his appointment and in such event the appointing authority shall appoint
13 a successor.

14 (f) The governing body shall elect from its own members a chairman
15 and vice chairman, whose terms of office shall be two years, and who
16 may be reelected. If a vacancy occurs in either office, the governing
17 body may fill such vacancy for the unexpired term.

18 (g) [A majority of the members of the governing body from each
19 state shall constitute a quorum for the transaction of the business of the
20 agency. A majority vote of the members present representing each state
21 shall be required to take action with respect to any matter.] *Four of*
22 *the members of the governing body from each state constitute a quorum*
23 *for the transaction of the business of the agency. Except as otherwise*
24 *provided in paragraph (o) of Article VI, the affirmative vote of a*
25 *majority of the members of the governing body is sufficient to take*
26 *action with respect to any matter.* The vote of each member of the
27 governing body shall be individually recorded. The governing body
28 shall adopt its own rules, regulations and procedures.

29 (h) An advisory planning commission shall be appointed by the
30 agency, which [shall consist of an equal number of members from
31 each state. The commission] shall include: [but shall not be limited
32 to:] the chief planning officers of Placer County, El Dorado County,
33 and the City of South Lake Tahoe in California and of [the Counties
34 of] Douglas [, Ormsby, and] County, Washoe County and Carson City
35 in Nevada, [the Placer County Director of Sanitation, the El Dorado
36 County Director of Sanitation, the county health officer of Douglas
37 County or his designee, the county health officer of Washoe County or
38 his designee,] the Chief of the Bureau of Environmental Health of the
39 Health Division of the Department of [Health, Welfare and Rehabilita-
40 tion] *Human Resources* of the State of Nevada, [or his designee,] the
41 executive officer of the Lahontan Regional Water Quality Control Board
42 [or his designee,] *of the State of California*, the executive officer of the
43 [Tahoe Regional Planning Agency who shall act as chairman,] *Air*
44 *Resources Board of the State of California, the director of the state*
45 *department of conservation and natural resources of the State of Nevada,*
46 *the administrator of the Lake Tahoe Management Unit of the United*
47 *States Forest Service, and at least four lay members with an equal num-*
48 *ber from each state, each of whom shall be a resident of the region. Any*
49 *official member may designate a substitute.*

1 *The term of office of each lay member of the advisory planning*
2 *commission shall be 2 years. Members may be reappointed.*

3 *The position of each member of the advisory planning commission*
4 *shall be considered vacated upon loss of any of the qualifications*
5 *required for appointment, and in such event the appointing authority*
6 *shall appoint a successor.*

7 *The advisory planning commission shall elect from its own members*
8 *a chairman and a vice chairman, whose terms of office shall be 2 years*
9 *and who may be reelected. If a vacancy occurs in either office, the*
10 *advisory planning commission shall fill such vacancy for the unexpired*
11 *term.*

12 *A majority of the members of the advisory planning commission shall*
13 *constitute a quorum for the transaction of the business of the commis-*
14 *sion. A majority vote of the quorum present shall be required to take*
15 *action with respect to any matter.*

16 (i) The agency shall establish and maintain an office within the region
17 [. The] , and for this purpose the agency may rent or own property and
18 equipment. Every plan, ordinance and other record of the agency which
19 is of such nature as to constitute a public record under the law of either
20 the State of California or the State of Nevada shall be open to inspection
21 and copying during regular office hours.

22 (j) Each authority charged under this compact or by the law of either
23 state with the duty of appointing a member of the governing body of the
24 agency shall by certified copy of its resolution or other action notify the
25 Secretary of State of its own state of the action taken. [Upon receipt of
26 certified copies of the resolutions or notifications appointing the mem-
27 bers of the governing body, the Secretary of State of each respective
28 state shall notify the Governor of the state who shall, after consultation
29 with the Governor of the other state, issue a concurrent call for the
30 organization meeting of the governing body at a location determined
31 jointly by the two governors.

32 (k) Each state may provide by law for the disclosure or elimination
33 of conflicts of interest on the part of members of the governing body
34 appointed from that state.]

35 ARTICLE IV. Personnel

36
37
38 (a) The governing body shall determine the qualification of, and it
39 shall appoint and fix the salary of, the executive officer of the agency,
40 and shall employ such other staff and legal counsel as may be necessary,
41 to execute the powers and functions provided for under this act or in
42 accordance with any intergovernmental contracts or agreements the
43 agency may be responsible for administering.

44 (b) Agency personnel standards and regulations shall conform insofar
45 as possible to the regulations and procedures of the civil service of the
46 State of California or the State of Nevada, as may be determined by the
47 governing body of the agency; and shall be regional and bistate in appli-
48 cation and effect; provided that the governing body may, for administra-
49 tive convenience and at its discretion, assign the administration of
50 designated personnel arrangements to an agency of either state, and

1 provided that administratively convenient adjustments be made in the
2 standards and regulations governing personnel assigned under inter-
3 governmental agreements.

4 (c) The agency may establish and maintain or participate in such
5 additional programs of employee benefits as may be appropriate to
6 afford employees of the agency terms and conditions of employment
7 similar to those enjoyed by employees of California and Nevada gen-
8 erally.

9 (d) *No member of the governing body or planning commission or*
10 *employee of the agency shall be liable in damages for any decision in the*
11 *course of his official duties, unless that decision is malicious.*

12 ARTICLE V. Planning

13
14 (a) In preparing each of the plans required by this article and each
15 amendment thereto, if any, subsequent to its adoption, the planning
16 commission after due notice shall hold at least one public hearing which
17 may be continued from time to time, and shall review the testimony and
18 any written recommendations presented at such hearing before recom-
19 mending the plan or amendment. The notice required by this paragraph
20 shall be given at least 20 days prior to the public hearing by publication
21 at least once in a newspaper or combination of newspapers whose circu-
22 lation is general throughout the region and in each county a portion of
23 whose territory lies within the region.

24 The planning commission shall then recommend such plan or amend-
25 ment to the governing body for adoption by ordinance. The governing
26 body may adopt, modify or reject the proposed plan or amendment, or
27 may initiate and adopt a plan or amendment without referring it to the
28 planning commission. If the governing body initiates or substantially
29 modifies a plan or amendment, it shall hold at least one public hearing
30 thereon after due notice as required in this paragraph.

31 If a request is made for the amendment of the regional plan by:

32 (1) A political subdivision a part of whose territory would be
33 affected by such amendment; or

34 (2) The owner or lessee of real property which would be affected
35 by such amendment,
36 the governing body shall complete its action on such amendment within
37 **[60]** 180 days after such request is **[delivered to]** *accepted as com-*
38 *plete according to standards which must be prescribed by ordinance of*
39 *the agency.*

40 **[Tahoe Regional Plan]**

41 (b) Within 15 months after the formation of the agency, the planning
42 commission shall recommend a regional plan. Within 18 months after
43 the formation of the agency, the governing body shall adopt a regional
44 plan. After adoption, the planning commission and governing body
45 shall continuously review and maintain the regional plan. The regional
46 plan shall consist of a diagram, or diagrams, and text, or texts setting
47 forth the projects and proposals for implementation of the regional plan,
48 a description of the needs and goals of the region and a statement of
49 the policies, standards and elements of the regional plan.
50

1 *The regional plan must take into account applicable federal and*
2 *state air and water quality standards for the region, and may be*
3 *designed to bring about better quality. Each element of the regional*
4 *plan shall contain provisions and time schedules for its implementation*
5 *by ordinance.*

6 *The regional plan shall be a single enforceable plan and include all of*
7 *the following correlated elements:*

8 (1) A land-use plan for the integrated arrangement and general loca-
9 tion and extent of, and the criteria and standards for, the uses of land,
10 water, air, space and other natural resources within the region, includ-
11 ing but not limited to [.] an indication or allocation of maximum pop-
12 ulation densities [.] which will meet the criteria of environmental
13 quality and not exceed the limits of the capability of the ecological
14 system to tolerate human activity as specified pursuant to paragraph
15 (c) of Article VI.

16 (2) A transportation plan for the integrated development of a regional
17 system of transportation, including but not limited to, freeways, park-
18 ways, highways, transportation facilities, transit routes, waterways, navi-
19 gation and aviation aids and facilities, and appurtenant terminals and
20 facilities for the movement of people and goods within the region.

21 *Within 12 months after the completion of the comprehensive state-*
22 *ment establishing criteria of environmental quality and limits of the*
23 *capability of the ecological system to tolerate human activity pursuant*
24 *to paragraph (c) of Article VI, the agency shall develop a transportation*
25 *plan for the region that substantially complies with those criteria and*
26 *does not exceed those limits. The transportation plan must not disrupt*
27 *normal outdoor recreational activities.*

28 (3) A conservation plan for the preservation, development, utiliza-
29 tion, and management of the scenic and other natural resources within
30 the basin, including, but not limited to, soils, shoreline and submerged
31 lands, scenic corridors along transportation routes, open spaces, recrea-
32 tional and historical facilities.

33 (4) A recreation plan for the development, utilization, and manage-
34 ment of the recreational resources of the region, including but not
35 limited to, wilderness and forested lands, parks and parkways, riding
36 and hiking trails, beaches and playgrounds, marinas and other recrea-
37 tional facilities.

38 (5) A public services and facilities plan for the general location,
39 scale and provision of public services and facilities, which, by the nature
40 of their function, size, extent and other characteristics are necessary
41 or appropriate for inclusion in the regional plan.

42 In formulating and maintaining the regional plan, the planning com-
43 mission and governing body shall take account of and shall seek to
44 harmonize the needs of the region as a whole, the plans of the counties
45 and cities within the region, the plans and planning activities of the
46 state, federal and other public agencies and nongovernmental agencies
47 and organizations which affect or are concerned with planning and
48 development within the region.

49 *Until the regional plan, ordinances and standards are respectively*
50 *revised or adopted pursuant to paragraph (c) of Article VI or the tim*

1 limited for such action has passed, the regional plan, ordinances, rules
2 and regulations adopted by the California Tahoe Regional Planning
3 Agency and in effect on July 1, 1978, are part of the regional plan,
4 ordinances, rules and regulations of the Tahoe Regional Planning Agency
5 and apply to all activities subject to this compact in that portion of the
6 Tahoe Region located in the State of California. Any plan, ordinance,
7 rule or regulation adopted pursuant to this article may be amended by a
8 vote in favor of such amendment, pursuant to the procedure specified in
9 paragraph (g) of Article III. The plans, ordinances, rules and regulations
10 adopted by the California Tahoe Regional Planning Agency and in
11 effect on July 1, 1978, are recognized as establishing a higher standard
12 applicable in California. No provision of the regional plan, ordinances,
13 rules or regulations of the California Tahoe Regional Planning Agency
14 adopted pursuant to this paragraph applies to that portion of the region
15 within the State of Nevada, unless that provision is adopted for the
16 Nevada portion of the region by the governing body of the agency.

17 Where necessary for the realization of the regional plan, the agency
18 may engage in collaborative planning with local governmental jurisdic-
19 tions located outside the region, but contiguous to its boundaries. In
20 formulating and implementing the regional plan, the agency shall seek
21 the cooperation and consider the recommendations of counties and
22 cities and other agencies of local government, of state and federal
23 agencies, of educational institutions and research organizations, whether
24 public or private, and of civic groups and private individuals.

25 (c) All provisions of the [Tahoe] regional [general] plan shall be
26 enforced by the agency and by the states, counties and cities in the
27 region. *Expansion of public services and facilities, unless essential to*
28 *meet the needs of present inhabitants, shall not precede the development*
29 *or revision of the land-use plan pursuant to paragraph (c) of Article VI.*

31 [Tahoe Regional Interim Plan]

32 (d) Within 60 days after the formation of the agency, the planning
33 commission shall recommend a regional interim plan. Within 90 days
34 after the formation of the agency, the governing body shall adopt a
35 regional interim plan. The interim plan shall consist of statements of
36 development policies, criteria and standards for planning and develop-
37 ment, of plans or portions of plans, and projects and planning decisions,
38 which the agency finds it necessary to adopt and administer on an
39 interim basis in accordance with the substantive powers granted to it in
40 this agreement.

41 (e) (d) The agency shall maintain the data, maps and other infor-
42 mation developed in the course of formulating and administering the
43 regional plan, [and interim plan,] in a form suitable to assure a con-
44 sistent view of developmental trends and other relevant information for
45 the availability of and use by other agencies of government and by pri-
46 vate organizations and individuals concerned.

47 (f) All provisions of the interim plan shall be enforced by the agency
48 and by the states, the counties, and cities.]

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional [and interim plans.] *plan*. Every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the [basin,] *region*, and any political subdivision may adopt and enforce an equal or higher standard applicable to the same subject of regulation in its territory. The regulations of the agency shall contain general, regional standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers [;], harbors, breakwaters [;] or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the [interim plan or the general] *regional plan*, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the [interim or general] *regional plan*.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the [interim plan or the] *regional plan*, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

[Interim regulations shall be adopted within 90 days from the formation of the agency and final] *Final regulations must be adopted* within 18 months after the formation of the agency.

[Every plan, ordinance, rule, regulation or policy adopted by the agency shall recognize as a permitted and conforming use any business or recreational establishment which is required by law of the state in which it is located to be individually licensed by the state, if such business or establishment:

(1) Was so licensed on February 5, 1968, or was licensed for a limited season during any part of the calendar year immediately preceding February 5, 1968.

(2) Is to be constructed on land which was so zoned or designated in a finally adopted master plan on February 5, 1968, as to permit the construction of such a business or establishment.]

(b) *No project other than those to be reviewed and approved under the special provision of paragraphs (d), (e) and (f) may be developed in the region without obtaining the review and approval of the agency and no project may be approved, except in accordance with a regional plan and ordinances meeting the requirements of this compact.*

1 (c) It is the intention of the States of California and Nevada to estab-
2 lish criteria of environmental quality to preserve the scenic beauty, the
3 recreational, educational, scientific and natural values and the quality
4 of water and air of the region.

5 The states and the agency shall cooperate in developing a compre-
6 hensive statement establishing for the region criteria of environmental
7 quality and limits of the capability of the ecological system to tolerate
8 human activity. This statement must be completed within 18 months
9 after the effective date of this amendatory provision. Upon completion
10 of the statement, and after consultation with federal, state and local
11 agencies and after notice and public hearing, the agency shall revise
12 the regional plan and adopt or revise ordinances and standards for the
13 preservation of environmental quality in the region based upon these
14 criteria and limits. The agency shall also adopt regulations defining
15 specific written findings concerning environmental protection and the
16 capability of the environment to tolerate human activity that the agency
17 and the state environmental commission of Nevada must make prior to
18 approving any project in the region. Such findings shall be based upon
19 substantial evidence in the record. If the new ordinances, regulations
20 and standards required by this paragraph are not adopted within 2 years
21 after the effective date of this amendatory provision, the ordinances,
22 regulations and standards in effect on that effective date are revived
23 and continue until amended or repealed.

24 Until the findings are adopted or 2 years have elapsed from the effec-
25 tive date of this amendatory provision, whichever is sooner, the agency
26 and the state environmental commission of Nevada may approve a
27 project in the region only after making writing findings on the basis
28 of substantial evidence in the record that the project is consistent with
29 the regional plan, ordinances, regulations and standards of the agency
30 and those adopted by federal and state agencies relating to the protec-
31 tion, maintenance and enhancement of environmental quality in the
32 region.

33 (d) Subject to the final order of any court of competent jurisdiction
34 entered in litigation pending on January 1, 1979, the agency shall
35 recognize as a permitted and conforming use:

36 (1) Every structure housing licensed gaming which existed as a
37 licensed gaming establishment on January 1, 1979, or whose construc-
38 tion was approved by the agency before that date. The agency shall
39 not permit the construction of any structure to house gaming under a
40 nonrestricted license not so existing or approved, or the enlargement
41 in cubic volume of any such existing or approved structure, but may
42 permit any alteration, reconstruction or change of location which does
43 not enlarge the cubic volume of the structure.

44 (2) Every other nonrestricted gaming establishment whose use was
45 seasonal and whose license was issued before January 1, 1979, for the
46 same season and for the number and type of games and slot machines
47 on which taxes or fees were paid in the calendar year 1978.

48 (3) Gaming conducted pursuant to a restricted gaming license issued
49 before January 1, 1979, to the extent permitted by that license on that
50 date.

1 The area within any structure housing licensed gaming which may be
2 open to public use (as distinct from that devoted to the private use of
3 guests) is limited to the area existing or approved for public use on
4 July 1, 1979. Gaming must not be conducted on any story of the struc-
5 ture not so used or approved for use on that date. Within these limits,
6 the relocation of gaming or remodeling of the structure requires approval
7 from the state environmental commission of Nevada and not from the
8 agency.

9 (e) If any structure housing licensed gaming activities is destroyed
10 or damaged, the structure may be rebuilt to a size not to exceed the
11 cubic volume and land coverage which existed on July 1, 1978.

12 (f) Any project housing or proposing to house restricted gaming and
13 not possessing on July 1, 1978, a valid restricted gaming license issued
14 pursuant to Nevada state law, shall not be permitted unless approved
15 by the state environmental commission of Nevada. The commission may
16 issue such approval only after:

17 (1) Consulting the agency for recommendations, findings and condi-
18 tions concerning such restricted gaming; and

19 (2) Making the written findings required pursuant to paragraph (c).
20 The intent of this paragraph is to control the expansion of restricted
21 gaming so that it is incidental to the primary business housed with
22 restricted gaming, meets the criteria of environmental quality and does
23 not exceed the capability of the ecological system to tolerate human
24 activity. This paragraph deals only with the placement and number of
25 machines. It does not apply to new construction or structural changes,
26 such as construction of an area to house restricted gaming or to house
27 the relocation of the primary business so that restricted gaming can
28 be accommodated. Such construction shall require approval from the
29 agency in accordance with this compact.

30 (g) All ordinances, rules, regulations and policies adopted by the
31 agency shall be enforced by the agency and by the respective states,
32 counties, and cities. The appropriate courts of the respective states,
33 each within its limits of territory and subject matter provided by state
34 law, are vested with jurisdiction over civil actions to which the agency
35 is a party and criminal actions for violations of its ordinances. Each
36 such action shall be brought in a court of the state where the violation
37 is committed or where the property affected by a civil action is situated,
38 unless the action is brought in a federal court. For this purpose, the
39 agency shall be deemed a political subdivision of both the State of
40 California and the State of Nevada.

41 [(c) Except as otherwise provided in paragraph (d), all]

42 (h) All public works projects shall be reviewed prior to construction
43 and approved by the agency as to the project's compliance with the
44 [adopted] regional [general] plan.

45 [(d)] (i) All plans, programs and proposals of the State of Cali-
46 fornia or Nevada, or of its executive or administrative agencies, which
47 may substantially affect [.] or may specifically apply [.] to the uses
48 of land, water, air, space and other natural resources in the region,
49 including but not limited to public works plans, programs and proposals
50 concerning highway routing, design and construction, shall be referred

1 to the agency for [its review,] action as to conformity with the regional
2 plan or interim plan, and for report and recommendations by the agency
3 to the executive head of the state agency concerned and to the Governor.
4 [A public works project which is initiated and is to be constructed by
5 a department of either state shall be submitted to the agency for review
6 and recommendation, but may be constructed as proposed.

7 (e) (j) The agency shall police the region to ensure compliance
8 with the [general] plan and adopted ordinances, rules, regulations and
9 policies. If it is found that the [general] regional plan, or ordinances,
10 rules, regulations and policies are not being enforced by a local juris-
11 diction, the agency may bring action in a court of competent jurisdiction
12 to ensure compliance.

13 [(f) Violation of any ordinance of the agency is a misdemeanor.]

14 (k) Any person or governmental entity who willfully violates any pro-
15 vision of this compact is subject to the imposition by a court of compe-
16 tent jurisdiction of a civil fine not be exceed \$100,000 for each offense.
17 In addition, any person or governmental entity who willfully performs
18 any development in violation of this compact, the regional plan or ordi-
19 nances of the agency, or conditions of approval imposed by the agency is
20 subject to the imposition by a court of competent jurisdiction of a civil
21 fine not to exceed \$5,000 for each day in which such violation persists.
22 The amount of any civil penalty imposed shall be deposited in the state
23 general fund of the state in which the violation occurs.

24 [(g)] (l) The agency is hereby empowered to initiate, negotiate
25 and participate in contracts and agreements among the local govern-
26 mental authorities of the region, or any other intergovernmental con-
27 tracts or agreements authorized by state or federal law.

28 [(h)] (m) Each intergovernmental contract or agreement shall pro-
29 vide for its own funding and staffing, but this shall not preclude financial
30 contributions from the local authorities concerned or from supplementary
31 sources.

32 [(i) Whenever a new city is formed within the region, the membership
33 of the governing body shall be increased by two additional members, one
34 appointed by, and who shall be a member of, the legislative body of the
35 new city, and one appointed by the Governor of the state in which the
36 city is not located. A member appointed by the Governor of California
37 is subject to Senate confirmation.

38 (j) (n) Every record of the agency, whether public or not, shall be
39 open for examination to the [Legislative Analyst] Controller of the
40 State of California and the [Fiscal Analyst] legislative auditor of the
41 State of Nevada.

42 [(k)] (o) Whenever under the provisions of this article or any ordi-
43 nance, rule, regulation or policy adopted pursuant thereto, the agency is
44 required to review or approve any proposal, public or private, the agency
45 shall take final action [,] by vote, whether to approve, to require modi-
46 fication or to reject such proposal, within [60] 90 days after such pro-
47 posal is delivered to the agency [. If the agency does not take final action
48 within 60 days, the proposal shall be deemed approved.] in compliance
49 with the agency's regulations governing such delivery unless the appli-
50 cant has agreed to an extension of this time limit. Approval of a project

requires the affirmative vote of a majority of the members of the governing body from the state in which the project is located and the affirmative vote of a majority of all the members of the governing body. If a final action by vote does not take place within 90 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under paragraph (g).

(p) Approval by the agency or the state environmental commission of Nevada, as the case may be, of any project expires 3 years after the date of final action by the agency or commission or the effective date of this amendatory provision, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action, the purpose of which is to prevent or modify the project, shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this paragraph.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Statements

(a) The Tahoe Regional Planning Agency shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in making decisions which may have an impact on man's environment;

(2) Develop methods for taking into account the relative economic costs and benefits of each proposed plan, standard or project;

(3) Include, in every recommendation or report on any project the agency proposes to carry out or approve which may significantly affect the quality of the human environment, a detailed statement by the responsible agency official on:

(A) The environmental impact of the proposed action;

(B) Any adverse environmental effects which cannot be avoided should the proposal be put into effect;

(C) Alternatives to the proposed action;

(D) Mitigative measures which must be taken to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be taken; and

(G) The growth of population which would be induced by the proposed project;

1 (4) Study, develop and describe appropriate alternatives to recom-
2 mended courses of action for any proposal which involves unresolved
3 conflicts concerning alternative uses of available resources;

4 (5) Make available to states, counties, municipalities, institutions and
5 private persons advice and information useful in restoring, maintaining
6 and enhancing the quality of the environment; and

7 (6) Initiate and utilize ecological information in the planning and
8 development of resource-oriented projects.

9 (b) Prior to completing the statement, the responsible agency official
10 shall consult with and obtain the comments of any federal, state or local
11 agency which has jurisdiction by law or special expertise with respect to
12 any environmental impact involved. Copies of such statement and the
13 comments and views of the appropriate federal, state and local agencies,
14 which are authorized to develop and enforce environmental standards,
15 shall be made available to the public and shall accompany the proposal
16 through the review processes. The public shall be consulted while the
17 statement is being prepared and its views shall be solicited during a
18 period of at least 60 days.

19 (c) Any statement required under this article for any project carried
20 out or approved by a state or local agency shall not be deemed to be
21 legally insufficient solely by reason of having been prepared by a state or
22 local agency or official if:

23 (1) The responsible agency official furnishes guidance and participates
24 in such preparation;

25 (2) The responsible agency official independently evaluates such state-
26 ment prior to its approval and adoption; and

27 (3) The responsible agency official provides early notification to and
28 solicits the views of any other state or local agency with jurisdiction by
29 law over any aspect of environmental quality in the region concerning
30 any action or any alternative thereto which may have significant environ-
31 mental impacts upon the region, and, if there is any disagreement on
32 such impacts, prepares a written assessment of such impacts and views
33 for incorporation into such detailed statements.

34 The procedures in this subparagraph shall not relieve the agency offi-
35 cial of his responsibilities for the scope, objectivity and content of the
36 entire statement or of any other responsibility under this compact.

37 (d) The agency may charge and collect a reasonable fee from any
38 person proposing a project subject to the provisions of this compact in
39 order to recover the estimated costs incurred by the agency in preparing
40 the detailed statement under this article.

41 (e) The agency shall adopt by ordinance a list of classes of projects
42 which the agency has determined will not have a significant effect on the
43 environment and will therefore be exempt from the requirement for the
44 preparation of a statement under this article. Prior to adopting the list,
45 the agency shall make a written finding supported by substantial evi-
46 dence in the record that each class of projects will not have a significant
47 effect on the environment.

ARTICLE VIII. Finances

1
2
3 (a) [Except as provided in paragraph (e), on] On or before [Dec-
4 ember] September 30 of each calendar year the agency shall establish
5 the amount of money necessary to support its activities for the next
6 succeeding fiscal year commencing July 1 of the following year. [The
7 agency shall apportion not more than \$150,000 of this amount among
8 the counties within the region on the same ratio to the total sum required
9 as the full cash valuation of taxable property within the region in each
10 county bears to the total full cash valuation of taxable property within
11 the region. [Each county in California shall pay the sum allotted to it
12 by the agency from any funds available therefor and may levy a tax on
13 any taxable property within its boundaries sufficient to pay the amount
14 so allocated to it. Each county in Nevada shall pay such sum from
15 its general fund or from any other moneys available therefor.] Each
16 county within the region in California shall pay \$18,750 to the agency
17 and each county within the region in Nevada, including Carson City,
18 shall pay \$12,500 to the agency, from any funds available therefor. The
19 State of California and the State of Nevada shall pay to the agency by
20 July 1 of each year \$200,000 and \$100,000, respectively to support the
21 activities of the agency pursuant to this compact.

22 (b) The agency may fix and collect reasonable fees for any services
23 rendered by it.

24 (c) The agency shall submit an itemized budget to the states, shall be
25 strictly accountable to any county in the region and the states for all
26 funds paid by [it] them to the agency and shall be strictly accountable
27 to all participating bodies for all receipts and disbursements.

28 (d) The agency is authorized to receive gifts, donations, subventions,
29 grants, and other financial aids and funds [.] ; but the agency may not
30 own land except as provided in paragraph (i) of Article III.

31 (e) [As soon as possible after the ratification of this compact, the
32 agency shall estimate the amount of money necessary to support its
33 activities:

34 (1) For the remainder of the then-current fiscal year; and

35 (2) If the first estimate is made between January 1 and June 30, for
36 the fiscal year beginning on July 1 of that calendar year.

37 The agency shall then allot such amount among the several counties,
38 subject to the restriction and in the manner provided in paragraph (a),
39 and each county shall pay such amount.] If additional funds are required
40 the agency shall make a request, accompanied by an itemized budget,
41 to the States of California and Nevada. Any additional appropriations
42 may be paid by the States of California and Nevada.

43 (f) The agency shall not obligate itself beyond the moneys due under
44 this article for its support from the several counties and the states for
45 the current fiscal year, plus any moneys on hand or irrevocably pledged
46 to its support from other sources. No obligation contracted by the
47 agency shall bind either of the party states or any political subdivision
48 thereof.

ARTICLE [VIII.] IX. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in paragraph (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, [or] distribution or storage of interstate waters or upon any appropriative water right.

SEC. 2. NRS 277.205 and 277.230 are hereby repealed.

SEC. 3. Chapter 518, Statutes of Nevada 1977, entitled "An Act relating to the Tahoe Regional Planning Agency; restricting certain gaming activities to certain places within the area under the control of the agency; providing changes in the composition of the agency's governing body; providing certain civil penalties; and providing other matters properly relating thereto," approved May 13, 1977, is hereby repealed, and chapter 502, Statutes of Nevada 1975, is not thereby revived.

SEC. 4. The secretary of state shall transmit a certified copy of section 1 of this act to the governor of the State of California. The governor of this state, as soon as:

1. He is officially advised that the State of California has enacted the amendment to the Tahoe Regional Planning Compact set forth in section 1 of this act; and

2. The Congress of the United States has approved such amendment, shall proclaim that the compact has been so amended.

SEC. 5. 1. This section and sections 3 and 4 of this act shall become effective upon passage and approval.

1 2. Sections 1 and 2 of this act shall become effective upon pro
2 lamation by the governor of this state of the enactment of the amend
3 ments to the Tahoe Regional Planning Compact contained in section
4 of this act by the State of California and their approval by the Congre
5 of the United States.

SENATE & ASSEMBLY JOINT HEARING ON S.B. - 250 & A.B. - 503

(TAHOE REGIONAL PLANNING AGENCY)

MEMBERS PRESENT

SENATOR J. NEAL, CHAIRMAN
SENATOR N. GLASER
SENATOR W. FAISS
SENATOR F. LAMB
SENATOR M. SLOAN
SENATOR L. JACOBSEN

ASSEMBLYMAN J. DINI, CHAIRMAN
ASSEMBLYMAN J. JEFFREY
ASSEMBLYMAN J. MARVEL
ASSEMBLYMAN L. BERGEVIN
ASSEMBLYMAN P. WESTALL
ASSEMBLYMAN V. GETTO
ASSEMBLYMAN T. BEDROSIAN

GUESTS

SEE ATTACHED.

Senator Neal opened the hearings and announced the format which included the expert and technical testimony first, followed by those interested parties.

DOCTOR BOB LEONARD, FROM THE TAHOE RESEARCH GROUP AT THE UNIVERSITY OF CALIFORNIA AT DAVIS.

informed the committee that as stated previously in many sessions at the Lake, scientists' feel that degradation is underway now and has been for many years. He did however point out that Lake Tahoe is extremely clean. He said that he felt that the question which should be answered today, with regard to anything which would have impact on future development is what change is the Lake undergoing on the geological time table. He informed further that development at Lake Tahoe began in the 1800's with logging and that if his information regarding what is necessary to save the lake is in error it is on the conservative side. He explained that the algae growth has significantly increased in the past twenty years and showed a chart of photosynthesis by algae. As a visual guide he showed the committee pictures of the beach and a ladder which indicated heavy growth of algae. He said that there is currently a study being made to determine whether the patterns of growth and production of the damaging material correlate with development. He further explained that Tahoe's ability to recover is an unknown, and it is a feeling shared by scientists that the primary cause of pollution at the Lake is the nitrate which is getting into the lake as a result of extensive development. Past sewage practices have put nitrate into the ground water.

Mr. Getto asked by what chemicals the nitrate is getting into the lake, asphalt, gas fumes, petroleum products?

Dr. Leonard said that partially because automobiles spew nitrous oxides into the air, precipitation is loaded with nitrate, also complex compounds which, when broken down result in nitrate.

MR. DICK PYLE OF THE U.S. SOIL CONSERVATION SERVICE AT SOUTH LAKE TAHOE SPOKE ON SOIL EROSION from a prepared statement, attachment # 1, saying that although erosion is a natural process, when man enters the picture it is tremendously enhanced. He cited four main causes of erosion: 1. highway construction; 2. residential/commercial development; 3. development of impervious areas; 4. breakage of the drainage patterns. He showed slides which demonstrated erosion areas and also some areas where competent conservation techniques had been applied and stemmed the tide of erosion.

MR. MAURICE BIDART, CHAIRMAN OF THE NEVADA TAHOE CONSERVATION DISTRICT

talked about the 208 plan which is a combined effort of building ordinances which, when followed, will do the least damage in terms of erosion. He re-capped Mr. Pyle's presentation and told the Committee that the conservationists needed all the help they could get. (Attachment # 2)

MR. DICK SERDOZ, NEVADA DIVISION OF ENVIRONMENTAL PROTECTION, TALKED about the air quality at Lake Tahoe, telling the committee that they had been monitoring the air since 1968. He said that since 1973 there have not been any violations of the standards with regard to dust the ozone is holding it's own. He did not feel that this would continue due to the growth and increase in the vehicle miles in the basin. Part of the problem is due to the area of the air mass which is approximately 500 SQ. miles. It will not get better.

Mr. Dini questioned Mr. Serdoz as to whether there was any difference when the portion of the loop road at South Shore was opened. Mr. Serdoz responded that with only seven months of data it appears that there is less of a violation. Mr. Dini asked if a by-pass road had ever been considered and was answered that while that is a possibility, to meet the state and federal standards by the minimum dates he did not know the solution.

Mr. Bedrosian asked about alternate methods of transportation and was told that there have been studies and some are currently being conducted concerning many modes. Mr. Serdoz said that the big push right now is to get the federal standards out of the way, then work on the state problem.

MR. JIM JORDAN, EXECUTIVE DIRECTOR OF TRPA WHO TOLD THE COMMITTEE that he and Mr. Tom Jacob were appearing after lengthy communications with Fred Welden, our Legislative Researcher, to discuss growth and trends of growth in the Tahoe Basin. He presented a map and charts pertinent to his presentation and included a prepared statement with attachments. (Attachment # 3) He explained the TRPA as primarily a zoning agency in accordance with ordinances adopted by both states for the environmental protection of Lake Tahoe.

Mr. Dini asked when CTRPA came into strong existence and was told that their plan was enacted in 1973 legislation and became effective

in 1975. Since their plan was adopted there has been a preponderance of single family development.

Chairman Neal stated that this concluded the technical presentation and would now entertain comments from the audience, after some additional information from MR. FRED WELDEN.

FRED WELDEN asked MR. DINI, CHAIRMAN OF THE AD HOC COMMITTEE TO ADDRESS THE COMMITTEE REGARDING THE ORIGIN OF AB-503.

Mr. DINI gave the history of the ad hoc committee and explained the effort expended in putting together a bill which would be palatable to both states. (See attachment # 4)

FRED WELDEN proceeded to summarize A.B. 503 article by article, (see attachment # 5)

Mr. CAMERON WOLFF, JR., PRESIDENT OF THE LEAGUE TO SAVE LAKE TAHOE

said that his organization consisted of approximately 3,000 members of which one-sixth came from Nevada, and noted that there must be revisions to the compact. He claimed that without exception every project to come before TRPA has been approved and that the League believes that people do not want to see further development. He declared that in a poll that the League had conducted 83% of the people from Nevada who responded indicated that they felt there was a need for revision of the compact. The League has been very concerned with the negotiated bill (AB-503) it needs to be one everyone can live with and one which will accomplish it's purpose. He addressed five points the League feels are necessary to any bill:

1. Control of gaming;
2. Requirement of an Environmental Impact Statement;
3. The interim standards should not be watered down;
4. The provisions of CTRPA are the most significant factor in lessening the development.

He said that the League feels that CTRPA should be permitted to continue until the new plan is in effect. He also stated that the voting procedure is the key to effective planning, and that the state of California is firmly committed to a dual majority which the League believes is correct.

Mr. Bergevin asked Mr. Wolff how the poll was conducted and was informed that it was a telephone poll with 602 respondents being asked questions from a questionnaire.

Ms. Westall requested a copy of the poll and noted that she did not feel the League should be so hard on the Nevada side.

Mr. Bergevin stated that he would venture to say that there are many buildable lots existing at the Lake which would require an EIS in accordance with what the League proposes.

Mr. Dini said, "apparently the League and California and both hung up on the voting procedure. This thing is probably the biggest sticker with California and I cannot understand why your position is so

stringent with no deviation from the double majority voting." "If you want to declare a moratorium at Lake Tahoe why not just say so in black and white; you certainly don't need the fifty plus page bill that Garamendi introduced in California to accomplish it." He further confirmed that that was what would happen with the double majority system. The ad hoc committee's position has been that if you go through all of this environmental stuff and implant the lawyer's relief act of 1979 since it will take 11 courts to decide what will happen. It is foolish to expect people to have to go through all of this, delays, having their property down-zoned, and then have it disapproved.

Mr. Wolff said that it has been their experience that the locals have not been able to say no to any kind of development. He further stated that since that is the history, the League is very concerned whether that pattern can be reversed so that TRPA can ever become an effective agency. He told Ms. Westall that it was not just a matter of the builders being more selective in their plans presented, but rather the economics and politics of local government.

Mr. Bedrosian asked Mr. Wolff if his organization would support a moratorium on building to which he was answered, "yes."

Mr. Bergevin also asked Mr. Wolff to name one project that had been approved that did not comply with the rules and ordinances of TRPA, the State of California and the State of Nevada to which Mr. Wolff said that Raley's did not qualify & that legal suits were pending.

Mr. ROBERT W. MAICH, VICE-CHAIRMAN OF THE SOUTHERN NEVADA CONSERVATION COUNCIL passed out a list of the people he is representing. (see attachment #6) saying that they basically support the concepts in S.B. 250 and read a position letter into the record. See attachment # 7) AND in addition several letters were presented from the groups he represents. (SEE attachments 8 thru 17)

Mr. Bergevin questioned whether these various groups would support a moratorium on skiers coming up to the Lake, or gaming in Las Vegas as examples.

Mr. Maich said that these groups will support any positive environmental action although they were not necessarily in favor of a strict "no" on anything.

Senator Jacobsen asked if Mr. Maich knew that S.B. 250 was a California bill and if he believed in local control or if he would like to see everything at Lake Tahoe cast in cement so that there could never be change.

Mr. Maich said he felt that his position basically is that he would rather see us do it than the Feds, and perhaps give a little now as opposed to a lot later. We are giving you our vote of support to get these things together so that there can be a workable compact.

Mr. Bergevin brought out the point that while he keeps hearing everyone ask the Nevada legislature to do something to accomodate California, "what in the hell is California doing to accomodate Nevada in 16

these negotiations?"

MR. HENRY J. MARTIN, RESIDENT OF STATELINE NEVADA told the committee that while he was not belittling either bill, he did not feel either should be supported. He passed out a handbill emphasizing the environmental overkill that has occurred under the TRPA. He also informed the members that under the guise of the compact the problems which have beset the residents of the Tahoe basin would never have been perpetrated by the well-intentioned, hard-working, people who devised it. They simply did not realize all of the implications in how a regional planning concept would be manipulated into regional governing reality. He passed out a supreme court judgement (see attachment # 19) He complained about the down-zoning happening at the Lake and said that it is the result of legislators abdicating their responsibility to an appointed body. He said that of the allegation that development is out of control at the Lake, to the contrary, 87% is already green belt, only 1.5% remains to be developed. The water, he claimed is 99.7% pure, if it were more pure, it could not sustain fish life. He said that few people in the world drink water more pure. He further refuted the scientific claims of degradation. He asked that Nevada be put back in the union with reduced government by elected officials.

ASSOCIATE PROFESSOR OF ECONOMICS, WILLIAM EADINGTON SPEAKING as a private citizen told the committee that Tahoe has a limited caring capacity and very strong economic forces at work. There is an increased demand for recreational facilities, increased development, and therefore an increased amount of day use. All of these factors have taxed to a large extent the resources at the Lake, he said. All of the problems that have been enumerated are due to these increases. It was his feeling that gaming became a scapegoat due to it's impact on the economy. In 1970 the population was 26,000 and presently it is 50,000 for permanent residents. He declared that there is wide spread understanding and acknowledgement that we can not expand gaming further but although the casino issue may be somewhat settled, there will be other problems because of the recreational uses at the Lake. He requested timely efforts because of the limited caring capacity. He asked that a TRPA have a voice in any project which would have major impact economically or environmentally. He reminded the committee that as decisions are made which use up the various capacities of the Tahoe Basin, you close up the alternatives. He felt that there must be a view taken by the TRPA that they are acting as trustees for all who do now or may exist. He said that over the past few years the relationship between California and Nevada has been characterized by mutual mistrust and working at cross-purposes. He concluded by stating that Lake Tahoe is our legacy and we have to preserve this unique resource. He presented petitions with over 250 signatures in support of S.B. 250 which are a part of the permanent record.

Assembly Committee on

Date: 3/29/79

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MS. EMILY GRIEL, appeared to speak for the League of Women Voters in favor of S.B. 250 although we would like to more about A.B. 503. She noted that she was not opposed to gambling but does not feel that it belongs at the Lake. She felt that it should be saved for environmentalists and recreationists.

Mr. Dini asked Ms. Griel whether the League would be able to raise the money to buy out the casinos. She also claimed to believe in down-zoning.

MR. DEAN CHISEL, spoke as a resident of Incline Village in opposition to A.B. 503 and in favor of S.B. 250. He talked about the contamination due to development. He said that A.B. 503 offers little improvement over the present TRPA. He showed some rocks to the committee members which were covered with algae. He said that he had picked them up on the beach at North Shore. He admonished the committee to support S.B. 250, "a bill which will minimize influence of the special interest groups, and the influence they exert.

Mr. Bergevin ASKED for specific names of the "special interest groups". Mr. Chisel responded that the only thing he knew was that any time a major project of economic import was applied for it was approved.

Ms. Westall commented that rocks similar to those displayed could be found on the edge of even the purest fastest flowing stream.

Mr. Dini observed that he felt Mr. Chisel had missed the perspective used in developing A.B. 503 vs S.B. 250, which was to implement legislation both states could live with and questioned whether it would be responsible of the Legislature to mandate a bill which would not allow Nevada citizens and property owners to build on their own property. He told the audience that there was no consistency in voting for Prop. #6 and recommending tearing out the gaming facilities at the Lake or buying existing rights.

Ms. Westall commented that she hoped everyone realized that the committee was also dedicated to the premise of saving the Lake, but not in the process of destroying private interests or property rights.

MR. DAVID COOPER read a letter from TOMAS COOKE, THE GOVERNOR'S APPOINTEE TO TRPA into the record. (See attachment # 20)

MR. GORDON DEPAOLI, ATTORNEY FOR PARK TAHOE HOTEL AND CASINO gave a thirty-four page critique of A.B. 503 (see attachment #21) and upon completion was asked by Senator Neal if the people he represented would be willing to trade the completion of the loop road for a dual majority voting procedure. Mr. DePaoli replied that the obligation of the legislature is to come up with a compact that is better not worse.

Mr. Dini noted that the compact has been opposed by Mr. DePaoli's employer since 1969, and recommended that some constructive solutions be offered by Mr. DePaoli.

GARY SHEERIN, REPRESENTING HARVEY'S, appeared to tell the committee that he concurred in the remarks offered by Mr. DePaoli and would like to see "orderly growth" left in the bill. He also outlined other ARTICLES WHICH he felt required attention. (See attachment #22) Mr. Dini explained the method of appointment, and the reason for taking the legislature out of the appointment language. Mr. Sheerin informed the committee that the existing rules and ordinances call for completion of the loop road which Nevada in good faith has completed and California in bad faith has not. He asked for specifics in the compact; define the loop road, forget about CTRPA don't get our nose in their business. He cited Page 11, Lines 24 thru 32.. S.B. 323 makes these lines superfluous. He requested language that would say that that while Nevadans want limited growth, gaming is our livelihood, it is not a nuisance. He also objected to the amount of the fine which he felt should be amended to \$10,000. Nevada has compromised, and compromised; California has done nothing. Mr. Sheerin requested inclusion of an exhibit on behalf of Harveys, complete with plans, etc. It is hereby made a part of the permanent record.

MR. HAROLD DAYTON, DOUGLAS CO. COMMISSIONER FOR THE PAST 11 years, FORMER MEMBER OF TRPA, and resident of Lake Tahoe for 32 years, told the committee that while no one questions the problems at Lake Tahoe, we do not need TRPA to solve them. He said that the residents were not aware of the negotiations between the governor's until it was completed and published in the papers. He declared that the residents are far more concerned about their surroundings than people in Sacramento or Los Angeles. He commented that while the Legislature deals with the problem every two years, the local governments deal with it every day. "California has done nothing to improve the environment at Lake Tahoe." He quoted guarantees from the U.S. Constitution, Article 4, Section 4; Article 5; Article 14. He cited several problem areas with A.B. 503. Page 3, Line 22 only applies to locals and should apply to all; Line 50, he asked why they should not be residents, since they were being controlled. Page 4, Line 20= residents again; Page 5, Line 25 should be simple majority; Line 47 does not specify who appoints, although Mr. Dini pointed out that the agency appoints. Page 10, under project, he felt it would include even a private home. Page 13, Line 14, the penalty section is a ridiculous amount.

Senator Jacobsen asked if enlarging the agency has any advantage, to which Mr. Dayton responded it would further complicate the meetings and add to their length.

MR. KEN KJER, CHAIRMAN OF THE DOUGLAS CO. BOARD OF COMMISSIONERS, CHAIRMAN OF NTRPA, AND SERVE ON THE TRPA GOVERNING BOARD, SPOKE

in favor of S.B. 323 and said that Douglas Co. has supported the federal governments purchase of the remaining gaming approved property. It should be evident that the people of Douglas Co. want no further expansion of gaming, he re-iterated. He stated that it was his understanding of a bi-state compact, that it was an agreement of cooperation between two states. It has however, he said, been his experience that there has not been any cooperation from the

state of California. It has been a move for political power and control over the state of Nevada. They have consistently aggravated environmental problems. He says they have refused to complete the loop road which would enhance the environment and said that S.B. 250 is the pits, it is a California bill... If we must maintain a bi-state agreement with California, I am pleased to see A.B. 503, although I do have a few operational concerns. Page 9, he objected to grandfathering CTRPA, feeling that not enough information is known about that agency. He claims that it is designed around inverse condemnation without compensation. Page 11, Line 30 applies CTRPA rules to Nevada projects. Page 10, talking about housing being exempt...if that is what you want, "say it", please put it in the bill and make it clear.

Mr. Dini asked Mr. Kjer how bad Page 9 language would hurt the TRPA. Mr. Kjer said that he is very concerned about protecting the property rights of the individuals and this disallows expansion of public services, which is the responsibility of the community. Page 13 and 14, the approval of a project time limit causes concern since there is not many people who will have the resources to go to court and fight the agency if the project is disapproved if it is a single family residence. There should be some requirement on the part of the agency to make a decision. He suggested biting the bullet and coming up with the money to buy some of these projects out. Mr. Kjer pointed out in response to Senator Neal's questions that Douglas Co. has spent over 3,000,000. to improve and protect. Mr. Kjer made a sincere plea for assistance in citing the restrictions placed on projects. He closed by saying that he believes in Lake Tahoe, but he believes in the constitution in guaranteeing private rights even more.

Mr. Ronald Nahas, A developer from Lake Tahoe, suggested some amendments which would make the bill more palatable..(see attachment #23) There were no questions. He did, however, suggest a day use fee which would put the responsibility on the people who used and' enjoyed the facilities.

CAVE ROCK MANNY, presented an amendment to S.B. 323 which Senator Neal accepted due to the lateness of the evening. He also admonished the members about unresponsive politicians. "The TRPA is a bunch of crap!" (See attachment #24)

MR. JOHN MCCLINTON RILEY, RESIDENT OF CRYSTAL BAY AND DEVELOPER, said that he had come with a particular message. He said that he had done the entire sub-division at Alpine Meadows and was very proud also of the Bear Valley association. He asked for recognition of the multitudes of skiers and requested inclusion of the word skiers on Page 9 of S.B. 250 Line 11. He said that Garamendi had assured him that he would not object.

MR. FRAN BREEN, REPRESENTING OLIVER KAHLE AND STEPHEN BJORN told of the experiences he has had in litigation over TRPA. He pointed out that Page 11 of A.B. 503 and Page 17 of S.B. 250 should read "was approved or deemed approved" the difference exists in the approval by the TRPA dual majority or approval by lack of voting. He also noted that in S.B. 250 a situation exists whereby four people can

Even in A.B. 503 if the four people stand together you are really saying that you have to have five. He recommended simple majority of people present. He explained that under the existing system the counties are the permit issuing authority and that all this language is an attempt to get this authority away from the counties. He told of the fact that in all of the hearings on Kahle and Jennings there was no California input and felt that there should be a requirement to participate and exhaust administrative remedies. In other words if you don't participate initially forfeit the right to litigate. He re-affirmed that gaming is not the real problem. The back country people do not go near the casinos and that area requires a permit now. Every recreational facility is having to limit the number of people they can serve during a specific period of time. He also made further mention of the 12,000,000 that the Federal Government would make available under certain circumstances.

There being no further testimony, the Hearing was adjourned at 11:15PM

Respectfully submitted,

Barbara A. Carrico
Barbara A. Carrico

GUEST LIST

NAME	REPRESENTING	IF YOU WISH TO SPEAK	
		Pro	Con
(Please print)			
Henry J. Martin	Nevada Citizens		X
Nat Hellman	Nevada Citizens		X
Terry Trapp	Self		X
John M. Reedy	Self		X
Ronald C. Nahas	Glenbrook Properties		X
Gene Osborne	Douglas County Council		
Margaret Livingston	Nevada Citizens	X	
Lee Hunt Snyder	Sierra Club	X	
Robert Griffin	Polar Flat asso	X	
Bruce Wilson	Self Res. Douglas Co		
Robert H. Smith	Conservation Council		X
Nancy & Larry	Self		X
Robert W. Maich	Southern Nevada Conservation Council	X	
Ken Kjer	Douglas County		X
William Regan	Self		
Emily Giel	League Women Voters		
Anneth C. Smith	League to Save the		

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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March 1, 1979

M E M O R A N D U M

TO: Senator Joe Neal
FROM: Fred W. Welden, Senior Research Analyst *FW*
SUBJECT: Experts to Testify on TRPA Bill

I have sought to identify the most knowledgeable people concerning the Lake Tahoe Basin environment. Experts in four areas--water quality, air quality, soil erosion and growth/development--have been asked to testify at committee hearings. The list is as follows:

Water Quality ✓	-	Dr. Bob Leonard The Tahoe Research Group University of California - Davis
Air Quality	-	Dick Serdoz Nevada Division of Environmental Protection
Soil Erosion	-	Dick Pyle / <i>Maurice Bidart</i> U.S. Soil Conservation Service South Lake Tahoe
Growth/Development	-	Jim Jordan, Executive Director Tahoe Regional Planning Agency Tom Jacob Government Affairs Coordinator Tahoe Regional Planning Agency

I have indicated to each person that we would appreciate a 10-15 minute presentation concerning the environmental

Page 2

situation and trends in the basin. Dr. Leonard suggested that he would appreciate receiving assistance with per diem and travel expenses; however, he will come "on-his-own" if necessary. I also told the speakers that I would call them to inform them of the time and place of the hearings.

If you want to change anything I have told them or have anything else for me to do at this time relative to the speakers, give me a call.

FWW/jld

✓ See Bill —

✓ William R. Eadington, Dept of Economics - UNR

✓ Cameron Wolfe, President, League to Save Lake Tahoe

✓ Dean Chisel, Legis. Chairman for Concerned Citizens

✓ Bob Michael, So. Nev. Conservation Council

David Cooper, Statement from Tom Cook.

/

CAUSE AND EFFECT OF EROSION
in the
TAHOE BASIN

Senator Neal and members of the Natural Resources Committee:
Assemblyman Dini and members of the Committee on Government
Affairs:

It is with a great deal of pleasure that we have been asked to appear before you to present information concerning erosion problems in the Tahoe Basin. We would like to offer a brief background on erosion, though I am sure you understand the problem and how it occurs.

Erosion is a natural process that takes place constantly. When Man enters the picture, he causes a change in the natural, or background, erosion process - he causes it to increase. The Tahoe Basin has witnessed the effects of Man for the past 100 years or so, and there are several periods of this effect which we would like to discuss briefly.

The first period was during the Comstock Lode mining days; the Basin was basically clearcut, but the records show that erosion was fairly minor. There were several reasons for this; one was the type of logging that took place at that time - the use of animals for hauling meant that the roads, for the most part, were flat; there were no major cuts, due to the lack of equipment. Also, all of the slash was returned to the ground; in other words, we were not faced with the cleanup that is necessary today. It was fortunate that there were no major fires during that period. Although some of these logging roads are still eroding, they are now in public ownership and the Forest Service is doing a good job of controlling this erosion. With re-growth of the trees, the soil surface was again protected from erosion; regeneration took place by natural means, and the trees you see in the Basin today are a product of that period.

Following World War II, as the Basin began to be recognized as a prime summer resort area, further major erosion continued. Many people, having the desire to escape "city life", began searching for new areas of retreat; Tahoe was one area that was highly publicized. It is one of the national "jewels", and therefore extremely desirable. Unfortunately, along with the people came the problems. I don't imagine anyone, at that time, realized what the area would eventually become.

Presented by Richard C. Pyle, District Conservationist, USDA-SCS
at joint hearing of Senate Committee on Natural Resources and
Assembly Committee on Government Affairs
Carson City, Nevada March 29, 1979

From the late fifties on up to the present the major impact, as we see it, was the rapid development in the Basin, caused first by the winter Olympics being held at Squaw Valley. The north end of the Lake was more fully developed for winter sports at that time; shortly thereafter, we saw an increase in development throughout the entire Basin. During this period of expansion, few people were aware of the problems and damage which could be caused to the soil resource.

When we talk about "cause", I believe we need to discuss some of the main contributors to the problems. One is the type of soil in the Basin; the soils are derived from granitic rock, which is coarse textured, has low water retention capability, is low in nutrients, and, for the most part, has a high erosion potential; and from volcanic rock, which is finer textured, moderate in water retention capability and nutrients, and has a high erosion potential. The vegetation and plant communities are related to the soil, exposure, and moisture; these patterns are evidenced by the meadow and chaparral to the extensive conifer forests. The growing season is quite short in the Basin, and it is very important that we maintain the vegetation we have, or at least protect it.

At this point, we would like to review the major causes of erosion.

1. Roads 60%
 - a. Unvegetated roadway slopes
 - b. Oversteepened roadway slopes
 - c. Areas stripped of vegetation
 - d. Eroding roadway shoulders
 - e. Unstable drainage systems
 - f. Eroding dirt roads
2. Development Sites
 - a. Cut slopes
 - b. Fill slopes
3. Impervious Areas
 - a. Breakage of drainage patterns
 - b. Channeling of discharge

Let's discuss the erosion from road construction; when many of the roads were built, it was done with no care or consideration of vegetation, or thought taken to allow for re-establishment. That is why, today, erosion is still extensive. Roads being the prime contributor, there are a number of things that should be done. There is a good inventory of these problems in the "208

Plan" developed by a number of agencies under the leadership of the Tahoe Regional Planning Agency. This "208 Plan" has been accepted by the State of Nevada. The Tahoe Regional Planning Agency, working with the counties, has developed a set of ordinances pertaining to new construction and re-construction of roads or highways; these ordinances can be very effective when enforced.

One very good example of road-construction-caused erosion which we have studied is the Zephyr Heights-Marla Bay area. This is rather an extensive problem, requiring everything from stabilizing the toes with both rock walls and gabions and installing curbs and gutters to revegetation; if this is not done, the erosion will continue to be a major problem. There is a silt trap in this area which was put in a number of years ago; unfortunately, due to snow removal, etc., quite frequently it is not maintained. One of the recurrent problems we find is that no one seems to want to take responsibility, and of course the counties do not have the funds available for this type of thing. We have many Improvement Districts, but they were established to furnish water, sewer, etc., and many are now at their \$5.00 limit, as we understand it. The technical problem remains, and until something is done on these slopes they will be a major contributor of sediment.

We would like to mention a few things that have been accomplished on the roads at Tahoe (these were pointed out on the tour that was sponsored by the Nevada Tahoe Conservation District). The Nevada Highways Department must be commended on the work they have done on Mt. Rose; Jack Lane has done an outstanding job on Phase I, as well as the second phase, which they are working on now. Mt. Rose is an excellent beginning, and we must build from there.

Another effort deserving high praise is the SWEEP Program in Washoe County. They used CETA workers to do vegetative work in the Incline Village General Improvement District area, and it was one of those tremendous cooperative efforts with the local people and the Federal Government, through the CETA Program, working solidly together. Unfortunately, after two years that program will be discontinued due to lack of CETA funds.

Douglas County, the Carson Walker Resource, Conservation and Development Project, and the Nevada Tahoe Conservation District, all working together, stabilized the roadway erosion problems in the Kingsbury Grade area. There will be some vegetative work done to complete the first phase of the Kingsbury C.A.T. Project; that should take place this summer.

Again, this is a very small part of what is needed, but it does demonstrate what can be accomplished.

The technical expertise is available, and we are well aware of what needs to be done, but the lack of financing and staff prohibits accomplishment.

The second major contributor is the development of homesites, commercial structures, etc.; the same problems are taking place in these areas. It is doubtful whether anyone realized, 25 years ago, that the residential areas would be subjected to year round use. This factor contributes about 25% of the soil erosion problems in the Basin. Under the ordinances of the various counties and the Tahoe Regional Planning Agency, developers must have approved erosion control plans. It should be pointed out that the Nevada Tahoe Conservation District has Memorandums of Understanding with both Douglas and Washoe Counties and with TRPA, to review and make recommendations upon request. In this particular area, we believe the main problem is the lack of expertise, or training, for inspectors. Enforcement is probably the weakest link in the ordinances at the present time; this is due to lack of funding for this type of work. Mr. Bidart will comment on a proposal that might assist in this area. The ordinances are there, and we think they are good ones, but they do need enforcement.

The third item consists of the impervious areas that are developed. They are rather small, not a big contributor to erosion, and most of them have adequate drainage systems.

The fourth item is one with which we are largely concerned. Quite often, in building homes, parking lots, or roads, we break the natural drainage pattern. It is not taken into consideration that, when water is consolidated into a specific area, it can cause gullies to develop.

I believe we have covered the main points that we see as the major causes of erosion; following are some of the effects.

The one major effect caused by soil erosion is the transporting of sediments and nutrients into the water system. Under natural conditions, vegetation was able to filter out the majority of these pollutants; as a result of the vegetation being altered or destroyed, a large percentage of this filtering capability has been lost, therefore creating an increase in the volume of sediment reaching the waters.

"Estimated annual sediment yield from the developed portions of the watersheds in this area is from 12 to 13 times that from the undeveloped area. The highest measured concentration of nitrogen consisted of dissolved ammonia and occurred during the periods of heavy runoff coinciding with heavy sediment transport. The Incline Village watersheds total approximately 21 percent developed and the remainder in a natural forest state. The sediment contribution from undeveloped areas ranges from 50 to 920 tons per acre while that from areas being urbanized ranges from 620 to 7,600 tons per acre". (1

"The products of erosion have resulted in visible siltation in surface streams in the immediate vicinity of land disturbances and in muddy surface waters in Lake Tahoe where streams draining urbanized and developing areas enter the Lake". (1

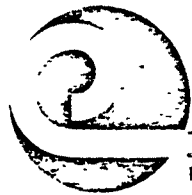
"The major effect of failure to properly manage surface runoff will be experienced in further degradation of shoreline waters near densely developed lands. Available data strongly indicate that major reductions in water clarity and increases in algal density can be anticipated in shoreline areas unless stringent controls are required for all future development and existing surface water management problems are corrected". (1

(1: U.S. Geological Survey, Incline Village Study, 1970-1973

This concludes my presentation on cause and effect; we would like to show you a few slides, then Mr. Bidart will proceed with his comments. At the conclusion of his presentation, we will be happy to answer any questions.

SOURCES OF REFERENCE
for
CAUSE and EFFECT of EROSION in the TAHOE BASIN

1. Lake Tahoe Basin Water Quality Management Plan
2. A Special Place Lake Tahoe USDI-BOR
3. Sedimentation & Erosion in the Upper Truckee River and Trout Creek Watershed, Lake Tahoe, CA, State of California, Resources Agency Department of Conservation, Division of Soil Conservation
4. A Guide for Planning - prepared for Tahoe Regional Planning Agency and USDA-Soil Conservation Service
5. Guides for Erosion and Sediment Control, USDA-Soil Conservation Service
6. Kingsbury Grade Critical Area Treatment - Carson Walker RC&D and Douglas County



COMMENTS BY MAURICE BIDART, CHAIRMAN

NEVADA TAHOE CONSERVATION DISTRICT

Senator Neal and members of the Natural Resources Committee:
Assemblyman Dini and members of the Committee on Government
Affairs:

The Nevada Tahoe Conservation District would like to thank you for the opportunity to make this presentation. The Conservation District would also like to thank you for taking part in the Legislative tour which we sponsored in the Tahoe Basin.

In recapping Mr. Pyle's presentation, I would like to offer a few brief comments on where we are today, what we are doing, and some possibilities for the future.

As Mr. Pyle indicates, we are facing the Clean Water Program with two definite tasks; first, the task of cleaning up the old problems which occurred several years ago. You have seen what is being done now, as well as the recurring problem of financing for these projects. Last week, in Portland, Oregon, I represented the Nevada State Association of Conservation Districts at a workshop on the Rural Clean Water Program; unfortunately, this program deals only with the agricultural water quality problems. Public Law 92-500 mandated the Department of Agriculture and the EPA as lead agencies, and the local Conservation Districts as the management and administering agencies for the entire 208 Program, not just the agricultural portion, adding the water quality duties along with the soil erosion and crop production programs to the local districts. I was assured that monies would be forthcoming in the future to implement the non-agricultural portion of the 208 Program; how much, when, and in what form, your guess is as good as mine.

The second task we must face is making sure that the problems, once solved, do not recur. In this respect, as Mr. Pyle pointed out, we are very pleased with the ordinances of the Tahoe Regional Planning Agency, which have been adopted by the counties and local governments. Again, as stated by Mr. Pyle, we do have some concerns regarding inspection enforcement. The Nevada Tahoe Conservation District would like to offer assistance with financial support from the state or counties, either in educational or actual involvement in these matters. The NTCD, along with many other

Presented by Maurice Bidart, Chairman, Nevada Tahoe Conservation District, at joint hearing of Senate Committee on Natural Resources and Assembly Committee on Government Affairs
Carson City, Nevada March 29, 1979

conservation districts throughout the state where water quality problems exist, are in the process of updating their long range programs to include water quality. As you can see, the increased workload on the districts coming from local, regional, and state planning groups, has developed a need for additional financial assistance to these districts. The day of equipment rental and the 'tin cup' approach can no longer cope with our present-day problems.

In conclusion, I ask that you consider the proposal in the Nevada State Conservation Commission's budget for assistance to the conservation districts. If you have any questions on this or any other matters, I will be happy to try to answer them during our question and answer period.

Mr. Chairman and members of the committee, I am very grateful to you for inviting us to appear before you, and sincerely hope our presentation has been helpful in your deliberations.

TAHOE REGIONAL PLANNING AGENCY

P O Box 8896
South Lake Tahoe, Calif 95731
(916) 541-0246

March 5, 1979

Fred Weldon

Tom Jacob

Development Potential, Lake Tahoe Basin

As per your inquiry of last week, attached are two tables summarizing (1) the existing and potential development within the Tahoe Basin, and (2) the recent trends in the construction of residential units within the Basin.

Estimated Existing and Potential Land Use

This table is based upon a detailed Inventory of existing and potential land use in the various local jurisdictions within the Basin as of January, 1977. Building permit records for the 1977 and 1978 building seasons have been added to this detailed inventory to provide the updated figures reflected on the table.

In summary, the table indicates that approximately 44% of the development potential in California under the TRPA General Plan has yet to be developed; while the Nevada side is less than half built out, with over 52% remaining to be developed. Please note that this does not include lands zoned to permit development but which are presently outside the existing limits of urbanization. The development potential reflected on the table does include both buildout of existing subdivisions and buildout of some substantial amounts of unsubdivided land within the existing communities. The biggest single category in the latter circumstance is the large amount of high density residential and tourist commercial land in Incline Village.

Building Permits - Total Units

This table reflects the rate of buildout within the various local jurisdictions of the Tahoe Basin over the past five years. The totals include both residential and tourist residential units; identifying the total number of units for which building permits were issued within the given year. It should be noted that some of the jurisdictions use the calendar year for recording purposes and some use the fiscal year. The totals may not precisely correspond, therefore, but the overall trends reflected in the table are accurate.

In summary, the table identifies a relatively consistent level of buildout for the Basin as a whole over the five year period, but shows very pronounced shifts in the location of that buildout from the California side of the Basin in the initial years to the Nevada side in the later years. It is our belief that the principal reason for this is the slowdown in California development which has accompanied the current sewage capacity problems on the California side of the Basin.

Fred Weldon
March 5, 1979
Page two

Future Prospects

In the next three to five years, it appears that the trends reflected in these figures are likely to continue. It does not appear that the sewage capacity increases necessary to allow a substantial increase in California development will occur within that timeframe, and we continue to see an accelerated development on the Nevada side of the Basin. Indicative of the latter is the following summary of major projects. These have either been before the Nevada local governments and TRPA as project applications within the past two months, or have had preliminary consultation with TRPA staff prior to project application.

Washoe County Totals

Hotels: Two projects totalling 632 rooms (including 20,000 square feet of casino)

Condominiums: Three projects totalling 404 units

Apartments: Two projects totalling 340 units

Total Units Contemplated: 1376

Douglas County Totals

Condominiums: One project totalling 100 - 200 units

Subdivision: One project totalling 73 units (It should be noted that this project represents only a portion of a development which is envisioned to total 600 - 700 units if all phases are completed).

It should be noted that these projects are not necessarily destined for action. The TRPA Governing Board on February 28, 1979 did turn down one of the Washoe County hotel projects listed above (212 units). This was the first of the above projects to reach a final decision, and its denial may dampen the push on these major projects somewhat. The fact that they have all reached the stage of serious proposals, however, is indicative of a continuing pressure for major development on the Nevada side of the Basin.

Attachments

TRJ:md

BUILDING PERMITS - TOTAL UNITS*

	1974	1975	1976	1977	1978
South Lake Tahoe	963	523	720	326	164
El Dorado County	419	391	574	419	206
Placer County	449	174	377	596	284
<hr/>					
California Total	1,831	1,088	1,671	1,341	645
Washoe County	65	68	158	398	766
Douglas County	157	169	338	405	531
<hr/>					
Nevada Total	222	237	496	803	1,297
Basin Total	2,053	1,325	2,167	2,144	1,942

* From figures transmitted by local building departments

TRPA General Plan
Estimated Existing and Potential Land Use ¹
(As of January 1979)

Jurisdiction	Buildout Potential Total Units	Existing Units	Potential Additional Units ²	Percent Existing
South Lake Tahoe	28,857	17,414	11,443	59%
El Dorado County	13,869	6,565	7,304	47%
Placer County	17,692	9,773	7,919	55%
<hr/>				
California Total	60,418	33,752	26,666	56%
<hr/>				
Washoe County	11,473	5,351	6,122	47%
Douglas County	10,574	5,189	5,385 ³	49%
<hr/>				
Nevada Total	22,047	10,540	11,507	48%
<hr/>				
Basin Total	82,465	44,292	38,172	54%

- 1) Estimates based on TRPA Land Use Districts which are within existing developed areas (i.e., land which is either developed or substantially surrounded by developed land). Includes both residential and Tourist Commercial units.
- 2) The California figures are based upon the TRPA General Plan, even though the CTRPA General Plan would currently allow fewer units.
- 3) Includes 2,066 hotel units which have been approved but not yet constructed (Harvey's Masterplan expansion, Hotel Oliver and Tahoe Palace).

4

INTRODUCTORY REMARKS FOR JOINT HEARING
ON S.B. 250 AND A.B. 503

A COUPLE OF YEARS AGO, GOVERNOR O'CALLAGHAN AND GOVERNOR BROWN INITIATED NEGOTIATIONS IN AN EFFORT TO DRAFT PROPOSED REVISIONS TO THE TAHOE REGIONAL PLANNING COMPACT. THEIR STAFF MEMBERS SPENT A CONSIDERABLE AMOUNT OF TIME IN THE EFFORT, AND S.B. 250 IS THE RESULT OF THEIR WORK.

LAST FALL, THE NEVADA LEGISLATIVE COMMISSION APPOINTED A SUBCOMMITTEE TO REVIEW THE PROPOSED MODIFICATIONS TO THE TRPA COMPACT AND TO DISCUSS THESE REVISIONS WITH INTERESTED CALIFORNIA LEGISLATORS. THE NEVADA SUBCOMMITTEE CONSISTS OF MYSELF AS CHAIRMAN,

SENATOR SPIKE WILSON, AS VICE CHAIRMAN

SENATOR KEITH ASHWORTH

SENATOR JIM GIBSON, OUR SENATE MAJORITY LEADER

SENATOR LAWRENCE JACOBSEN

SENATOR JOE NEAL

ASSEMBLYMAN PAUL MAY, SPEAKER OF OUR ASSEMBLY

ASSEMBLYMAN DON MELLO

ASSEMBLYMAN SUE WAGNER

ASSEMBLYMAN BOB WEISE

AND, MR. RAY KNISLEY AS AN EX-OFFICIO MEMBER.

OUR SUBCOMMITTEE HAS MET FOR POLICY DISCUSSION ON AT LEAST 11 OCCASIONS WITH SOMETHING BETWEEN 40 AND 50 HOURS OF TIME INVESTED IN THESE MEETINGS. WE HAVE MET WITH CALIFORNIA LEGISLATORS ON THREE OCCASIONS, AND STAFF HAS MAINTAINED ALMOST CONTINUOUS CONTACT.

IT HAS BEEN OUR INTENT TO THOROUGHLY UNDERSTAND EVERY BIT OF LANGUAGE CONTAINED IN THE GOVERNORS' PROPOSALS. WE FOUND MOST OF THE BROAD POLICY TO BE POSITIVE, BUT WE HAVE ENCOUNTERED DEFINITE PROBLEMS WITH CERTAIN PROVISIONS AND WITH THE TEDIOUS LANGUAGE. A.B. 503 IS INTRODUCED AS A RESULT OF OUR SUBCOMMITTEE DISCUSSIONS. IT IS OUR MODIFICATION OF THE GOVERNORS' PROPOSALS AS THEY ARE OUTLINED IN S.B. 250.

WE BELIEVE THAT IT IS TIME TO ASK FOR PUBLIC INPUT TO THESE EFFORTS. WE HAVE WORKED HARD, BUT IT IS ESSENTIAL THAT WE FIND OUT WHAT THE FEELINGS OF THE CITIZENS OF NEVADA ARE BEFORE WE CONTINUE WITH THE BISTATE NEGOTIATIONS OR PASS A BILL.

I MIGHT QUICKLY ADD THAT OUR SUBCOMMITTEE HAS MAINTAINED SEVERAL OBJECTIVES THROUGHOUT ITS WORK. WE ARE ALL INTERESTED IN PRESERVING THE ENVIRONMENTAL QUALITY AT LAKE TAHOE. BUT WE ARE ALSO INTERESTED IN PROTECTING PRIVATE PROPERTY RIGHTS AND RETAINING SOME DEGREE OF NEVADA CONTROL OVER OUR OWN LANDS. NO ONE WANTS "TO KILL THE GOOSE THAT LAID THE GOLDEN EGG," BUT THERE MUST ALSO BE SOME CONSIDERATION GIVEN TO THE PROPERTY OWNER WHO HAS PAID TAXES, SEWER ASSESSMENTS AND OTHER FEES FOR YEARS.

ALTHOUGH IT IS TIME-CONSUMING, I BELIEVE THAT WE ALL SHOULD HAVE A FEELING FOR THE CONTENTS OF THE PROPOSALS. I HAVE A SUMMARY OF A.B. 503 THAT OUTLINES THE HIGHLIGHTS OF THE BILL.

Summary of A.B. 503

- I. Article I contains the findings and declarations of policy. The only proposed change from the existing compact is deletion of the phrase "of resource conservation and orderly development" from the final sentence in the article.
- II. Article II defines the terms that are used in the compact. New definitions include those for "gaming," "restricted gaming license," "project" and "criterion of environmental quality."
- III. Article III creates the Tahoe Regional Planning Agency and specifies its organization. Proposed is change from a 10-member to a 14-member governing body. Presently the three California and the three Nevada local governments each have a representative on the agency governing body, and there are two people from the state government level in each state. The proposed change would retain the local representatives. California state-level representatives would include one appointee of the governor, one appointee of the speaker of the assembly, and one appointee of the senate rules committee. The seventh California member would be appointed by the other six. If they could not agree, the seventh appointment would be made by the governor.

The Nevada delegation would also retain the three local representatives. In addition, two members would be appointed by the governor; the secretary of state or his designee would serve; and the director of the department of conservation and natural resources or his designee would be the seventh member.

Article III also outlines that four members from each state constitute a quorum. Except for project review which is discussed in Article VI, the affirmative vote of a majority of the governing body is sufficient to take action in any matter.

Finally, Article III reorganizes the agency's advisory planning commission.

- IV. Article IV deals with agency personnel. The only change in Article IV is to add a statement limiting personnel liability.
- V. Article V outlines the agency's planning responsibilities. Several technical changes are made. For example, the time for reviewing plan amendments is expanded from 60 to 180 days and all references to an interim plan are deleted. Provisions are made for formulating a new master plan for the region. Until the revised plan and ordinances are adopted or the time limit of 2 years is exceeded, the plan, ordinances, rules and regulation of the California Tahoe Regional Planning Agency are to be in effect in the California portion of the basin. They do not apply to the Nevada side of the basin, and they may be amended by the governing body. Expansion of public services and facilities, unless they are essential to meet the needs of present inhabitants, are not to precede revision of the land-use plan.
- VI. Article VI discusses the agency's powers. Many proposed compact revisions are contained in Article VI. The states and the agency are to cooperate in developing a comprehensive statement establishing for the region criteria of environmental quality and limits on the capability of the ecological system to tolerate human activity. An 18 month time limit is set for this activity. After completion of this statement, the agency is to revise the regional plan, ordinances, and standards based upon the new criteria and limits. The agency is also to adopt regulations defining specific written environmental findings that must be made prior to approval of any project in the region. Until these findings are adopted or 2 years have elapsed, a project may be approved only after making written findings that the project is consistent with regional, state and federal plans and standards relative to environmental quality.

Article VI next proposes limitations on the gaming industry in the Tahoe Basin. The provisions of this bill are different than those in S.B. 323 which has recently been heard by the Senate Committee on Natural Resources. The intention is to replace the gaming provisions of this bill with the provisions as they are finally adopted for S.B. 323.

Article VI would also make all public works projects subject to agency approval, and the misdemeanor penalty for violation is substantially increased.

The final major proposal in Article VI specifies that approval of a project requires the affirmative vote of a majority of the members of the governing body from the state in which the project is located and the affirmative vote of a majority of all the members of the governing body.

VII. Article VII deals with environmental statements. Under provisions of Article VII, new projects in the basin would have to be accompanied by an environmental impact statement. Basically, the provisions of the National Environmental Policy Act (NEPA) are written into the compact. However, the agency would be able to specify the types of projects that do not have a significant effect on the environment and will therefore be exempt from the requirement for preparation of an environmental impact statement.

VIII. Article VIII specifies the financial arrangements for the agency. The county payments are identified, and it is specified that Nevada will contribute \$100,000 and California \$200,000 annually. If additional funds are required, the agency can request them from the states.

IX. Article IX includes the miscellaneous items. The only proposed modification in Article IX is to specifically state that the compact has no effect upon water storage rights.

6

STATEMENT OF PURPOSE AND MEMBERSHIP

The Southern Nevada Conservation Council was founded to bring together users of Nevada for recreation. Our purpose is to bring widely diverse views and information together to search out a core of agreement. Issues such as Fish and Game funding, federal land policies, wilderness studies, and other state and national problems dealing with the use of land for recreation are researched. We wish to offer the information gathered this way as representing a reasonable compromise in controversial areas that are agreeable to a maximum number of people.

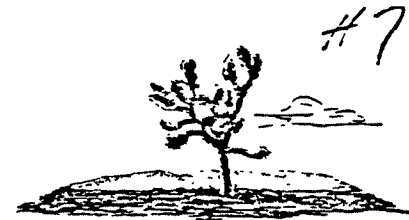
Organizations currently sending representatives to our meetings are:

Desert Sportsman's Rifle and Pistol Club	230	members
Henderson Rod and Gun Club	21	
Las Vegas Archers	150	
Las Vegas Jeep Club	110	
Las Vegas Silver Flippers Diving Club	255	
Moapa Sportsmen's Association	60	
Motorcycle Racing Association of Nevada	1200	
National Muzzle Loading Rifle Association	93	
Nevada Bow Hunters Association	235	
Nevada Frontloaders	55	
Red Rock Audubon Society	225	
Sierra Club	1010	statewide
	(300	local)
Silver State Bassmasters	35	
Southern Nevada Landcruisers	35	
Southern Nevada Off Road Enthusiasts	800	
Southern Nevada Waterfowlers	50	
Spring Mountain Free Trappers	350	
Virgin Valley Sportsmen	40	

The above listing represents regular, paid-up members. In addition, we have regular attendance by representatives of the following organizations. These organizations are intensely interested and supportive of our goals; they provide input and use the Council as a resource:

Bureau of Land Management
National Park Service
Nevada Department of Fish and Game
Nevada Wildlife Federation
State Fish and Game Commission
Clark County Game Management Board
U.S. Forest Service

Many other organizations attend as issues being discussed require input, such as legislators, The Vegas Wash Commission, The Las Vegas Air Pollution Control Division, and others.



Southern Nevada Conservation Council

210 South 16th Street Las Vegas, Nevada 89101

SOUTHERN NEVADA CONSERVATION COUNCIL POSITION PAPER ON LAKE TAHOE BASIN

The Southern Nevada conservation Council is concerned with the continued decline in the environment of the Lake Tahoe Basin. Our expression of concern demonstrates that the preservation of the Lake is of importance statewide, if not nationwide. The member organizations of the Council ask that the Nevada Legislature respond to the widespread concern over the Lake Tahoe Basin by passing new enabling legislation for the Tahoe Regional Planning Agency.

The Council believes that this legislation should include:

1. The replacement of the present voting structure with the requirement that a majority of both state delegations exist before a project is approved
2. The expansion of the state delegations so that both delegations will represent more equitably the interests of all Nevadans
3. The requirement for a study of the environmental impacts that are associated with present, future, and proposed developments
4. The prohibition of any future expansion of gambling facilities since the present facilities have already had a significant impact on the quality and character of the Lake Tahoe environment

I believe that the resolution of the Lake Tahoe issue deserves your full attention. I would hope that the concerns of the Council are shared by yourselves. In either case, I would appreciate hearing your views on this issue.

David F. Rollins
Chairman, Southern Nevada Conservation Council

Home Address and Telephone:
702-878-9351
116 South Jones Boulevard
Las Vegas, Nevada 89107



RED ROCK AUDUBON SOCIETY

P. O. Box 42944, Las Vegas, Nevada 89104

SOUTHERN NEVADANS COMMITTED TO CONSERVATION

March 27, 1979

Joe Neal
Chairman
Nevada State Senate Committee on Environment and Natural Resources

Dear Sir:

We of the Red Rock Audubon Society would like it to be known that we strongly support SB 250 which is concerned with the future of the Lake Tahoe Regional Planning Agency.

We feel that Lake Tahoe is one of the most impressive and beautiful lakes in North America, and indeed the whole world. Hence we feel that very substantial efforts should be made to preserve its unique attributes, i.e., clarity of water and air and its beautiful forest setting.

We believe that the legislation now under consideration should include the following features:

1. The prohibition of future expansion of gaming facilities. The present facilities have had a strong negative impact on the nature and quality of the Lake Tahoe Environment.
2. A thorough study of the impact of all development in the basin; past, present and future and wide dissemination of this information.
3. A voting structure of the bi-state agency such that a majority of each state delegation is required to approve any project.

Sincerely,

John E. Hiatt

Vice-President and Conservation Chairman

Gamblers M/C

3433 East Casey

Las Vegas, Nevada

89120

Senator Joe Neal

Chairman Natural Resources Committee

Carson City, Nevada

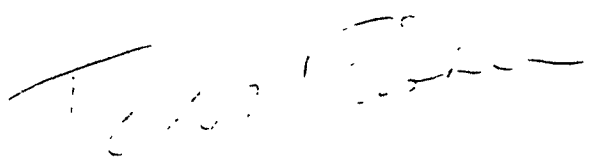
Dear Senator Neal

The Gamblers M/C wishes to give our support to SB-250. We wish to join with the Motorcycle Racing Association and the Southern Nevada Conservation Council in urging passage of this bill.

Sincerely

Tom Fisher

Secretary Gamblers M/C

A handwritten signature in dark ink, appearing to read "Tom Fisher", is written over the typed name and title.

*Las Vegas Jeep Club
c/o Bruce Vomacka
5711 madre Mesa Dr.
Las Vegas, Nevada 89108*

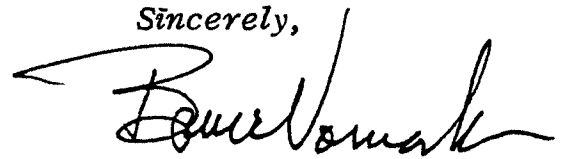
*Senator Neal
Nevada Legislature
Carson City, Nevada*

Dear Senator Neal;

The Las Vegas Jeep Club supports the position of the Southern Nevada Conservation Council with regard to S.B.250; that is, we do support passage of this measure.

Our group represents approximately 100 Southern Nevada voters.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Vomacka", with a long horizontal flourish extending to the left.

*Bruce Vomacka
Legislative Committee*

Elizabeth Jane Cowart
5251 Pearl
Las Vegas, Nevada 89120

March 28, 1979

Senator Joe Neal, Chairman
Natural Resources Committee
Carson City, Nevada

Re: S.B. 250

Dear Senator Neal:

The Desert Radio Club joins the Southern Nevada Conservation Council
in seeking passage of S.B. 250.

The Desert Radio Club is an Amateur Radio Club in Southern Nevada with
24 active members.

Sincerely,

A handwritten signature in cursive script, reading "Elizabeth Jane Cowart".

Elizabeth Jane Cowart
KA7AOP

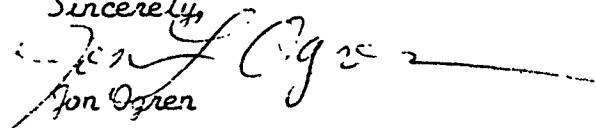
Chargers West Motorcycle Club
c/o Jon Ogren
5156 Margo Drive
Las Vegas, Nevada 89122

March 28, 1979

Senator Veal
Committee Chairman
Carson City, Nevada

Dear Senator Veal,

In regard to S.B. 250 the Chargers West Motorcycle Club supports the Motorcycle Racing Association of Nevada in seeking passage of this important piece of legislation.

Sincerely,

Jon Ogren
President, Chargers West
Motorcycle Club

Motorcycle Racing Association of Nevada
3475 Boulder Highway
Las Vegas, Nevada 89122

March 28, 1979

Senator Joe Neal, Chairman
Natural Resources Committee
State of Nevada Legislature
Carson City, Nevada

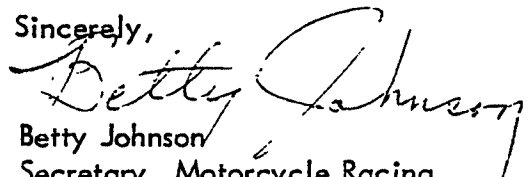
Re: S.B. 250

Dear Senator Neal:

The Motorcycle Racing Association of Nevada feels the compelling need of the State of Nevada to adopt needed legislation with regard to the Lake Tahoe Basin. S.B. 250 goes a long way toward accomplishing these goals. The 1200 members of our organization support passage of S.B. 250. This truly remarkable lake and surrounding area is not regional but rather of concern throughout the state unchecked development can only deteriorate further the condition of the environment in the Lake Tahoe Basin. If the Nevada Legislature does not act now we can fully expect federal involvement. This involvement may come too late to save Lake Tahoe, it will surely erode state control.

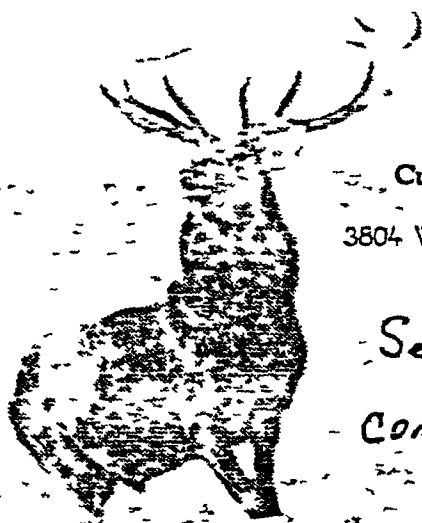
Because of these and other pressing problems we urge you to insure passage of S.B. 250.

Sincerely,

A handwritten signature in cursive script, appearing to read "Betty Johnson".

Betty Johnson
Secretary, Motorcycle Racing
Association of Nevada

DAVID F. SCHEID



The Palisade

Custom Firearms ♦ Black Powder ♦ Archery Supplies

3804 West Vegas Drive - Las Vegas, Nevada 89108 - (702) 648-8838

SENATOR NEAL

COMMITTEE ON NATURAL RESOURCES

IN REFERENCE TO BILL S.B. 250 THE TAHOE

REGIONAL PANNING BILL, THE SPRING MOUNTAIN

FREE TRAPPERS SUPPORT PASSAGE OF THIS

MEASURE AND THE POSITION AS TAKEN BY THE

SOUTHERN NEVADA CONSERVATION COUNCIL.

David F. Scheid

Boothway

Spring Mountain Free Trappers

Casey Folks, Jr.
3570 East Sunset Road
Las Vegas, Nevada 89120

March 28, 1979

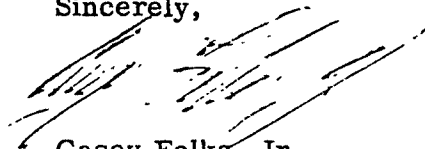
Senator Joe Neal
Chairman, Natural Resources Committee
Carson City, Nevada

Re: S.B. 250

Dear Senator Neal:

The Groundshakers Motorcycle Club supports the position of the Southern Nevada Conservation Council on S.B. 250. Action must be taken now to preserve the quality of Lake Tahoe.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Casey Folks, Jr.', with a stylized, sweeping flourish extending from the end of the signature.

Casey Folks, Jr.
President, Groundshakers Motorcycle Club

3/28/79

Senator Joe Neal
Nevada Legislature
Carson City, Nevada

Dear Senator Neal:

The Southern Nevada Landowners, Inc support
the position of the Southern Nevada Conservation
Council with regard to Senate Bill 250; that
is, we fully support passage of this
measure

Our group represents approximately 75
voters.

Sincerely,

Peggy Hensley
Southern Nevada Landowners
Secretary - Legislature
Committee

PLEASE DO NOT THROW AWAY!!
KEEP FOR REFERENCE, OR PASS
ALONG TO A NEIGHBOR (Our funds are limited).

Apr 17, 1977

SO YOU THINK YOU KNOW WHAT HAS BEEN HAPPENING AT LAKE TANCE!!

The following is a capsulized review of the environmental overkills imposed on the community and the thousands of property owners here at Lake Tance by the Tance Regional Planning Agency (T.R.P.A.), California Tance Regional Planning Agency (C.T.R.P.A.) pressured by, and largely controlled by, appointees from the Sierra Club and the League to Save Lake Tance (for themselves).

1. In 1971 the T.R.P.A. massively down-zoned 34,000 acres of private lands to General Forest zonings. This meant if a private property owner had a parcel of 1 acre or 500 or more acres (size did not matter), only one house could be built upon the whole. A clear example of a taking of private property without one owner receiving compensation. Liken that to your having ten houses and the State taking nine in the public interest, without compensation. Morally or legally right? We think not!
2. T.R.P.A. also down-zoned all other parcels of land (except existing single family subdivisions) this had the instant effect of subtracting massive values from private property. This act also made nearly every commercial property non-conforming. If an owner wanted to remove an old structure and rebuild, he could not. Thus, it "locks in" the aged and obsolete, performs no valid service to our community---in short this is prostituted planning.
3. T.R.P.A. then grandfathered all properties---effectively saying, "we recognize major economic injury has happened to the property owner, the grandfathering will protect him from further loss".
4. C.T.R.P.A. was re-empowered because the Sierra Club and League to Save Lake Tance (for themselves) complained that the T.R.P.A. was not strict enough and pressured the California Legislature to place Sierra Club and League appointees to a majority vote on C.T.R.P.A. governing board.
5. C.T.R.P.A. came to Tance, removed the "grandfather" protection set by T.R.P.A., massively down-zoned again all the properties previously injured, and many more besides, without compensation.
6. C.T.R.P.A. then denied all the property owners the right to develop their land for a period of approximately 20 years, except that irrespective of parcel size, 1 acre or 3000 acres, the owner would be allowed to build one house. Again, clearly a taking of property without compensation, and the owner continues to pay the sewer bond assessments and taxes. Legally or morally right? Again, we think not!
7. The latest effort to deny all building is a clever ruse of using up sewer plant capacity by demanding water treatment far above drinking water standards produced by S.T.P.U.D. for over 10 years. Reason? To use sewer capacity as a tool to deny building permits.
8. The ultimate coup de gras will be the C.T.R.P.A.'s (anti) Transportation Plan. C.T.R.P.A. has already introduced a bill into the Legislature, the effect being to originate a Transit Authority in South Shore that will impose a "user fee" (tax) on residents and visitors alike. This governing board will also be appointed from the Sierra Club and the League to Save Lake Tance (for themselves). The Sierra Club has already stated, "what we want is gaming and automobiles out of the basin". Soon these are the types who will be "controlling the gates" on all California basin entrants. How? By raising the user fee, discouraging and frustrating those who want to enjoy Tance.
9. T.R.P.A. and C.T.R.P.A. have together (so far) removed \$27,500,000 of assessed valuation from down-zoned properties, this burden was shifted to improved properties causing unnecessary burdens to others. Now, C.T.R.P.A. is proposing to eliminate the possibility of 12,000 owners the right to build a home. These 12,000 lots (South Shore California only) have an approximate value of \$132,000,000. If the assessed

(OVER)

valuation was only 20% of that figure, or \$26,400,000---this amount too would be transferred to already improved properties, either through higher assessed valuations or increased tax rate. Obviously again eliminating the ability of most to own property---except the wealthy.

So we now have regional government (appointed, not elected) instead of regional planning. What has it done for us?

- A. Denied us elected representation.
- B. Taken or prevented use of property without compensation.
- C. Ignored realistic solutions to our traffic problems.
- D. Tarnished Tahoe's image with untrue statements about "polluted" air and water.
- E. Designed a "playground for the wealthy" that will exclude most Americans.
- F. Replaced orderly growth with panic building.
- G. Caused accelerated taxes and rents, with even greater increases to come.
- H. Increased the cost of building a home without increasing its value.
- I. Because of excessive regulations, forced condominiums upon us that are not in the Tahoe image.
- J. Prevented the rebuilding of older blighted areas that down-grade our community either because of arbitrary land coverage restrictions or massive down-zoning.

It is vital to understand that regional government is stealing private property through abusive uses of the Police Power (zoning regulations). Why is it happening? Because the California Legislature has over reacted to misrepresentations provided them by extremists in the environmental movement.

THE THREE BASIC MISREPRESENTATIONS ARE:

1. "Development is out of control." FACT: 87.5% of land in the Tahoe Basin is already in greenbelt; 11% has been developed; only 1.5% remains to be developed.
2. "Lake Tahoe's waters are being polluted." FACT: The water of Lake Tahoe is 99.7% pure. If it were much more pure, it could not sustain fish life. It has been---and remains one of the two purest lakes in the world. Few people in the world drink water as pure as the untreated water of Tahoe.
3. "Tahoe's smog is worse than L.A.'s". FACT: Our air quality is one of our principal assets. It is already known that the major cause of any lessening of Tahoe's air quality is from the westerly winds bringing in Bay Area and Sacramento air problems to our Basin. Further, because the C.T.R.P.A. refuses to allow a traffic solution, the stop and go traffic can only add to an environmental problem that principally emanates from the Bay Area.

These misrepresentations are now believed by the California Legislature, who, while reacting in good conscience, have been lobbied and misled by extremists in the environmental movement. An example of---"When a lie is told often enough, it becomes believed"---unfortunately, to the detriment of citizens and property owners at Lake Tahoe. Council for Logic has the only organized force representing residents and property owners in the Tahoe Basin and opposing what you read above. Join us, we need your support badly, both financially and your personally becoming involved.

IF ENOUGH OF US JOIN FORCES WE CAN RID OURSELVES OF THE OPPRESSIVE TYRANNIES IMPOSED ON US. HELP US!!

Ed McCarthy
Chairman

Council for Logic
P.O. Box 6126
So. Lake Tahoe, CA 95729

Terry Trapp
Executive Director

March 28, 1979

Memorandum for Nevada Legislators:-

The attached Nevada Supreme Court ruling was released mid February 1979. It affirmed the judgement rendered by Judge Stanley A. Smart August 9th, 1976 in favor of the Tahoe Regional Planning Agency. These two actions, if followed to their logical conclusions, dictate the elimination of Douglas, Carson City, and Washoe Counties Commissioner positions as they relate to their Lake Tahoe areas and constituencies. The TRPA's land use ordinance, passed by appointed officials, prevails over actions of locally elected county officials and is superior to county zoning laws and regulations.

The judiciary by these two actions is disenfranchising Nevada citizens. Local control by elected officials is being eliminated in favor of the appointed TRPA Board.

The land involved in this litigation was designated E-2 ($\frac{1}{2}$ acre residential) in 1968 by Douglas County and has since been so designated in the Douglas County Master Plan. This is only one small example of taking of property without just compensation. It is only one small example of bureaucrats disenfranchising Nevada citizens. It is one small example of the hundreds of problems generated when members of the Nevada Legislature abdicated their responsibilities and gave legislative authority to the appointed TRPA board.

It is not too late to take corrective action and elected legislators are urged to do so by following precepts of the Federal and State Constitutions and to abide by their oaths of office. I urge you to disregard the pressures from the self-serving lobbying groups which urge more and more constraints in the name of environmentalism. I urge you to eliminate this perverted form of government known as Regional Government and get Nevada back in the Union with reduced government by elected officials. I urge you to pull the teeth of the TRPA jackal and give back those teeth to locally elected officials.

Henry J. Martin
Comdr. USN Retired
Box 4424
Stateline, Nv. 89449
702 588 2673

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE COUNTY OF DOUGLAS, a political)
subdivision of the State of Nevada;)
ROLAND ADAMS, Planning Director)
and Manager of the County of)
Douglas; and ROBERT A. GARDNER,)
Engineer of the County of Douglas,)

Appellants,)

vs.)

TAHOE REGIONAL PLANNING AGENCY,)

Respondents.)

No. 9726

Appeal from judgment, Ninth Judicial District Court,
Douglas County; Stanley A. Smart, Judge.

Affirmed.

Steven D. McMorris, District
Attorney, and William J.
Crowell, Jr., Deputy District
Attorney, Douglas County,
for Appellants.

Kenneth C. Rollston, and Owen
and Rollston, South Lake
Tahoe, California.
for Respondents.

O P I N I O N

PER CURIAM:

The County of Douglas, Nevada, with its Planning
Director/Manager and its Engineer, here appeal from a judgment
enjoining their approval of any parcel maps violating the
Tahoe Regional Planning Agency ordinances, and ordering them
to vacate approval and certifications of one such parcel
map, as well as to expunge that map from the county's official
records

The facts are undisputed. The county approved and
certified a parcel map which satisfies Douglas County ordinances,

but violates TRPA's land use ordinance. TRPA brought this action to compel County and its officers to vacate their approval and certifications of that parcel map and to expunge it from County's official records.¹ Judgment was granted in favor of TRPA. Appellants claim they need not enforce the TRPA's ordinance, and proffer various arguments in support of their position. The trial court considered and disposed of all of these arguments in its decision, No. 7327, filed August 9, 1976, and captioned "Tahoe Regional Planning Agency (TRPA) vs. Henry J. Martin, et al." For the reasons given, and based on the authority set forth therein, we affirm the judgment.

Howbray, C.J.

Thompson, J.

Gunderson, J.

Batjer, J.

Zenoff, S.J.²

*Tahoe Tribune 2-21-79 -
Lawsuit targets parking project*

California filed suit late Tuesday to block construction of a 1,572 car, seven-level parking garage at Harrah's Tahoe in U.S. District Court in Sacramento.

A spokesman for the court clerk said the suit was filed on behalf of the people of California, the California Department of Transportation, California Tahoe Regional Planning Agency and State Resources Agency.

As defendants, it names Harrah's Corp., Douglas County and the bi-state Tahoe Regional Planning Agency.

The suit alleges the garage was improperly approved and its construction would "further degrade" Lake Tahoe's environment, the spokesman said.

1 TRPA also requested injunctive relief against the owners of the premises described by the parcel map. However, direct relief against the owners was denied as rendered moot by the decision against the governmental defendants. The owners are not parties to this appeal.

2 Justice Noel Manoukian voluntarily disqualified himself from participating in the decision of this appeal.

The Chief Justice designated Hon. David Zenoff, Senior Justice, to sit in this case in place of the Hon. Noel Manoukian. Nev. Const. art. 6, § 19; SCR 143.

RECEIVED: A TRUE, TRUE AND CORRECT COPY.
JUDITH A. WILSON, Clerk of the Supreme Court
JUDITH A. WILSON, Deputy.

THOMAS A COOKE
BRUCE D ROBERTS
DAVID J. REESE

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March 27, 1979

To: Senate Natural Resources Committee

Assembly Government Affairs Committee

Gentlemen:

I am presently serving as the Governor's appointee on the TRPA. However, the views expressed in this letter are my own.

The man who appointed me to serve on the Agency in 1975 has told us that this is the last chance for the two States to agree on amendments to the Compact, and he was right.

This is indeed the year of decision for Lake Tahoe. Unless an accord is reached, the grand experiment, so nobly conceived, will be no more.

Under the provisions of the present Compact, the TRPA has simply not been able to stem the tide of over-development and commercialization. However, this is not to say that it has done nothing. Indeed, it has initiated a number of excellent programs to protect the Basin's environment in spite of the limitations now imposed on it by the Compact. We must remember that the TRPA is a unique and really an extraordinary pioneer endeavor by two States to protect the exquisite beauty of this alpine lake, but each nevertheless, anxiously jealous of its own sovereignty. Under the circumstances, there was bound to be some serious imperfections. These flaws in the original Compact are now obvious to all of us. In 1975 and 1977 attempts to amend the Compact failed, and some say it will fail again in 1979.

I do not believe this. The two States have never before tried so hard or accomplished so much. We are so close to agreement; those differences that remain must not be allowed to block it.

Senate Natural Resources Committee

Assembly Government Affairs Committee

March 27, 1979

Page 2

A Bi-State Agency is the best hope for Lake Tahoe. Once it is lost, I fear we may never be able to keep the fragile ecology of the Lake from tilting toward catastrophe. I do not believe that we should abandon the Bi-State Agency and let each State try to take care of its own side of the Basin. Lake Tahoe is one lake, and can only be protected by one regional agency empowered with sufficient authority to carry out its mandate.

I am in favor of SB 250, but either a majority vote, as provided by AB 503 or a reversal of the dual majority rule in SB 250 is so much better than what we have now. Clearly, a compromise should be reached; "the test is whether or not the compromise represents an advance over the status quo."

I feel confident that this year we will not fail, and Nevada and California will at last meet the challenge together.

Some say it is too late; that Tahoe is already nothing but a high altitude suburb. I would answer that in the words of Dr. Thomas Hamilton, President Emeritus of the University of Hawaii. "We can't undo the past, but we must be damn careful about the future."

Sincerely,

Thomas A. Cooke

TAC:ez

21

ANALYSIS OF SENTATE BILL 250
AND ASSEMBLY BILL 503

Prepared for: Senate Committee on Natural Resources
and Assembly Committee on Government
Affairs

Prepared by: Richard W. Blakey and Gordon H. DePaoli
Attorneys for Park Cattle Co., Owner
of the Park Tahoe Hotel and Casino,
Stateline, Douglas County, Lake Tahoe,
Nevada

Dated: March 29, 1979

I. INTRODUCTION

The two Bills under consideration both seek to amend the Tahoe Regional Planning Compact. Senate Bill 250 is identical to California Senate Bill 82, the so-called Garamendi Bill. Assembly Bill 503 is a modified version of the Garamendi Bill.

The present Tahoe Regional Planning Compact was approved by Nevada and California in 1968 and by Congress and the President in 1969. The two states have had 10 years experience with that Compact. The lessons of those 10 years should not be discarded and ignored; they should be taken into account so that any amended Compact is better, not worse, than the present version.

The provisions of the two Bills may be categorized into various topics. For purposes of this analysis they have been categorized as follows:

1. General & Miscellaneous Provisions
 - (a) Article I. Findings and Declarations of Policy
 - (b) Article II. Definitions
 - (c) Article VIII. Finances
2. Agency Structure and Voting
 - (a) Article III. Organization
 - (b) Article IV. Personnel
 - (c) Article VI(q) in S.B. 250 and Article VI(o) in A.B. 503
3. Planning
 - (a) Article V. Planning
 - (b) Article VI. Agency's Powers
4. Litigation
 - (a) Article VI(i) in S.B. 250 and Article VI(g) in A.B. 503
 - (b) Article VI(r) in S.B. 250 and Article VI(p) in A.B. 503
5. Environmental Impact Statements
 - (a) Article VII.
6. Gaming
 - (a) Article VI(f) and (g) in S.B. 250 and Article VI(d) and (e) in A.B. 503

The categories overlap but are useful in analyzing this complex legislation. It should be understood, however, that the provisions are all interrelated.

II. GENERAL AND MISCELLANEOUS PROVISIONS

Assembly Bill 503 and Senate Bill 250 propose to delete the "orderly development" language from Article I(c). The League to Save Lake Tahoe (League), the Sierra Club and the State of California (California) have attempted to establish that the Compact prohibits any further growth or development in the Basin. The courts have relied on the "orderly development" language as evidence that it was not such a measure. Recently, in a case involving Park and others, the United States Court of Appeals for the Ninth Circuit said:

Focusing initially on the language of the Compact, it is clear that it was not designed to stop economic development in the Tahoe Basin. Article I(c) states that the parties sought to create a "regional plan of resource conservation and orderly development." See also Younger v. TRPA, 516 F.2d 215, 220 (9th Cir. 1975) to the same effect.

Deletion of the "orderly development" language will, as a matter of statutory construction, establish the Compact as a no-growth, no-development measure. If that is what is intended the remaining pages of the Bills are unnecessary.

Article II of both Bills provides definitions that will play key roles in other portions of the Compact. Article VI(d) requires agency review and approval of all "projects." Article II(i) of S.B. 250 defines project as an "activity undertaken by any person if the activity may substantially affect, or may specifically apply to the uses of land, water, air, space, or

any other natural resources of the region." [Emphasis added.] The language is so broad that it could be argued that the agency must review and approve a Fourth of July picnic at Sand Harbor. It could require agency review and approval of each and every single family dwelling to be constructed at the Lake.

A.B. 503 defines "project" as an activity undertaken by any person if the activity may substantially affect the land, water, air, space or any other natural resources of the region." While that is an improvement over S.B. 250 it still is quite broad, could require agency review and approval of the construction of single family dwellings or one-car garages and is likely to result in a great deal of litigation.

A better approach is that presently followed. Present TRPA ordinances provide a more specific listing of activities requiring agency approval. Those ordinances require agency review in the following circumstances:

When the use, activity or structure consists of:

- (a) Airports, heliports and landing strips
- (b) Batch plants
- (c) Bulk storage
- (d) Commercial developments covering
three or more acres
- (e) Commercial forest products removal

- (f) Commercial parking lots
- (g) Construction in stream channels
- (h) Fish and wildlife management projects
- (i) Developed campgrounds
- (j) Educational facilities, general
- (k) Electric power plants
- (l) Electrical substations
- (m) Golf courses
- (n) Harbors
- (o) Hotels, motels and apartment houses of
five or more units
- (p) Marinas
- (q) Medical facilities
- (r) Mobile home parks
- (s) Organized recreation camps
- (t) Multiperson dwellings
- (u) Outdoor amusement facilities
- (v) Outdoor recreation concessions
- (w) Overhead or underground utilities, but
excluding service connections
- (x) Public services
- (y) Highways, roads and structures
- (z) Sewage treatment plant
- (aa) Water storage tanks and reservoirs
- (bb) Water treatment plant

- (cc) Quarries
- (dd) Recreation vehicle park
- (ee) Religious facilities
- (ff) Radio, TV and telephone relay stations and
transmission lines and structures
- (gg) Skiing facilities
- (hh) Private stream crossing
- (ii) Solid waste transfer stations
- (jj) Transportation facilities
- (kk) Wrecking yards

Land Use Ordinance (LUO) Sections 7.12, 4.32 and
4.10(2).

The present agency also reviews all buildings and structures to be constructed to a height of 45 feet or more.

The agency should be given the power to specify by ordinance those "projects" which require its approval. Such a specification will be beneficial both to the agency and all persons proposing to undertake any activity in the Basin.

III. AGENCY STRUCTURE AND VOTING

Article III of both Bills changes the makeup of the Governing Body from a 10-person board with six local government members to a 14-person board with 8 members coming from or being chosen by state government.

Article III(a)(1)(C) of both Bills provides that the seventh member from California is to be chosen by at least four

of the six California members named in Article III(a)(1)(A) and (B). If four of the six cannot agree on the seventh member within 30 days the California Governor with the consent of the Senate will appoint a seventh member. Because California state government controls three of the six named members it is likely that the seventh member will be appointed and controlled by California state government.

The voting procedures in the two Bills are different and must be considered separately. Article III(g) of S.B. 250 requires a majority from each state to take action. The vote of four Californians must concur with the vote of four Nevadans. If at any meeting where a quorum is present and any matter before the governing body does not receive an affirmative dual majority vote it is deemed rejected.

This change reverses the present dual majority rule and gives California the victory it could not achieve in Younger v. TRPA, 516 F.2d 215 (9th Cir. 1975). It essentially gives California a veto power in the region. Moreover, it will require Nevada to accede to California's demands on adoption of a regional plan and ordinances mandated by the Compact or be faced with lawsuits filed by California's environmentalist friends to have a court adopt them. See discussion at pages 11 to 13, infra.

Article III of both Bills requires four members of the governing body from each state for a quorum. Article III(g) of A.B. 503 requires an affirmative vote of a majority of the

members of the governing body, not a majority of a quorum, to take action. Under that Bill for action to be taken there must at least be four members from each state present and at least eight people must vote on one side or the other of the matter under consideration.

If the four members controlled by California state government simply refused to show up or if California state officials, including the Governor, simply refused to appoint their members (Governor Brown refused to appoint his delegate to the present governing body for an extended period - when he did he appointed Dwight Steele, who immediately before his appointment was the President of the League to Save Lake Tahoe.), no action could ever be taken. It's interesting to note that Article III of both Bills (page 4, lines 28-30) provides that members appointed by local government who miss three consecutive meetings automatically lose their seats. There is no comparable provision for state appointees and there should be.

Article VI(q) of S.B. 250 and VI(o) of A.B. 503 both provide that an applicant may bring an action in a court of competent jurisdiction to compel a vote, if such a vote did not occur within 180 days in the case of S.B. 250 and 90 days in the case of A.B. 503. California could require all applicants to file a suit to get a vote. Such a lawsuit would undoubtedly have to be brought in California. A similar lawsuit might have to be filed in Nevada. There has been far too much litigation under the Compact already without providing for litigation simply to

get a quorum and a vote. Both Bills are silent on what happens when there is no applicant. For example, California could prevent the adoption of a new regional plan and new ordinances favored by 10 members of the governing body by simply having its state controlled members not show up.

If the present dual majority provisions are to be changed at all, a simple majority of the governing body should constitute a quorum and a majority of the governing body should be permitted to take action. Such a provision will assure the appointment and regular attendance of all members of the governing body and will obviate the need for litigation to compel a vote.

Article III(a)(5) of S.B. 250 and Article III at page 4, lines 31-36 of A.B. 503 imply that only economic interests create a conflict. It should be made plain that all interests which evidence bias create a conflict.

Article IV(d) of S.B. 250 grants an immunity to members of the governing body, the planning commission and employees of the agency not enjoyed by their counterparts in state and local government. For example, an employee of the agency who negligently runs over a pedestrian while on his way from the agency office to inspect a project appears to be immune from liability for damages for that accident. Article IV(d) of A.B. 503 is much better.

IV. PLANNING

The key planning provisions of both Bills are identical except for some changes in terminology. For example, S.B. 250

speaks in terms of "environmental quality thresholds" and "ecological system carrying capacities," neither of which are defined. For those phrases A.B. 503 substitutes "criteria of environmental quality" and "limits of the capability of the ecological system to tolerate human activity." A.B. 503 does define "criterion of environmental quality" in Article II(i) as a "physically measurable standard for some element of the natural environment, such as water purity, or clarity, air pollution or noise." The other phrase is not defined but presumably would involve a statement of how much human activity can be allowed without exceeding the "criteria of environmental quality."

Article V(b) of both Bills and Article VI(e) of S.B. 250 and VI(c) of A.B. 503 require revision of the present regional plan and ordinances. The first order of business will be the development of a comprehensive statement establishing physically measurable standards of quality for elements of the natural environment such as air and water quality standards. The statement will also provide for "limits of the capability of the ecological system to tolerate human activity." This statement must be completed within 18 months.

When the comprehensive statement is completed the agency must revise the regional plan and adopt or revise ordinances and standards for the "preservation of the environmental quality

in the region" based upon the criteria and limits established in the comprehensive statement. There appears to be no deadline for completing this revision. Not later than 12 months after completion of the comprehensive statement the agency must develop a transportation plan which "substantially complies" with the criteria and limits established by the comprehensive statement.

It is clear therefore that the comprehensive statement is the key to all future planning in the region. It is as important as the Compact itself. Yet, there are no provisions which detail who will prepare it and how it will be adopted. The states and agency are to "cooperate," but what if they don't? What if the time constraints are not met? Who will determine whether the regional plan, ordinances and transportation plan comply with the comprehensive statement?

The Tahoe Regional Planning Agency has been this route before. On September 20, 1973, the League to Save Lake Tahoe and the Sierra Club filed an action in the United States District Court for the Eastern District of California against the TRPA, Park, Harvey's and Thomas P. Raley, hereinafter the Eastern District Action. They summarized their 59-page Complaint as follows:

In particular, the Complaint in the First Cause of Action (Section V), seeks a declaration that the TRPA has failed to adopt a regional plan as required by the Compact; in the Second Cause of Action (Section VI), seeks a declaration that the TRPA has failed to adopt implementing ordinances as required by the Compact; in the Third Cause of Action (Section VII), seeks a declaration

that the TRPA has failed to prepare and maintain a detailed environmental analysis with appropriate data, as required by the Compact; in the Fourth and Fifth Causes of Action (Section VIII and IX), seek a declaration that Sections 7.83 and 7.93 of the Land Use Ordinance are null and void as in violation of the Compact and the Land Capabilities Map, adopted by the TRPA as part of its purported regional plan; in the Sixth and Seventh Causes of Action (Sections X and XI), seek a declaration that Sections 9.22, 9.23 and 9.24 of the Land Use Ordinance are null and void as in violation of the Compact and of said Land Capabilities Map;

In addition, the Complaint seeks injunctive relief:

1. To compel the TRPA within a reasonable time to submit to the court, and upon court approval to adopt by ordinance a regional plan and implementing ordinances meeting the legal requirements of the Compact; and
2. To compel the TRPA to submit said plan and implementing ordinances together with an environmental analysis & underlying data to public hearing and discussion as required by the compact; and
3. To compel the TRPA to adopt an ordinance, effective during the period before adoption of the regional plan and ordinances, prohibiting further development within the Tahoe Basin, except as necessary during the period to replace or repair existing structures or to prevent great hardship or to meet demonstrable public need; and
4. To compel the TRPA, without prejudice to reapplication following adoption of the regional plan and ordinances, to set aside, deny or revoke any "approvals" given the construction of the shopping center and hotel-casino projects and to refuse to take action to process, review, aid or approve any project prior to adoption of the regional plan and ordinances, except as necessary, during the period, to repair or replace existing structures or to prevent great hardship or to meet demonstrable public need; and
5. In any event, to compel the TRPA to deny approval of any project not consistent with Section 6.20 of the Land Use Ordinance.

The answers to the above questions are clear. If a stalemate develops, if time limits are not met, or if California, the League to Save Lake Tahoe and the Sierra Club are not completely satisfied, there will be litigation. They will seek to have the courts, probably a California federal court, do the planning for the Tahoe Basin. The approach to planning in Articles V and VI comes directly from the Eastern District action.

Article V(b)(2) is a blatant attempt to postpone for at least thirty months, if not forever, completion of the Loop Road. Even if completion of that road becomes part of any new plan, California and others will sue to stop its construction on the basis that the transportation plan does not "substantially" comply with the comprehensive statement or that the plan "disrupts normal outdoor recreation activities." If Nevada were to throw in the towel on every other issue, it should not budge on completion of the Loop Road. Any revision of the Compact should authorize and direct completion of that road forthwith.

The two Bills differ somewhat on what is to occur while the comprehensive statement, the new regional plan, ordinances and standards are adopted. Under S.B. 250 neither the agency nor the Nevada Environmental Commission (NEC) may approve a project except upon written findings supported by substantial evidence in the record. This provision is the product of two actions, one brought by the State of California and one by the League and Club against Park Cattle Co., Harvey's, Ted Jennings, Oliver Kahle and Douglas County in the United States District Court for

the District of Nevada on August 12, 1977. Agency and NEC decisions are set up for litigation. As Judge Bruce R. Thompson stated in the above cases:

I know perfectionists, not only among lawyers but on the Court of Appeals, like to criticize findings, and there are sometimes two different ways to criticize them. One is that they parrot the language of the statute or ordinance and, therefore, they can't be genuine; and the other is they didn't parrot the language of the statute or ordinance and therefore they don't comply with the law.

The specific findings which must be made and based upon substantial evidence must be examined carefully. They are reproduced separately below.

(A) The project is consistent with the regional plan, ordinances, regulations and standards of the agency and those adopted by federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region; [Emphasis added.]

There must be a written finding that the project is consistent with the regional plan, ordinances, regulations and standards of the agency. The Eastern District action referred to above is still pending. It challenges the present regional plan and ordinances as being invalid. That action will go to trial on October 29, 1978. If the plaintiffs are successful there or in the Court of Appeals there will be no existing regional plan or ordinances, and under their theory, no approvals of anything. Any amendments should recognize and validate the existing plan, ordinances and regulations as being valid and consistent with the Compact in all respects. In addition, there must be written

findings based upon substantial evidence that the project is consistent with "ordinances, regulations and standards" adopted by federal and state agencies relating to the maintenance and enhancement of environmental quality in the region. Arguably, that would permit some federal agency to begin to promulgate regionwide ordinances and regulations. In addition, there is no definition of which state agencies are referred to and which state's regulations a project must meet. For example, must a Nevada project meet a California Water Quality Board regulation? Any project approved prior to adoption of the new plan, ordinances and regulations will be subject to litigation and probably delayed indefinitely.

(b) The project will not result in degradation in air quality;

Note the absence of any modifiers in front of "degradation." Arguably any project (keep in mind the definition of project) that brings one new car to the region will result in air quality degradation.

(c) The project will not result in increased traffic congestion in the region;

Again, no modifiers in front of increased. Will one more car be enough?

(d) The project will not result in increased runoff of pollutants or soil erosion or sedimentation; and

Any new impervious surface will result in increased runoff. Again, there is no modifier in front of increased. Pollutants is a key word -- even the smallest business or house can

generate water pollutants. Note the key word "and." All of these must be found or the project fails.

(e) The project will not result in substantial increased demand for housing in the region.
[Emphasis added.]

This section has a modifier in front of "increased." That strongly supports an argument that any negative impact requires rejection of a project under the other subsections.

In short, any approved project someone wishes to challenge in court will be delayed indefinitely. These provisions provide for a moratorium.

S.B. 250 provides that the California portion of the region will be governed by the California Tahoe Regional Planning Agency (CTRPA) forever. A.B. 503 unsuccessfully seeks to limit CTRPA's continued authority to a period of two years or until the comprehensive statement, the new regional plan, ordinances and standards are adopted, whichever is sooner. It fails because Article V(b)(5) at page 9, lines 9 - 12, and Article VI(a) at page 10, lines 7 - 8, provide that the plans, ordinances, rules and regulations adopted by the CTRPA and in effect on July 1, 1978, are recognized as establishing a higher standard applicable in California. To the extent there is a conflict between any TRPA provision, old or new, and a CTRPA provision the CTRPA provision will prevail. The Compact as it is proposed to be amended will essentially be an interstate Compact to govern the Nevada portion of the Tahoe Basin.

It is a serious mistake to provide in the Compact that the

CTRPA plan establishes a higher standard applicable in California. The Compact as proposed to be amended looks to the establishment of and attainment of physically measurable standards for elements of the natural environment, such as water purity, clarity, air pollution or noise. If any newly structured Tahoe Regional Planning Agency is to have an even chance to do its job and to adopt a plan and ordinances designed to attain the criteria of environmental quality, its plan and ordinances must apply throughout the region and must be supreme. There can and will be tensions as to what is the best way to meet the criteria of environmental quality. One example has been the type of transportation plan necessary to reduce and limit air pollution in the region. The TRPA and the CTRPA's plans collide in that regard. The Loop Road is part of the TRPA's plan but not of the CTRPA's.

On May 11, 1978, the Honorable Bruce R. Thompson issued a ruling on California's application for a temporary restraining order to prevent construction of the Loop Road in Nevada. Judge Thompson spoke directly to this question, and the proposed amendment to the Compact seeks to vitiate his conclusions. In his decision, Judge Thompson commented on the affidavit of John J. Vostrez, the head of the California Tahoe Regional Planning Agency:

There is an affidavit from the plaintiff from Mr. John J. Vostrez, in which he states: "I am the executive officer of the California Tahoe Regional Planning Agency and I have held this position since November 17, 1975. CTRPA is a regional planning and regulatory agency and a political subdivision of the State of California. It has jurisdiction over the California portion of the Lake Tahoe region."

Judge Thompson commented:

That is an untrue statement. I don't mean to say that he intentionally made an untrue statement, but that is not consistent with the jurisdiction given to the TRPA by the interstate compact.

Again quoting from Mr. Vostrez:

The primary purpose of CTRPA is to function as an areawide planning agency with powers to adopt and enforce a regional plan of resource conservation and orderly development and to exercise effective environmental controls in the Lake Tahoe region.

Judge Thompson commenting again:

That also is an untrue statement. Those powers are vested in the Tahoe Regional Planning Agency. The CTRPA does have authority to make and adopt such plans for conservation and orderly development subordinate to any plans and consistent with any plans adopted by the Tahoe Regional Planning Agency but not otherwise.

I think that what we have involved here is primarily an effort on the part of the State of California to impose the will of the California Division of Transportation and the CTRPA upon the Tahoe Regional Planning Agency, which both states adopted and organized for the specific purpose of dealing with all environmental problems in the Lake Tahoe Basin."

The situation in the Nevada portion of the region pending adoption of the new plan, ordinances and regulations is somewhat different. It is set forth in A.B. 503 in Article VI(c) at page 11, lines 24 - 32. There the Agency and the State Environmental Commission of Nevada may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan, ordinances, regulations and standards of the

Agency, and those adopted by federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region." The "written findings based upon substantial evidence in the record" provision is the product of unsuccessful actions brought by the State of California and the League to Save Lake Tahoe and Sierra Club against Park Cattle Co., Harvey's, Ted Jennings, Oliver Kahle and Douglas County in the United States District Court for the District of Nevada on August 12, 1977. Judge Thompson ruled in favor of the defendants in that action and his decision has been recently upheld by the United States Court of Appeals for the Ninth Circuit. The language requiring written findings supported by substantial evidence in the record is a setup for additional litigation. As Judge Thompson stated in the August 12, 1977 cases:

I know perfectionists, not only among lawyers, but on the Court of Appeals, like to criticize findings, and there are sometimes two different ways to criticize them. One is that they parrot the language of the statute or ordinance and, therefore, they can't be genuine; and the other is they didn't parrot the language of the statute or ordinance and therefore, they don't comply with the law.

The specific findings which must be made and based upon substantial evidence should be examined carefully. First, there must be a written finding that the project is consistent with the regional plan, ordinances, regulations and standards of the Agency. The Eastern District action referred to above is still pending. It challenges the present regional plan and ordinances as being invalid. That action is set to go to trial on October 29, 1979. If the plaintiffs are successful there or in the Court of

Appeals there will be no existing regional plan or ordinances, and under their theory, no approvals of anything. Any amendments should recognize and validate the existing plan, ordinances and regulations as being valid and consistent with the Compact in all respects.

In addition, there must be written findings based upon substantial evidence that the project is consistent with "ordinances, regulations and standards" adopted by federal and state agencies" relating to the maintenance and enhancement of environmental quality in the region." Arguably, that would permit some federal agency to begin to promulgate regionwide ordinances and regulations. In addition, there is no definition of which state agencies are referred to and which state's regulations a project must meet. For example, must a Nevada project meet a California Water Quality Board regulation? Any project approved prior to adoption of the new plan, ordinances and regulations will be subject to litigation and probably delayed indefinitely.

Article V(b)(5) of S.B. 250 and Article V(c) at page 9, lines 27-29 of A.B. 503 preclude the expansion of public services and facilities" unless essential to meet the needs of present inhabitants" until revision of the land use plan. This provision will indirectly vitiate prior approvals granted under the existing Compact and ordinances. For example, some type of expansion of the Douglas County Sewer Improvement District No. 1 Waste Water Treatment Facility is necessary, not only to meet the needs of present

inhabitants, but also to meet the needs of presently approved and permitted projects. To prohibit expansion of that facility would prohibit already approved development. Such a prohibition is probably unconstitutional and it is surely wrong. This Legislature has been careful to recognize and not affect prior approvals. It should not permit their indirect revocation.

This provision would also prevent completion of the Loop Road. As noted earlier any amended Compact should require completion of the Loop Road.

Finally, this provision could substantially increase the cost of new public services and facilities because it would require that they be constructed in a piecemeal fashion.

Article VI(j) and (k) of S.B. 250 and Article VI(h) and (k) of A.B. 503 amend the present Compact to require agency approval for public works projects to be constructed by a department of either state. Nevada has a responsibility to its own citizens to provide those services and facilities it deems necessary. It should not subordinate its ability to meet that responsibility to the TRPA or any other agency.

In conclusion the provision providing a moratorium on public services and facilities should be deleted. The present Compact provisions concerning public works projects should not be amended.

V. LITIGATION

A Compact is essentially a contract between two or more states. To work a contract requires parties that deal fairly and in

good faith. Each party must be willing to live with the contract's terms even though that party may later decide the contract was not in its best interests. Unquestionably parties to a contract may have good faith disagreements and may seek the assistance of the courts to resolve those good faith disagreements.

If the past is any indication of the future, the contract being proposed here does not involve two parties dealing fairly and in good faith. It does not involve two parties willing to live by its plain terms. California has not dealt in good faith under the present Compact. For example on August 7, 1974 the State of California filed an action entitled the People of the State of California, ex rel. Evelle J. Younger vs. Tahoe Regional Planning Agency, et al. in the United States District Court for the District of Nevada, Civil No. R-74-108 BRT. There California contended that Article VI(k) of the present Compact did not require a dual majority to take final action. The Ninth Circuit Court of Appeals said that "although we find California's argument extremely appealing on an emotional level, it simply does not take into account the plain meaning of the Compact and intent of its architects. Younger v. Tahoe Reg. P. Ag., 516 F.2d 215, 218 (9th Cir. 1975).

The case People of the State of California vs. Ted Jennings, et al., in the United States District Court for the District of Nevada, Civil No. R-77-0158 BRT, filed August 12, 1977, provides at least two examples. In that action California contended that TRPA Land Use Ordinance §7.13 created an absolute 40-foot height

limit in the Basin. Concerning that argument the Ninth Circuit Court of Appeals recently said that "section 7.13 on its face contemplates heights in excess of 45 feet." On the same argument Judge Bruce R. Thompson said:

I find nothing ambiguous in the height-limitation ordinance 7.13. It is quite plainly different from other types of limitation ordinances. It was quite plainly adopted in contemplation of the probability that many, many requests for different height allowances would be made.

In that case California also contended that the gaming establishments involved constituted common law interstate nuisances. That contention was made in the face of the present Compact which provides that "every plan, ordinance, rule, regulation or policy adopted by the agency shall recognize" gaming "as a permitted and conforming use."

Article VI(i) of S.B. 250 and Article VI(g) of A.B. 503 are identical to present Article VI(e). It is not changed but it should be. Because of California's lack of good faith and because of others who believe they are more able to preceive what is right and good the present Compact has generated far too much litigation. Such litigation can be and often has been counterproductive. Set forth below is a chronology of only some of that litigation:

1. League to Save Lake Tahoe, et al. vs. Tahoe Regional Planning Agency, et al. in the United States District Court for the Eastern District of California, Civil No. S-2989, filed September 20, 1973.

2. League to Save Lake Tahoe, et al. vs. County of El Douglas, et al. in the First Judicial District Court of the State of Nevada, in and for the County of Douglas, No. 6566, filed August 16, 1974.
3. People of the State of California, ex rel. Evelle J. Younger vs. Tahoe Regional Planning Agency, et al., in the United States District Court for the District of Nevada, Civil No. R-74-108 BRT, filed August 1974.
4. League to Save Lake Tahoe, Inc., et al. vs. Roger S. Trounday, et al., in the United States District Court for the District of Nevada, Civil No. R-76-1485 BRT, filed May 3, 1976.
5. California Tahoe Regional Planning Agency, et al. vs. Ted Jennings, et al., in the United States District Court for the District of Nevada, Civil No. R-77-0158 BRT, filed August 12, 1977.
6. League to Save Lake Tahoe, et al. vs. Ted Jennings, et al., in the United States District Court for the District of Nevada, Civil No. R-77-0159, filed August 12, 1977.
7. People of the State of California vs. County of El Douglas, et al. in the United States District Court for the District of Nevada, No. 78-0084 BRT, filed May 8, 1978.
8. League to Save Lake Tahoe, Petitioner, vs. Tahoe Regional Planning Agency, Respondent, in the Superior Court for the State of California, for the County of El Dorado, No. 31268 filed May 1, 1978.

Recently, several California agencies filed separate actions against Harrah's and the Sahara Tahoe to prevent construction of parking garages at those enterprises. Like the Loop Road cases those lawsuits were filed in spite of the fact that a majority of the California delegation to the TRPA had voted in favor of approval.

Only the Agency should be permitted to bring actions seeking to enforce its ordinances, rules, regulations and policies in

both states. The states and the local governmental entities located in the Basin should be permitted to bring such actions only within the limits of their own territory. Private parties like the League to Save Lake Tahoe should not be permitted to bring enforcement actions at all. The various governmental entities involved can adequately enforce the Agency's ordinances, rules, regulations and policies.

All actions, whether brought in state or federal court, should be brought in a court sitting within the state where the violation is committed or where the property affected is situated. For example, Park and Harvey's were sued in the Eastern District of California, even though their projects are located wholly within the State of Nevada. Line 38, page 12 of A.B. 503 provided the rationale for allowing such an action to be brought in federal court. Because the judges in the Eastern District of California disqualified themselves, the case was properly assigned to an out of district judge. That judge, the Honorable James F. Battin, is from Billings, Montana. At one point when Judge Battin was unavailable, the matter was temporarily assigned to a judge in San Francisco. In that action Park was required to defend its project in Sacramento, California, in Billings, Montana, and in San Francisco, California. Requiring that actions be brought in a court located within the state where the property affected is situated, whether or not the action be brought in a state or federal court, is not unreasonable.

The final sentence at lines 38 - 40, page 12 of A.B. 503 should be deleted. That sentence was inserted in the original Compact for purposes of diversity jurisdiction. The Ninth Circuit Court of Appeals has determined that questions arising under the Compact and the Land Use Ordinance present federal questions so that such actions involving them may be brought in federal court.

New provisions dealing specifically with judicial review should be added to the Compact. Enforcement actions are not the same as actions seeking judicial review. Actions seeking judicial review involve court review of the Agency's judgmental decision approving or disapproving a particular project.

First, a very short time limit for seeking judicial review should be adopted. In the recently decided August 12, 1977 cases the State of California and the League to Save Lake Tahoe and Sierra Club sought judicial review of Douglas County's judgmental decision to allow the Park Tahoe hotel tower to exceed 40 feet in height. That action was brought over four years after approval and three years after the hotel tower reached its designed height. In that default approval situation the United States Court of Appeals for the Ninth Circuit applied Nevada's 25-day limitation period.

Actions seeking judicial review should be required to be filed in courts within the state where the property affected is located, whether or not the action is filed in state or federal court.

The judicial review section should require persons or entities seeking judicial review to have appeared before the Agency and substantially raised the grounds on which they seek judicial review. The United States Supreme Court said in the recent Vermont Yankee Nuclear Power Corporation v. NRDC case, 46 U.A.L.W. 4301, 4310 (1978):

Administrative proceedings should not be a game or a forum to engage in unjustified obstructionism by making cryptic and obscure reference to matters that "ought" to be considered and then after failing to do more to bring the matter to the agency's attention, seeking to have that agency determination vacated on the ground that the agency failed to consider matters forcefully presented.

Judicial review should be limited to the record made before the agency. The scope of review should be limited. Courts should not substitute their judgment for that of the agency. In short, if it is the judgment of the Nevada and California legislatures that the region should be governed by a regional planning agency, then every effort should be made to see to it that that agency does in fact govern and that it, rather than the courts, makes the essential and important decisions for the region.

The following amendments are suggested:

All ordinances, rules, regulations and policies adopted by the agency shall be enforced exclusively by the agency within both states and by the respective states, counties and cities, each within its limits of territory. The appropriate courts [of] within the respective states each within its limits of territory and subject matter provided by [state] law are vested with jurisdiction over civil actions

[to which the agency is a party] arising under this act and over criminal actions for violations of [its] the agency's ordinances. Each such action should be brought in a court [of] sitting within the state where the violation is committed or where the property affected by a civil action is situated. [unless the action is brought in a federal court for this purpose the agency shall be deemed a political subdivision of both the State of California and the State of Nevada.]

Any person aggrieved by a final action of the agency is entitled to judicial review thereof. No action or proceeding shall be commenced for the purpose of seeking judicial review unless such action is commenced within 25 days from the date of final action by the agency. Actions seeking judicial review shall be instituted in a court sitting within the state where the property affected is located. The review shall be conducted by said court without a jury and shall be confined to the record and to issues substantially raised before the agency. Said court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the decision is: (1) In violation of constitutional or statutory provisions; (2) In excess of the authority of the agency; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

These suggestions are based upon the August 12, 1977 actions brought by California, the League and the Sierra Club. There the plaintiffs sought judicial review several years after agency action. The complete administrative record was no longer in existence. The grounds on which plaintiffs sought judicial review had not been specifically raised before the agency. They sought

to supplement the administrative record with documents and evidence not even in existence when the agency reviewed the projects.

Article VI(m) of S.B. 250 and Article VI(k) of A.B. 503 provide for rather severe penalties, not only against private persons but also against governmental agencies. While A.B. 503 requires a willful violation as opposed to any violation whatsoever, the size of the penalty still leaves room for a good deal of blackmail. The power to secure penalties for willful violation of the Compact, the ordinances, etc., is necessary. However, a \$100,000 fine for each violation seems excessive, particularly when one considers that such a fine could be extracted from a governmental entity.

Article VI(r) of S.B. 250 and Article VI(p) of A.B. 503 provide for automatic expiration of the approval of a project. The entire provision should be deleted. As written it provides an extension of time while a legal action, "the purpose of which is to prevent or modify a project," is pending. The modifying phrase defining the purpose of the action may be a trap for the unwary. A favorite trick of certain groups is to make it difficult or impossible for a development to secure necessary financing. Almost any legal action, whether its purpose be to prevent or modify a project or not, will make it difficult, if not impossible, to obtain financing. In addition the provision does not protect an applicant who starts construction and then stops for a 3-year period. Presumably, if the delay is not the result of a legal action, the approval expires no matter how

substantial the existing construction. While expiration of approval within a time certain may be a good planning technique, it is out of place in the Tahoe Basin. No one is going to go through all that one will be required to go through under these amendments and then not go forward with the project if it is at all possible.

VI. ENVIRONMENTAL IMPACT STATEMENTS

Article VII is taken from or is a paraphrase of the National Environmental Policy Act (NEPA), 42 U.S.C. §4321, et seq. California, the League to Save Lake Tahoe and Sierra Club have unsuccessfully attempted to have the courts determine that NEPA applies to the present Tahoe Regional Planning Agency. Article VII will make NEPA a part of the Compact. Adoption of the NEPA language in the Compact will include the very large body of case law which has been decided under NEPA.

Article VII(b)(2)(C) of S.B. 250 and Article VII(a)(3) of A.B. 503 will require an environmental impact statement on any project which "may significantly affect the quality of the human environment." The courts have read the word "significant" out of NEPA for all practical purposes. They have pointed out that the phrase "significant effect on the environment" includes all potential environmental effects, not just adverse effects. See Hiram Clark Civic Club, Inc. v. Lynn, 476 F.2d 421 (5th Cir. 1973).

Article VII permits the agency to exempt certain classes of projects from the EIS requirement. However, the agency must find on the basis of "substantial evidence" that the class of projects

exempted will not have a significant effect on the environment. To the extent that the Agency attempts to use this section, it will generate a great deal of litigation. In addition, based upon the definition of "project" in Article II it would seem that a finding that an EIS is not required is also a finding that the matter under consideration is not a "project" within the meaning of Article II and, therefore, agency approval is not required.

The environmental impact statement requirement is for all practical purposes identical to 42 U.S.C. §4332. That section has probably generated more litigation than any other single section in the United States Code. It has been in existence only a few short years and has generated 214 pages of small print annotations of cases in the United States Code through 1977. The section has been used time and again by certain groups to delay and stop projects. Injunctions have been routinely granted for failure to prepare an EIS or failure to prepare an adequate EIS. The Ninth Annual Report of the Council on Environmental Quality indicates that through December 31, 1977, 938 NEPA cases have been filed against the federal agencies surveyed. The Department of Transportation with 211 cases is the agency most frequently involved in litigation. Second is the Department of Defense. In 67% of the total cases citizen and environmental groups have been the plaintiff. Business and industry have been plaintiff in only 15% of such cases. The most common complaint in NEPA cases, comprising 51% of all allegations, is that agencies should have prepared an EIS but failed to do so. The

second most common allegation is that an EIS is inadequate. Such claims often allege failure to examine fully either the environmental impact of an action or available alternatives. In 35% of the cases NEPA-related injunctions delayed the federal action or project at issue, in some instances for periods of longer than one year. However, in spite of all of this litigation no federal action has been permanently enjoined. Attached hereto as Exhibit A is a table giving a breakdown of NEPA cases.

Delays caused by Article VII litigation will have a much greater impact than delays under NEPA. Under NEPA the project delayed is usually a federally funded project. Because of the resources of the federal government those projects are often immune to inflation. The Tahoe projects which will be delayed will either be private or public works projects of state, county and local governments. Because of inflation delay could result in their undoing. The Park Tahoe provides an excellent example. It was approved in 1973 to be built in two years at a cost of approximately \$30 million. Litigation is the reason it is not yet completed, and litigation is the reason that its projected cost of completion is now \$60 million rather than \$30 million.

Article VII will significantly add to the cost of projects, including public works projects because of the cost of the EIS, the time consumed in preparing the EIS, and the environmental impact statement litigation, which will result in litigation both before and after approval of the project. In addition it will significantly add to the cost of running the agency.

The purpose of an environmental impact statement is to foster excellent decisions and action. Such a statement is intended to help public officials make decisions based on an understanding of the environmental consequences. The federal experience has been one of delay, huge volumes of sometimes useless and oftentimes highly technical paperwork and delay. In 1977 the Council On Environmental Quality held hearings on how to make the NEPA process work better. Witnesses from business, labor, state and local governments, environmental groups and the public at large participated. Those diverse groups agreed that the process had become needlessly cumbersome. They agreed that "the length and detail of EISes made it extremely difficult to distinguish the important from the trivial." Environmental Quality, The Ninth Annual Report of the Council On Environmental Quality at 401 (December, 1978).

This less than satisfactory federal experience should not be placed in a Compact which cannot be changed except with the agreement of Nevada, California, Congress and the President. The TRPA is not the federal government. It should have the ability to develop its own requirements concerning the type of information it requires to make its decisions. It should have the ability to modify those requirements as it gains additional experience to insure that the process fosters good decisions, not unnecessary delays, costs and litigation. It, rather than the courts, should do those things necessary to accomplish the Compact's goals.

VII. GAMING

Because the gaming portion of the Compact is being dealt with in separate legislation (S.B. 323 as amended by the Senate Natural Resources Committee) and because the Senate Natural Resources Committee has already held hearings on that legislation, no analysis of the gaming provisions of the Compact is set forth here. If and when the Assembly Government Affairs Committee holds hearings on that separate legislation an analysis and statement will be presented.

Table 9-3

'EPA-Related Cases' Completed, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate	Total permanent injunctions
USDA	56	39 (70)	22 (39)	19 (34)	13 (23)	6 (11)	8 (14)	5 (9)	0 (0)
USDA	4	4 (100)	0 (0)	1 (25)	1 (25)	0 (0)	1 (25)	0 (0)	0 (0)
APHI	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FMHA	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
FS	41	28 (68)	16 (39)	15 (37)	10 (24)	5 (12)	5 (12)	3 (7)	0 (0)
REA	4	2 (50)	2 (50)	1 (25)	0 (0)	1 (25)	1 (25)	0 (0)	0 (0)
SCS	5	3 (60)	4 (80)	1 (20)	1 (20)	0 (0)	1 (20)	2 (40)	0 (0)
CAB	1	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOC	9	6 (67)	4 (44)	3 (33)	1 (11)	1 (11)	0 (0)	0 (0)	0 (0)
DOC	3	2 (67)	2 (67)	1 (33)	0 (0)	1 (33)	0 (0)	0 (0)	0 (0)
EDA	4	3 (75)	1 (25)	2 (50)	1 (25)	0 (0)	0 (0)	0 (0)	0 (0)
MA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NOAA	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CPSC	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	1 (50)	0 (0)	0 (0)
CEQ	3	2 (67)	1 (33)	0 (0)	0 (0)	0 (0)	1 (33)	0 (0)	0 (0)
DOD	107	56 (52)	61 (57)	28 (26)	19 (18)	14 (13)	11 (10)	20 (19)	0 (0)
DOD	7	6 (85)	1 (14)	3 (43)	4 (57)	1 (14)	0 (0)	0 (0)	0 (0)
USAF	2	0 (0)	2 (100)	1 (50)	0 (0)	1 (50)	0 (0)	1 (50)	0 (0)
USA	8	4 (50)	5 (63)	1 (13)	0 (0)	1 (13)	0 (0)	0 (0)	0 (0)
COE	72	33 (46)	46 (64)	17 (24)	10 (14)	8 (11)	10 (14)	16 (22)	0 (0)
USN	18	13 (72)	7 (39)	6 (33)	5 (28)	3 (17)	1 (6)	3 (17)	0 (0)
DRBC	2	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOE	26	20 (77)	9 (35)	3 (12)	1 (4)	2 (8)	0 (0)	1 (4)	0 (0)
BPA	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
ERDA	5	5 (100)	2 (40)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FEA	5	4 (80)	1 (20)	1 (20)	0 (0)	1 (20)	0 (0)	0 (0)	0 (0)

FERC ²	14	10 (71)	5 (38)	1 (7)	1 (7)	0 (0)	0 (0)	1 (7)	0 (0)
SWPA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
EPA ³	40	25 (63)	17 (43)	12 (30)	7 (18)	3 (8)	6 (15)	4 (10)	0 (0)
FCC	3	1 (33)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FDIC	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
FRS	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
FTC	3	3 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
GSA	17	10 (59)	9 (53)	6 (35)	3 (18)	3 (18)	1 (6)	3 (18)	0 (0)
HEW	17	13 (76)	3 (19)	8 (47)	5 (29)	2 (13)	1 (6)	0 (0)	0 (0)
HEW	14	11 (79)	3 (21)	6 (43)	3 (21)	2 (14)	1 (7)	0 (0)	0 (0)
FDA	2	1 (50)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)
PHS	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
HUD	98	73 (77)	17 (17)	37 (38)	25 (26)	9 (9)	13 (13)	2 (2)	0 (0)
HUD	96	71 (74)	16 (17)	36 (38)	24 (25)	9 (9)	12 (13)	2 (2)	0 (0)
FDAA	1	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)	0 (0)
IHS	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
DOI	83	45 (54)	35 (42)	14 (17)	9 (11)	8 (10)	7 (8)	6 (7)	0 (0)
DOI	28	16 (57)	11 (39)	7 (25)	4 (14)	3 (11)	4 (14)	2 (7)	0 (0)
BIA	4	2 (50)	2 (50)	1 (25)	1 (25)	0 (0)	0 (0)	0 (0)	0 (0)
BLM	16	10 (63)	9 (56)	5 (31)	4 (25)	4 (25)	1 (6)	0 (0)	0 (0)
BOR	4	4 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
BuRec	11	2 (18)	6 (55)	1 (9)	0 (0)	1 (9)	0 (0)	3 (27)	0 (0)
FWS	7	4 (57)	3 (43)	0 (0)	0 (0)	0 (0)	1 (14)	0 (0)	0 (0)
USGS	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NPS	12	7 (58)	3 (25)	0 (0)	0 (0)	0 (0)	1 (8)	1 (8)	0 (0)
ICC	12	9 (75)	4 (33)	2 (17)	2 (17)	0 (0)	1 (8)	2 (17)	0 (0)
DJUS	16	13 (81)	6 (38)	5 (31)	5 (31)	1 (6)	2 (13)	2 (13)	0 (0)
DJUS	8	5 (63)	4 (50)	1 (13)	1 (13)	0 (0)	0 (0)	1 (13)	0 (0)
BP	2	2 (100)	1 (50)	0 (0)	0 (0)	0 (0)	1 (50)	1 (50)	0 (0)
INS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
LEAA	5	5 (100)	4 (50)	1 (13)	1 (13)	0 (0)	0 (0)	0 (0)	0 (0)
LAB	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ISA	3	1 (33)	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	2 (67)	0 (0)
CPC	9	7 (78)	2 (22)	2 (22)	1 (11)	1 (11)	1 (11)	1 (11)	0 (0)
RC	25	6 (24)	14 (56)	8 (32)	1 (4)	4 (16)	1 (4)	1 (4)	0 (0)

Table 9-3 (continued)

NEPA-Related Cases¹ Completed, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate	Total permanent injunctions
OMB	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)	0 (0)
PRES	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)	0 (0)
USPS	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
SEC	4	0 (0)	0 (0)	2 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
SBA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
SSA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
STAT	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)
TVA	13	12 (92)	5 (38)	2 (15)	2 (15)	1 (8)	0 (0)	1 (8)	0 (0)
DOT	137	88 (64)	61 (45)	40 (29)	25 (18)	15 (11)	17 (12)	13 (9)	0 (0)
DOT	17	11 (65)	9 (53)	4 (24)	2 (12)	2 (12)	4 (24)	4 (24)	0 (0)
USCG	7	6 (86)	1 (14)	3 (43)	2 (29)	1 (14)	0 (0)	0 (0)	0 (0)
FAA	18	13 (72)	9 (50)	2 (11)	2 (11)	0 (0)	1 (6)	1 (6)	0 (0)
FHWA	95	58 (61)	42 (44)	31 (33)	19 (20)	12 (13)	12 (13)	8 (8)	0 (0)
TREAS	14	13 (93)	1 (7)	2 (14)	2 (14)	0 (0)	2 (14)	0 (0)	0 (0)
TREAS	10	9 (90)	1 (10)	1 (10)	1 (10)	0 (0)	2 (20)	0 (0)	0 (0)
CURR	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ORS	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)
WRC	2	1 (50)	1 (50)	2 (100)	1 (50)	1 (50)	0 (0)	1 (50)	0 (0)

¹ There were 584 cases; the cases column totals are higher because often more than one agency was named as a defendant. A number in parentheses is the percentage of the total number of cases in which the corresponding agency was sued.

² Includes cases brought against the FPC.

³ 1976 figures.

Table 9-4

NEPA-Related Cases¹ Pending, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate
USDA	33	21 (64)	11 (33)	0 (0)	0 (0)	0 (0)	6 (18)	4 (12)
USDA	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
APHI	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FMHA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FS	16	11 (69)	5 (31)	0 (0)	0 (0)	0 (0)	4 (25)	1 (6)
REA	6	2 (33)	3 (50)	0 (0)	0 (0)	0 (0)	2 (33)	0 (0)
SCS	7	5 (71)	1 (14)	0 (0)	0 (0)	0 (0)	2 (29)	1 (14)
CAB	4	3 (75)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOC	12	5 (42)	6 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
EDA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	2 (40)
NOAA	5	0 (0)	5 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CPSC	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)
CEQ	2	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOD	68	33 (49)	36 (53)	7 (10)	6 (9)	0 (0)	9 (13)	15 (22)
DOD	3	2 (66)	0 (0)	1 (33)	1 (33)	0 (0)	0 (0)	0 (0)
USAF	8	5 (63)	3 (38)	0 (0)	0 (0)	0 (0)	2 (25)	1 (13)
USA	8	6 (75)	4 (50)	2 (25)	2 (25)	0 (0)	1 (13)	0 (0)
COE	48	20 (42)	28 (58)	4 (8)	3 (6)	0 (0)	6 (13)	14 (29)
USN	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOE	21	14 (67)	0 (0)	1 (5)	1 (5)	0 (0)	0 (0)	0 (0)
DOE	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
BPA	5	3 (60)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ERDA	4	3 (75)	0 (0)	1 (25)	1 (25)	0 (0)	0 (0)	0 (0)

Table 9-4 (continued)

NEPA-Related Cases¹ Pending, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where challenged as inadequate
FEA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FERC ²	5	2 (40)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
EPA ³	19	8 (42)	8 (42)	0 (0)	0 (0)	0 (0)	1 (5)	1 (5)
EXIM	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)
FCC	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
GSA	6	4 (67)	2 (33)	1 (17)	1 (17)	0 (0)	1 (17)	2 (33)
HEW	12	10 (83)	3 (25)	2 (17)	2 (17)	0 (0)	1 (17)	0 (0)
HEW	9	7 (78)	2 (22)	1 (11)	1 (11)	0 (0)	1 (11)	0 (0)
FDA	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
NIM	1	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
HUD	36	27 (75)	4 (11)	2 (6)	1 (3)	0 (0)	8 (22)	1 (3)
HUD	34	25 (74)	4 (12)	2 (6)	1 (3)	0 (0)	7 (21)	1 (3)
ILSR	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)
DOI	79	51 (65)	22 (28)	3 (4)	2 (3)	2 (3)	5 (6)	8 (10)
DOI	23	16 (70)	3 (13)	0 (0)	0 (0)	0 (0)	0 (0)	1 (4)
BIA	8	7 (88)	1 (13)	0 (0)	0 (0)	0 (0)	0 (0)	1 (13)
BLM	15	8 (53)	6 (40)	1 (7)	1 (7)	1 (7)	0 (0)	2 (13)
BuRec	17	6 (35)	10 (59)	1 (6)	0 (0)	1 (6)	1 (6)	3 (18)
FWS	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
USGS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NPS	13	11 (85)	2 (15)	1 (8)	1 (8)	0 (0)	4 (31)	1 (8)
ICC	5	3 (60)	3 (60)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DJUS	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NCPC	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)

NRC	24	5 (21)	12 (50)	1 (4)	0 (0)	1 (4)	0 (0)	3 (13)
OMB	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
PRES	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
USPS	11	0 (0)	1 (9)	0 (0)	0 (0)	0 (0)	0 (0)	1 (9)
SEC	2	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
STAT	2	1 (50)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
TVA	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)
DOT	74	33 (45)	39 (53)	5 (7)	2 (3)	5 (7)	10 (14)	7 (9)
DOT	14	9 (64)	4 (29)	1 (7)	0 (0)	1 (7)	1 (7)	1 (7)
USCG	8	3 (38)	5 (62)	0 (0)	0 (0)	0 (0)	1 (13)	0 (0)
FAA	16	5 (31)	8 (50)	1 (6)	1 (6)	0 (0)	0 (0)	0 (0)
FHWA	33	16 (48)	20 (61)	3 (9)	1 (3)	2 (6)	8 (24)	6 (18)
UMTA	3	0 (0)	2 (66)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
TREAS	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CS	1	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ORS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
WRC	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

¹ There were 354 cases: the cases column totals are higher because often more than one agency was named as a defendant. A number in parentheses is the percentage of the total number of cases in which the corresponding agency was sued.

² Includes cases brought against the FPC.

³ 1976 figures.

Table 9-3

EPA-Related Cases¹ Completed, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate	Total permanent injunctions
USDA	56	39 (70)	22 (39)	19 (34)	13 (23)	6 (11)	8 (14)	5 (9)	0 (0)
USDA	4	4 (100)	0 (0)	1 (25)	1 (25)	0 (0)	1 (25)	0 (0)	0 (0)
APHI	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FMHA	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
FS	41	28 (68)	16 (39)	15 (37)	10 (24)	5 (12)	5 (12)	3 (7)	0 (0)
REA	4	2 (50)	2 (50)	1 (25)	0 (0)	1 (25)	1 (25)	0 (0)	0 (0)
SCS	5	3 (60)	4 (80)	1 (20)	1 (20)	0 (0)	1 (20)	2 (40)	0 (0)
CAB	1	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOC	9	6 (67)	4 (44)	3 (33)	1 (11)	1 (11)	0 (0)	0 (0)	0 (0)
DOC	3	2 (67)	2 (67)	1 (33)	0 (0)	1 (33)	0 (0)	0 (0)	0 (0)
EDA	4	3 (75)	1 (25)	2 (50)	1 (25)	0 (0)	0 (0)	0 (0)	0 (0)
MA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NOAA	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CPSC	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	1 (50)	0 (0)	0 (0)
CEQ	3	2 (67)	1 (33)	0 (0)	0 (0)	0 (0)	1 (33)	0 (0)	0 (0)
DOD	107	56 (52)	61 (57)	28 (26)	19 (18)	14 (13)	11 (10)	20 (19)	0 (0)
DOD	7	6 (85)	1 (14)	3 (43)	4 (57)	1 (14)	0 (0)	0 (0)	0 (0)
USAF	2	0 (0)	2 (100)	1 (50)	0 (0)	1 (50)	0 (0)	1 (50)	0 (0)
USA	8	4 (50)	5 (63)	1 (13)	0 (0)	1 (13)	0 (0)	0 (0)	0 (0)
COE	72	33 (46)	46 (64)	17 (24)	10 (14)	8 (11)	10 (14)	16 (22)	0 (0)
USN	18	13 (72)	7 (39)	6 (33)	5 (28)	3 (17)	1 (6)	3 (17)	0 (0)
DRBC	2	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DOE	26	20 (77)	9 (35)	3 (12)	1 (4)	2 (8)	0 (0)	1 (4)	0 (0)
BPA	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
ERDA	5	5 (100)	2 (40)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FEA	5	4 (80)	1 (20)	1 (20)	0 (0)	1 (20)	0 (0)	0 (0)	0 (0)

FERC ²	14	10 (71)	5 (38)	1 (7)	1 (7)	0 (0)	0 (0)	1 (7)	0 (0)
SWPA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
EPA ³	40	25 (63)	17 (43)	12 (30)	7 (18)	3 (8)	6 (15)	4 (10)	0 (0)
FCC	3	1 (33)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FDIC	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
FRS	1	0 (0)	1 (100)	1 (100)	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)
FTC	3	3 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
GSA	17	10 (59)	9 (53)	6 (35)	3 (18)	3 (18)	1 (6)	3 (18)	0 (0)
HEW	17	13 (76)	3 (19)	8 (47)	5 (29)	2 (13)	1 (6)	0 (0)	0 (0)
HEW	14	11 (79)	3 (21)	6 (43)	3 (21)	2 (14)	1 (7)	0 (0)	0 (0)
FDA	2	1 (50)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)
PHS	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
HUD	98	73 (77)	17 (17)	37 (38)	25 (26)	9 (9)	13 (13)	2 (2)	0 (0)
HUD	96	71 (74)	16 (17)	36 (38)	24 (25)	9 (9)	12 (13)	2 (2)	0 (0)
FDA	1	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)	0 (0)
IHS	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)
DOI	83	45 (54)	35 (42)	14 (17)	9 (11)	8 (10)	7 (8)	6 (7)	0 (0)
DOI	28	16 (57)	11 (39)	7 (25)	4 (14)	3 (11)	4 (14)	2 (7)	0 (0)
BIA	4	2 (50)	2 (50)	1 (25)	1 (25)	0 (0)	0 (0)	0 (0)	0 (0)
BLM	16	10 (63)	9 (56)	5 (31)	4 (25)	4 (25)	1 (6)	0 (0)	0 (0)
BOR	4	4 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
BuRec	11	2 (18)	6 (55)	1 (9)	0 (0)	1 (9)	0 (0)	3 (27)	0 (0)
FWS	7	4 (57)	3 (43)	0 (0)	0 (0)	0 (0)	1 (14)	0 (0)	0 (0)
USGS	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NPS	12	7 (58)	3 (25)	0 (0)	0 (0)	0 (0)	1 (8)	1 (8)	0 (0)
ICC	12	9 (75)	4 (33)	2 (17)	2 (17)	0 (0)	1 (8)	2 (17)	0 (0)
DJUS	16	13 (81)	6 (38)	5 (31)	5 (31)	1 (6)	2 (13)	2 (13)	0 (0)
DJUS	8	5 (63)	4 (50)	1 (13)	1 (13)	0 (0)	0 (0)	1 (13)	0 (0)
BP	2	2 (100)	1 (50)	0 (0)	0 (0)	0 (0)	1 (50)	1 (50)	0 (0)
INS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
LEAA	5	5 (100)	4 (80)	1 (20)	1 (20)	0 (0)	0 (0)	0 (0)	0 (0)
DLAB	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ASA	3	1 (33)	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	2 (67)	0 (0)
PC	9	7 (78)	2 (22)	2 (22)	1 (11)	1 (11)	1 (11)	1 (11)	0 (0)
RC	25	6 (24)	14 (56)	8 (32)	1 (4)	4 (16)	1 (4)	1 (4)	0 (0)

Table 9-3 (continued)

NEPA-Related Cases¹ Completed, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate	Terminated by injunction
OMB	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)	0
PRES	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)	0
USPS	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
SEC	4	0 (0)	0 (0)	2 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0
SBA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
SSA	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
STAT	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0
TVA	13	12 (92)	5 (38)	2 (15)	2 (15)	1 (8)	0 (0)	1 (8)	0
DOT	137	88 (64)	61 (45)	40 (29)	25 (18)	15 (11)	17 (12)	13 (9)	0
DOT	17	11 (65)	9 (53)	4 (24)	2 (12)	2 (12)	4 (24)	4 (24)	0
USCG	7	6 (86)	1 (14)	3 (43)	2 (29)	1 (14)	0 (0)	0 (0)	0
FAA	18	13 (72)	9 (50)	2 (11)	2 (11)	0 (0)	1 (6)	1 (6)	0
FHWA	95	58 (61)	42 (44)	31 (33)	19 (20)	12 (13)	12 (13)	8 (8)	0
TREAS	14	13 (93)	1 (7)	2 (14)	2 (14)	0 (0)	2 (14)	0 (0)	0
TREAS	10	9 (90)	1 (10)	1 (10)	1 (10)	0 (0)	2 (20)	0 (0)	0
CURR	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
CS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
ORS	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0
WRC	2	1 (50)	1 (50)	2 (100)	1 (50)	1 (50)	0 (0)	1 (50)	0

¹ There were 584 cases; the cases column totals are higher because often more than one agency was named as a defendant. A number in parentheses is the percentage of the total number of cases in which the corresponding agency was sued.

² Includes cases brought against the FPC.

³ 1976 figures.

Table 9-4

NEPA-Related Cases¹ Pending, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate	Terminated by injunction
USDA	33	21 (64)	11 (33)	0 (0)	0 (0)	0 (0)	6 (18)	4 (12)	4
USDA	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
APHI	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
FMHA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
FS	16	11 (69)	5 (31)	0 (0)	0 (0)	0 (0)	4 (25)	1 (6)	1
REA	6	2 (33)	3 (50)	0 (0)	0 (0)	0 (0)	2 (33)	0 (0)	0
SCS	7	5 (71)	1 (14)	0 (0)	0 (0)	0 (0)	2 (29)	0 (0)	0
CAB	4	3 (75)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
DOC	12	5 (42)	6 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
EDA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
NOAA	5	0 (0)	5 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
CPSC	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0
CEQ	2	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
DOD	68	33 (49)	36 (53)	7 (10)	6 (9)	0 (0)	9 (13)	1 (1)	1
DOD	3	2 (66)	0 (0)	1 (33)	1 (33)	0 (0)	0 (0)	0 (0)	0
USAF	8	5 (63)	3 (38)	0 (0)	0 (0)	0 (0)	2 (25)	1 (13)	1
USA	8	6 (75)	4 (50)	2 (25)	2 (25)	0 (0)	1 (13)	0 (0)	0
COE	48	20 (42)	28 (58)	4 (8)	3 (6)	0 (0)	6 (13)	1 (2)	1
USN	1	0 (0)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
DOE	21	14 (67)	0 (0)	1 (5)	1 (5)	0 (0)	0 (0)	0 (0)	0
DOE	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
BPA	5	3 (60)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0
ERDA	4	3 (75)	0 (0)	1 (25)	1 (25)	0 (0)	0 (0)	0 (0)	0

Table 9-4 (continued)

NEPA-Related Cases¹ Pending, December 31, 1977

Agency	Cases	Lack of EIS challenged	EIS challenged as inadequate	Dismissed by trial court	Dismissed where lack of EIS challenged	Dismissed where EIS challenged as inadequate	Injunctions where lack of EIS challenged	Injunctions where EIS challenged as inadequate
FEA	5	4 (80)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
FERC ²	5	2 (40)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
EPA ³	19	8 (42)	8 (42)	0 (0)	0 (0)	0 (0)	1 (5)	1 (5)
EXIM	1	1 (100)	0 (0)	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)
FCC	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
GSA	6	4 (67)	2 (33)	1 (17)	1 (17)	0 (0)	1 (17)	2 (33)
HEW	12	10 (83)	3 (25)	2 (17)	2 (17)	0 (0)	1 (17)	0 (0)
HEW	9	7 (78)	2 (22)	1 (11)	1 (11)	0 (0)	1 (11)	0 (0)
FDA	2	2 (100)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
NIH	1	1 (100)	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
HUD	36	27 (75)	4 (11)	2 (6)	1 (3)	0 (0)	8 (22)	1 (3)
HUD	34	25 (74)	4 (12)	2 (6)	1 (3)	0 (0)	7 (21)	1 (3)
ILSR	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)
DOI	79	51 (65)	22 (28)	3 (4)	2 (3)	2 (3)	5 (6)	8 (10)
DOI	23	16 (70)	3 (13)	0 (0)	0 (0)	0 (0)	0 (0)	1 (4)
BIA	8	7 (88)	1 (13)	0 (0)	0 (0)	0 (0)	0 (0)	1 (13)
BLM	15	8 (53)	6 (40)	1 (7)	1 (7)	1 (7)	0 (0)	2 (13)
BuRec	17	6 (35)	10 (59)	1 (6)	0 (0)	1 (6)	1 (6)	3 (18)
FWS	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
USGS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NPS	13	11 (85)	2 (15)	1 (8)	1 (8)	0 (0)	4 (31)	1 (8)
ICC	5	3 (60)	3 (60)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
DJUS	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
NCPC	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (100)	0 (0)

NRC	24	5 (21)	12 (50)	1 (4)	0 (0)	1 (4)	0 (0)	3 (13)
OMB	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
PRES	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
USPS	11	0 (0)	1 (9)	0 (0)	0 (0)	0 (0)	0 (0)	1 (9)
SEC	2	1 (50)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
STAT	2	1 (50)	0 (0)	1 (50)	1 (50)	0 (0)	0 (0)	0 (0)
TVA	2	2 (100)	0 (0)	0 (0)	0 (0)	0 (0)	1 (50)	0 (0)
DOT	74	33 (45)	39 (53)	5 (7)	2 (3)	5 (7)	10 (14)	7 (9)
DOT	14	9 (64)	4 (29)	1 (7)	0 (0)	1 (7)	1 (7)	1 (7)
USCG	8	3 (38)	5 (62)	0 (0)	0 (0)	0 (0)	1 (13)	0 (0)
FAA	16	5 (31)	8 (50)	1 (6)	1 (6)	0 (0)	0 (0)	0 (0)
FHWA	33	16 (48)	20 (61)	3 (9)	1 (3)	2 (6)	8 (24)	6 (18)
UMTA	3	0 (0)	2 (66)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
TREAS	3	2 (67)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
CS	1	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
ORS	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
WRC	1	1 (100)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

¹ There were 354 cases; the cases column totals are higher because often more than one agency was named as a defendant. A number in parentheses is the percentage of the total number of cases in which the corresponding agency was sued.

² Includes cases brought against the FPC.

³ 1976 figures.

22

Law Offices Of
Sheerin, O'Reilly & Walsh

Gary A. Sheerin
James M. O'Reilly
Patrick B. Walsh
John M. Aebi
March 6, 1979

102 South Curry Street
Post Office Box 606
Carson City, Nevada 89701
702-882-1386

1466 Main Street
Post Office Box 1327
Gardnerville, Nevada 89410
702-782-3647

REPLY TO Carson City

The Honorable Joe Dini
Chairman, TRPA Ad Hoc Committee
Nevada State Legislature
Capitol Complex
Carson City, Nevada 89710

Senator James Gibson
Assemblyman Paul May
Senator Joe Neal
Assemblyman Don Mello
Senator Thomas Wilson
Assemblyman Robert Weise
Senator Lawrence Jacobsen
Assemblyman Sue Wagner
Senator Keith Ashworth
Assemblyman Steve Coulter
Mr. Ray Knisley
Members, TRPA Ad Hoc Committee
Nevada State Legislature
Capitol Complex
Carson City, Nevada 89710

Dear Joe, Jim, Paul, Joe, Don, Spike, Bob, Jake, Sue, Keith, Steve and Ray:

I am not aware of any public hearings on the proposed TRPA Compact changes considered by your committee with California legislators on March 5, 1979. I would like to offer the following comments and requests for amendments on behalf of Harvey's Wagon Wheel.

(1) ARTICLE I: The proposed declaration omits the words, "of resource conservation and orderly development." Omitting this language will have a chilling effect on future development of the lake. The Ninth Circuit Court of Appeals relied on this language on page 9, line 4, of the decision I recently delivered to you. A policy of no development would be unfair to land owners. California Assemblyman Calvo made reference to "restricted growth." Consequently, we would request the present language remain in the declaration and the words, "with restricted growth" be added after the phrase, "orderly development."

The Honorable Joe Dini
Chairman, TRPA Ad Hoc Committee
and Members
March 6, 1979
Page Two

(2) ARTICLE III: We do not feel the present make-up of the board consisting of three local and two state members should be changed. However, if it is changed to the proposed three local and four state members, the Nevada Governor should not make two of the appointments. The seventh member should be chosen by the other six members and there should be no residency requirement of within or outside the basin. If the six cannot agree, the Governor would appoint with concurrence of the legislative commission. This is similar to the California make-up and will produce a more fair balance on the board.

(3) ARTICLE V: Transportation plan. California and CTRPA continue to oppose the adequate completion of the loop road on the California side. Consequently, the regulations of CTRPA should not be put in this Compact unless the Compact also spells out that the loop road is to be part of the transportation plan, that California will have twelve months to complete their half and by defining the center line of the loop road.

(4) ARTICLE V: Page 14 provides, "Expansion of public services and facilities, unless essential to meet the needs of present inhabitants, shall not precede the development or revision of the land-use plan pursuant to paragraph (c) of Article VI." This language is taken (not verbatim) from page 19 of California SB82. This is simply another way to prevent the building of presently approved projects such as Harvey's master plan. There should be language added that public services and facilities may be added to meet the needs of present inhabitants "and the needs of presently approved projects."

(5) ARTICLE VI: Gaming. (a) Page 14 grandfathers in a gaming establishment "whose construction was approved by the agency before that date (January 1, 1979)." Harvey's masterplan and other projects were not "approved by the agency", but rather were approved by default because the agency could not agree to deny them. To help prevent future litigation, language should be added that construction "approved by the agency or approved by a default of the agency to prevent construction," should be included.

(b) Page 18, paragraph (e) also provides that if a gaming building is destroyed it can be rebuilt as it existed on July 1, 1978. This could be interpreted that a building approved, but not built, before July 1, 1978, that was built sometime thereafter and then destroyed, could not be rebuilt. Language should be added to all reconstruction of a damaged or destroyed building that was approved July 1, 1978, even if not yet built.

Harvey's also feels that language should be added here that if a gaming building exceeds its natural life, it would also be rebuilt to its same size.

The Honorable Joe Dini
Chairman, TRPA Ad Hoc Committee
and Members
March 6, 1979
Page Three

(c) Page 18 provides for controls of gaming inside an existing or proposed building by the Nevada Environmental Commission. Harvey's does not feel this kind of governmental interference is warranted. If it is to come into existence, it would not be cast in the concrete of this Compact. We would request that this language be removed from the Compact. If you feel the control must exist, we would request the control be placed in the Nevada Revised Statutes and not in the Compact.

(d) California persists in bringing suits on the theory that gaming is a federal common law nuisance. To prevent further litigation, the Compact should be amended by adding language that the existing and approved gaming does not constitute an interstate nuisance.

(6) ARTICLE VI: The proposed civil fine for wilful violation of the Compact is \$100,000.00. This is an unreasonable, excessive sum and is aimed at gaming. Such a large fine would probably not be imposed against an individual, but would probably be used against a gaming establishment. Further, venue should be clarified that an alleged breach would be tried in the county where the alleged breach occurred.

Thank you for your consideration of the above amendments.

Sincerely,

GARY A. SHEERIN

GAS/bb

cc: Frank Daykin
Fred Welden
Richard Kudrna
Peter Laxalt

Law Offices Of
Sheerin, O'Reilly & Walsh

102 South Curry Street
Post Office Box 606
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702-882-1386

Gary A. Sheerin
James M. O'Reilly
Patrick B. Walsh
John M. Archi

February 21, 1979

1466 Main Street
Post Office Box 1327
Gardnerville, Nevada 89410
702-782-3647

REPLY TO:

Carson City

The Honorable Joe Dini
Chairman, TRPA Ad Hoc Committee
Nevada State Legislature
Capitol Complex
Carson City, Nevada 89710

Senator James Gibson
Assemblyman Paul May
Senator Joe Neal
Assemblyman Don Mello
Senator Thomas Wilson
Assemblyman Robert Weise
Senator Lawrence Jacobsen
Assemblyman Sue Wagner
Senator Keith Ashworth
Assemblyman Steve Coulter
Assemblyman Ray Knisley
Members, TRPA Ad Hoc Committee
Nevada State Legislature
Capitol Complex
Carson City, Nevada 89710

Dear Joe, Jim, Paul, Joe, Don, Spike, Bob, Jake, Sue, Keith, Steve and Ray:

The subject of Harvey's Master Plan has come up in your recent TRPA discussions. I represent Harvey's and want you to know the following facts concerning this Master Plan. Harvey's does not expect any special consideration to help its position with this plan. However, we do not want any legislative action that would damage any vested rights presently held by Harvey's.

1. On June 20, 1973, Douglas County issued its Special Use Permit for the Master Plan of Harvey's. A copy of the minutes is enclosed.
2. This Special Use Permit was substantially the same as the permits issued Parks Casino, (April 20, 1973), Jennings Tahoe Palace, (May 7, 1974), and Hotel Oliver, (May 7, 1973). Copies of these

The Honorable Joe Dini, Chairman
TRPA Ad Hoc Committee
and Committee Members
February 21, 1979
Page Two

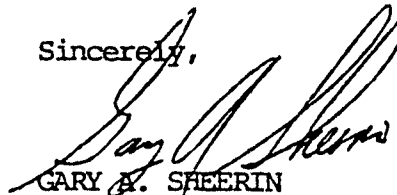
three Special Use Permits are also enclosed, and as you can see, they are substantially the same as the permit for Harvey's.

3. On July 18, 1973, the NTRPA acted on and approved the Harvey's Master Plan. A copy of a summary of the motions is enclosed.
4. On October 31, 1977, the United States District Court for the District of Nevada, entered its Findings of Fact, Conclusions of Law and Final Judgment in action R-77-0158. A copy of that document is enclosed. Judge Bruce Thompson concluded that Harvey's has a valid administration permit for its Master Plan, (Page 6, Paragraph 2), that the Master Plan conformed to all state, local and TRPA ordinances, (Page 7, Paragraph 6), and that Harvey's has a vested right to complete construction of its project, (Page 7, Paragraph 7, emphasis added).
5. Last Friday, the Ninth Circuit Court of Appeals affirmed the decision of Judge Thompson. I will send you a copy of that document in the near future.

In particular, we are concerned with the definition of specifications as used in California SB82, Page 32, Line 38, and following. This definition must be changed in light of the permits issued to date and the existing court decisions.

When you consider TRPA Compact amendments, I hope you will keep these vested rights of Harvey's in mind.

Sincerely,



GARY A. SHEERIN

GAS/bb
enclosures

cc: Richard Kudrna, Harvey's
Peter Laxalt, Esq.
Jim Jordan, TRPA
Fred Weldon, Legislative Counsel Bureau

IN THE MATTER OF - ME 10, 1973 Douglas County Commissioners
HARVEY'S Regular Meeting - Excerpt of Minutes
SPECIAL USE PERMIT - PUBLIC HEARING

Mr. Rankin read the Planning Commission recommendations to the Commissioners from the Minutes of the May 26, 1973 meeting. The recommendation was for approval of the Special Use Permit.

-4-

The following is the recommendation the Planning Commission stated must be met prior to the issuance of any other permits from Douglas County.

1. That the directives pointed out in the Environmental Information Report (and any addendums made a part thereof) shall be met.
2. That an Environmental Information Report in final form shall be supplied to the County for review and approval as outlined by the TRPA.
3. That rights of way and improvements therein shall be constructed prior to the issuance of a certificate of occupancy. Such roads and rights of way described shall be sufficient to meet the traffic and transportation requirements as depicted in the Environmental Information Report dated April 26, 1973 and updated May 25, 1973.
4. That the parking lot shall be redesigned taking into consideration existing topography, tree cover and vegetation and landscaped areas provided throughout in compliance with the objectives of Douglas County and the TRPA regulations and ordinances to the satisfaction of the Public Works Director.
5. That the building exterior, color and type, be precisely determined.
6. That signing is not made a part of this Special Use Permit but will be considered independently at a later date upon application for same.

Mr. Dennis Small, representing Harvey's Resort Hotel and Ian MacKinley, architect and Mickey Laxalt, attorney for Harvey's were present at this meeting.

Mr. Meneley asked when this project was supposed to be started?

Mr. Small stated they planned on doing some of the work this fall. In the Environmental Report we have proposed a storm water drainage treatment plant and we would like to start the excavation for that before winter.

Mr. Meneley asked if this was in conjunction with the other Clubs?

Mr. Small said this is not firmly tied down yet, and we would like to be prepared to do this on our own in case they decided to do something else, however we are prepared to build this storm water drainage treatment plant in conjunction with the other clubs if they should decide to go ahead with it.

Mr. Small stated this application for a Special Use Permit is the result of 23 months of study and is the best of six plans that we have reviewed. It will be approximately two years before the first phase of this project is completed and 10 years before the whole project is completed.

Ray Godecke made a motion to approve this Special Use Permit for Harvey's Resort Hotel subject to the restrictions imposed by the Planning Commission as outlined in their minutes and with one other restriction--there will be no building permit issued until the transportation problem plan is agreed to by the County Commissioners. Charles Meneley seconded the motion and motion unanimously carried.

EXHIBIT "A"

IN THE MATTER OF
PARKS CASINO-HOTEL SPECIAL USE PERMIT

Douglas County Commission
April 20, 1973

RECOMMENDATION

It is recommended, therefore, that this Special Use Permit be granted with the following conditions which shall be met prior to the issuance of any other permits by Douglas County:

1. That the directives pointed out in the Environmental Information Report dated March 30, 1973, (and any addendums made a part thereof) shall be met.
2. That an Environmental Information Report in final form shall be supplied to the County for review and approval as outlined by the Tahoe Regional Planning Agency.
3. That rights-of-way and improvements therein shall be constructed prior to the issuance of a certificate of occupancy. Such roads and rights-of-way described shall be sufficient to meet the traffic and transportation requirements as depicted in the Environmental Information Report, dated March 30, 1973, Page 64, under Paragraph entitled "Transportation and Circulation Impact".
4. That the parking lot shall be redesigned taking into consideration existing topography, tree cover and vegetation and landscaped areas provided throughout in compliance with the objectives of Douglas County and the TRPA regulations and ordinances to the satisfaction of the Public Works Director.
5. That the building exterior, color and type, be precisely determined.
6. That signing is not made a part of this Special Use Permit but will be considered independently at a later date upon application for same.

The visual impacts of this application have been reviewed and the height indicated on the plans is in keeping with the immediate area and within the stated objectives of the TRPA Plan in that it enables the applicant to meet the required 50% open space criteria which is allowed under the Tourist Commercial Classification.

This recommendation is also to include stated conditions which may be imposed by the Public Works Department or legal counsel.

IN THE MATTER OF
JENNINGS TAHOE PALACE SPECIAL USE PERMIT

Douglas County Commissioners
May 7, 1973

RECOMMENDATIONS

That no permits be issued by Douglas County until all the listed conditions are met.

1. That the directives pointed out in the Environmental Information Report dated April 1973 shall be met.
2. That an Environmental Report in final form shall be supplied to the County for review and approval as outlined by the Tahoe Regional Planning Agency.
2. That the rights-of-way and improvements therein shall be constructed prior to the issuance of a certificate of occupancy. Such roads and rights-of-way described shall be sufficient to meet the traffic and transportation requirements as depicted in the Environmental Information Report dated April 1973, Page 99, under paragraphs entitled Transportation and Traffic Impact. Calculations therein indicate a 25% increase in traffic should this hotel casino be constructed.
4. That the Landscaping shall be redesigned taking into consideration existing topography, tree cover and compliance with the objectives of Douglas County and the TRPA regulations and ordinances to the satisfaction of the Public Works Director.
5. That the building exterior, color and type, be precisely determined.
6. That signing is not made a part of this Special Use Permit but will be considered independently at a later date upon application for same.
7. Any variation or change in the plan or report deemed substantial in nature would require this application to be reheard.

The application of Ted Jennings for the construction of a six hundred (600) room hotel at the intersection of Highway 50 and Kahle Boulevard in the Stateline area of Douglas County have been presented to the Board of County Commissioners of Douglas County and that body having considered the environmental and community impact effects upon the development of the Lake Tahoe Basin, said Commissioners do hereby find:

1. That the proposed project does not endanger the natural beauty and economic productivity of the Lake Tahoe Basin.
2. That it preserves the scenic beauty of the area and enhances the recreation opportunities of the region and does constitute an orderly development of the area.

3. That the said project is to be constructed on land which was zoned for the use and businesses to be conducted thereon, which was so designated in the finally adopted Master Plan of February 5, 1968.

4. That the project does conform to all of the ordinances of Douglas County and the Tahoe Regional Planning Agency, save and except as to the limitation on height contained in Article 7.13 of the Land Use Ordinance of the Tahoe Regional Planning Agency, adopted February 10, 1972.

5. That pursuant to article 8.33 of the said Land Use Ordinance, it is recommended that the permit issuing authority issue a permit for the project for the heights as shown in the plans submitted because the said Board of County Commissioners has found that the maintenance and operation in his particular property is not detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the project and that the proposed project is not detrimental to or injurious to property or improvements in the neighborhood or to the general welfare of the region and will not cause any substantial, harmful environmental consequences on the land involved or on other lands or waters.

6. That it appears that the project will be of benefit to the general welfare of the region and will create substantial environmental benefits on the land involved and to other lands in the area.

The said Board of County Commissioners of Douglas County does also find that in connection with the greater height than is set out in Article 7.13, that: (1) provision has been made for protection from fire hazards and there is no need for protection against aviation accidents; (2) consideration has been given to the protection of view and to the character of the neighborhood; (3) proper provision has been made for light and air; and (4) such greater height will better promote protection of the environment of the area.

EXHIBIT "C"

IN THE MATTER OF
HOTEL OLIVER

SPECIAL USE PERMIT

Douglas County Commission
May 7, 1973

RECOMMENDATIONS

It is recommended that this Special Use Permit be granted with the following conditions which shall be met prior to the issuance of any permits by Douglas County.

1. That the directives pointed out in the Environmental Information Report shall be met.
2. That an Environmental Information Report in final form shall be supplied to the County for review and approval as outlined by the Tahoe Regional Planning Agency.
3. That the rights-of-way and improvements therein shall be constructed prior to the issuance of a certification of occupancy. Such roads and rights-of-way described shall be sufficient to meet the traffic and transportation requirements as depicted in the Environmental Information Report, "Transportation and Circulation Impact".

TRAFFIC SOLVED BEFORE A BUILDING PERMIT.

4. That the parking lot shall be redesigned taking into consideration existing topography, tree cover and vegetation and landscaped areas provided throughout in compliance with the objectives of Douglas County and the TRPA regulations and Ordinances to the satisfaction of the Public Works Director.
5. That the building exterior, color and type, be precisely determined.
6. That signing is not made a part of this Special Use Permit but will be considered independently at a later date upon application for same.



STATE OF NEVADA
NEVADA-TAHOE REGIONAL PLANNING AGENCY

NYE BUILDING, ROOM 216
201 S. FALL STREET
CARSON CITY, NEVADA 89701

MIKE O'CALLAGHAN
GOVERNOR

(702) 882-7282

SUMMARY MINUTES OF MEETING JULY 18, 1973
9:00 a.m. - Room 214, Legislative Building, Carson City

I Call to order and determination of quorum:

Roll Call: NTRPA members present: Elmo J. DeRicco
Walter MacKenzie
John Meder
Chas. Meneley
Ray Knisley

APC Members present: Norman S. Hall, Executive
Officer

Richard Hanna, Legal Counsel

II Action on minutes of meeting June 14, 1973:

MOTION MADE BY Mr. DeRicco that minutes of meeting June 14, 1973 be approved. Second by Chas. Meneley. Motion carried.

Ayes: Meder, MacKenzie, Meneley, DeRicco, Knisley

Noes: None

Abstain: None

Absent: None

III HARVEY'S RESORT HOTEL

Dennis Small, Executive Assistant, Harvey's Resort Hotel, introduced Bill Ledbetter, Vice President and General Manager of Harvey's; Peter Laxalt, Attorney at Law, Harvey's Legal Counsel; Ian MacKinlay, Jim Stehr and Frank McCurdy of MacKinlay/Winnaker/McNeil, AIA and Associates, Inc., Architects; Dr. D. Jackson Faustman, Consulting Traffic Engineer; Jere Williams of Creagan and D'Angelo; Angus MacDonald, Statistician of Baxter, MacDonald and Smart, Inc.

Architects, consultants and engineers presented the proposed project covering all aspects of exterior finish, landscaping, pedestrian overpasses, floor area and number of rooms. Transportation and traffic circulation, patron and employee surveys, housing characteristics, travel patterns in the area, and occupancy counts were discussed. Sun studies were shown in an attempt to demonstrate there would be no adverse environmental impact from the proposed exterior finish.

MOTION MADE BY Elmo DeRicco for approval of the project, with Douglas County stipulations, APC stipulations, ~~height of building~~

being ~~193 feet, not including elevator tower on top,~~
~~from the middle of the building to ground level.~~

Ayes: Meder, Meneley, DeRicco, Knisley
Noes: MacKenzie
Abstain: None
Absent: None

Motion carried.

MOTION BY Elmo DeRicco that the Agency ~~reserve decision~~
~~on exterior finish of the building until a future date,~~
at which time, either by demonstration, public hearing,
or with further information, in the eyes of the agency,
it is determined to be acceptable.

Ayes: Meder, Meneley, DeRicco, Knisley, MacKenzie
Noes: None
Abstain: None
Absent: None

Motion carried.

MOTION BY Elmo DeRicco that the structure be approved with
present ~~footprint dimensions and height limitation of~~
193 feet.

Ayes: Knisley, DeRicco, Meneley, Meder
Noes: MacKenzie
Abstain: None
Absent: None

Motion carried.

MOTION BY Elmo DeRicco that the gaming area of both
buildings, including bars, ~~not exceed 88,000 square feet.~~

Ayes: Knisley, DeRicco, Meder
Noes: Meneley, MacKenzie
Abstain: None
Absent: None

Motion carried.

MOTION BY Elmo DeRicco that the Master Plan be approved,
that as ~~each new phase is scheduled to begin, the applicant~~
~~come back before the Agency to advise what has been~~
~~completed and what the plan is for the future;~~ subject to
all previous motions and Douglas County conditions.

Ayes: Knisley, Meder, Meneley, DeRicco
Noes: MacKenzie
Abstain: None
Absent: None

Motion carried.

MOTION BY Elmo DeRicco that the project be approved on
the condition Douglas County provide an acceptable trans-
portation solution, which is also acceptable to the TRPA
and NTRPA; and that Douglas County will construct necessary

3.

NTRPA MINUTES 7-18-73

roads to handle local traffic problems; ~~that the drainage problem be considered in the same context as previous applicants;~~ that all conditions applying from Douglas County be a condition of this approval; ~~and that pedestrian separations be constructed.~~

Ayes: Meder, Meneley, DeRicco, Knisley

Noes: MacKenzie

Abstain: None

Absent: None

Motion carried.

Meeting adjourned at 4:00 p.m.

This meeting was recorded and the tapes are on file in Room 216, Nye Building, Carson City, Nevada; telephone 882-7482. Anyone interested in listening to these tapes may call for an appointment.

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ENTR...

OCT 31 1977

U.S. DISTRICT COURT
DISTRICT OF NEVADA
CLERK

FILED
OCT 31 1977
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

CALIFORNIA TAHOE REGIONAL
PLANNING AGENCY; and PEOPLE
OF THE STATE OF CALIFORNIA

NO. CIV. R. 77-0158

Plaintiffs

vs.

TED JENNINGS; OLIVER KAHLE;
HARVEY'S WAGON WHEEL, INC.;
PARK CATTLE CO.,; and COUNTY
OF DOUGLAS

Defendants.

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL JUDGMENT

THIS MATTER came before the Court on October 17, 18,
and 19, 1977, pursuant to plaintiffs' Motion for Summary
Judgment and Motion for Preliminary Injunction, and on various
Motions of the defendants, including defendant Harveys' Motion
to Dismiss, and the plaintiffs and all defendants having presented
evidence, and the Court having considered the evidence presented
by each party as being available to all parties, and the matter
having been argued and briefed and submitted to the Court, and
the Fourth Claim for Relief against defendant Harvey's wagon wheel,
Inc., having been dismissed by the Court pursuant to stipulation
of counsel, the Court being fully advised in the premises, and

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1 based on the evidence submitted by plaintiffs and the undisputed
2 evidence and facts submitted by defendants, the Court finds and
3 concludes as follows:

4 FINDINGS OF FACT

5 1. That on or about June 20, 1973, the Douglas County
6 Commissioners, the permit-issuing authority pursuant to the
7 TRPA Land Use Ordinance, issued an administrative permit to
8 defendant Harvey's Wagon Wheel, Inc., approving its Master Plan
9 and allowing a new hotel tower with a height greater than 40
10 feet; that prior to issuing said administrative permit to said
11 defendant, the Douglas County Commissioners required the presen-
12 tation of extensive evidence in support of such additional height
13 pursuant to §§7.13 and 8.33 of the TRPA Land Use Ordinance.

14 2. That the Douglas County Commissioners, prior to the
15 issuance of said administrative permit, fully complied with
16 all provisions of all applicable ordinances and regulations
17 including §§7.13 and 8.33 of the TRPA Land Use Ordinance.

18 3. That there was submitted to the Douglas County
19 Commissioners, prior to the issuance of the above referenced
20 administrative permit, substantial evidence pursuant to §§7.13
21 and 8.33, and upon such substantial evidence the Douglas County
22 Commissioners determined and found, inter alia, that "such greater
23 height will better promote the protection of the environment in
24 the area"; that the administrative record before Douglas County
25 contained substantial evidence to support such finding and
26 determination.

27 4. That said permit was subsequently submitted to
28 and approved by the Nevada TRPA, and thereafter on July 20, 1973,
29 was submitted to the TRPA for review; that on or about the 25th
30 day of July, 1973, a hearing was held on the Harvey's administra-
31 tive permit before the TRPA, at which time the governing body did
32 not obtain a dual majority vote to approve, modify or reject the

1 project, and that on or about September 20, 1973, the Harvey's
2 administrative permit was deemed approved by operation of law,
3 pursuant to the terms of the TRPA Compact and Land Use Ordinance.

4 5. That at the time of the adoption of the Land Use
5 Ordinance there existed in the area where defendant Harvey's
6 project is to be constructed several high-rise structures,
7 including structures which were higher than those in the project
8 proposed by defendant Harvey's; at that time, it was common know-
9 ledge that under the said Land Use Ordinance, and particularly
10 §7.13, there would be structures many times higher than 40 feet
11 or 45 feet.

12 6. That the plaintiffs herein did not appear at the
13 hearing before the Douglas County Commissioners when the Harvey's
14 administrative permit was approved; nor at the NTRPA hearing;
15 nor at the TRPA hearing. At no time in said hearings did the
16 plaintiffs herein raise any issue or contention that the Harvey's
17 project was in violation of §7.13 or §8.33 of the Land Use
18 Ordinance or otherwise was in violation of law.

19 7. That in processing defendant Harveys' application
20 for administrative permit the provisions of the TRPA Land Use
21 Ordinance were strictly and carefully followed and that the
22 administrative permit is valid and was, when issued, valid and
23 was valid on its face.

24 8. That after the administrative permit of defendant
25 Harvey's became final on or about September 20, 1973, defendant
26 Harvey's, in good faith, relied on that administrative permit and
27 has expended the sum of approximately \$2,795,348.88 in furtherance
28 of its project; that plaintiffs, with full knowledge, allowed
29 defendant Harvey's to proceed in reliance upon its administrative
30 permit which was valid on its face.

31 9. That on July 22, 1975, defendant Harvey's was issued
32 all necessary excavation, grading and building permits for the

1 "first addition" of its Master Plan project. Pursuant to these
2 permits, in a course of construction commencing September 10, 1
3 and continuing until September 15, 1976, Harvey's constructed s
4 addition, including administrative offices, employee lockers and
5 cafeteria, warehouse and food lockers, all at a cost of approxi-
6 mately \$2,795,348.88. Thereafter, pursuant to an excavation,
7 grading and foundation permit issued February 4, 1977, Harvey's
8 commenced construction of its parking garage under said Master
9 Plan, accomplishing physical relocation of all utilities and
10 having a construction company crew ready to commence excavation
11 on September 1, 1977, when all activity was suspended voluntari-
12 due to the pendency of this action.

13 10. On September 20, 1973, the League to Save Lake
14 Tahoe and the Sierra Club brought an action against the TRPA,
15 Harvey's Wagon Wheel, Inc., Park Cattle Company and Tom Raley
16 in the United States District Court for the Eastern District
17 of California. The League to Save Lake Tahoe and Sierra Club
18 did not and have not at any time in said action effectively
19 seek or follow through with injunctive relief against Harvey's
20 that action.

21 11. That plaintiff, State of California, on or about
22 August 7, 1974, filed suit in federal District Court entitled
23 State of California ex rel Evelle Younger, Attorney General,
24 versus Tahoe Regional Planning Agency, et al, case number R-74-
25 108 BRT, (hereinafter referred to as the "Younger case"), which
26 action attacked the validity of the administrative permits issued
27 to defendants Jennings and Kahle and alleged, inter alia, that
28 said projects if constructed "will be in violation of the TRPA
29 Ordinance on land use intensity and height limits".

30 12. That on or about August 16, 1974, plaintiff
31 League to Save Lake Tahoe filed suit number 6566 in Douglas
32 County, Nevada (hereinafter "Douglas County" case), which action

1 attacked the administrative permit issued to defendant Harvey's
2 and alleged, inter alia, said permit was issued in violation of
3 §§7.13 and 8.33 of the TRPA Land Use Ordinance; was not supported
4 by substantial evidence; and therefore was arbitrary, capricious
5 and contrary to law.

6 13. That on or about June 5, 1975, plaintiff Californ.
7 petitioned the Douglas County Court to file an amicus curiae
8 brief in the Douglas County action.

9 14. That on or about May 3, 1976, the League to
10 Save Lake Tahoe filed a suit in federal District Court under the
11 Clean Air Act, case number R-76-86 BRT, entitled League to Save
12 Lake Tahoe v. Roger S. Trounday, et al (hereinafter referred to
13 as the "Trounday case"), which suit sought to enjoin defendant
14 Jennings' project.

15 15. That the Younger action was appealed to the Ninth
16 Circuit Court of Appeals and the appellate Court first issued
17 its opinion on April 30, 1975, and amended the same on June 11,
18 1975.

19 16. That none of the plaintiffs at any time have
20 effectively sought and followed through with injunctive relief
21 against defendant Harvey's project.

22 17. That all actions and claims set forth in the
23 within action were available, apparent, and known to plaintiffs
24 at the time the Eastern District Action was commenced on September
25 20, 1973; and at the time of the filing of the Younger suit on
26 August 7, 1974, and the within claims could and should have been
27 included therein.

28 18. That all causes of action and all claims set
29 forth in the within matter were available, apparent and known
30 to plaintiffs at the time of filing the Douglas County case on
31 August 16, 1974.

32 19. That the plaintiffs delayed an unreasonable period

1 of time in commencing the within action.

2 20. That any objections that a building higher than
3 40 feet violated §7.13 of the Land Use Ordinance should have
4 been made by plaintiffs in the permit-issuing procedures and
5 at the hearings before the Douglas County Commissioners, the
6 Nevada Tahoe Regional Planning Agency, and the TRPA.

7 21. That after the decision of the Ninth Circuit
8 Court of Appeals in the Younger case, plaintiffs made no attempt
9 to amend their Complaint or file another action setting out the
10 claims included in the within action.

11 22. That the Douglas County action was dismissed
12 against the League to Save Lake Tahoe with prejudice, which
13 dismissal was affirmed by the Nevada Supreme Court on May 3,
14 1977.

15 23. That additional delay in the construction of
16 Harvey's project will result in substantial increase in the
17 total cost of construction.

18 24. That the language of §7.13 of the TRPA Land Use
19 Ordinance is not ambiguous.

20 CONCLUSIONS OF LAW

21 1. The Court has subject matter jurisdiction pursuant
22 to 28 U.S.C. 1331(a).

23 2. That defendant Harvey's administrative permit was
24 approved by operation of law under the terms of the TRPA Compact
25 on or about September 20, 1973, which approval has the same legal
26 effect as an approval by the unanimous vote of the governing body
27 of the TRPA.

28 3. That plaintiffs' claims against defendant Harvey's
29 are barred by NRS 273.027.

30 4. That plaintiffs' claims against defendant Harvey's
31 are barred by the doctrine of laches as a matter of law,
32

1 5. That plaintiffs' claims against defendant Harvey's
2 are barred by the doctrines of res judicata and collateral
3 estoppel.

4 6. That in issuing the administrative permit to
5 defendant Harvey's, Douglas County complied with all applicable
6 local, state and TRPA ordinances, rules and regulations, and
7 said permit was validly issued and is presently valid.

8 7. That defendant Harvey's has a vested right to
9 complete construction of its project in accordance with the
10 terms of its building and administrative permits.

11 8. That the Land Use Ordinance §7.13 is not ambiguous
12 and plainly contemplates applications for, and the granting of,
13 heights substantially in excess of 40 feet if the conditions of
14 §7.13 and §8.33 are met.

15 9. That Douglas County made adequate findings that
16 defendant Harvey's project meets all the conditions of §7.13
17 and 8.33 of the Land Use Ordinance, and said determinations and
18 findings are supported by substantial evidence in the record.

19 10. That the plaintiffs' claims against the defendant
20 Harvey's were not timely raised or asserted before the various
21 administrative bodies that reviewed the Harvey's administrative
22 permit, and that therefore the plaintiffs have failed to preserve
23 said claims for judicial review and the within action is barred
24 for the failure of plaintiffs to exhaust and timely assert
25 available administrative remedies.

26 11. That the First and Second Causes of Action
27 against defendant Harvey's fail to state a claim for which relief
28 can be granted.

29 JUDGMENT OF DISMISSAL

30 Pursuant to the Findings of Fact and Conclusions of
31 Law set forth above, and good cause appearing, it is hereby
32

1 ORDERED, ADJUDGED AND DECREED as follows:

2 1. That the Motion of plaintiffs for Preliminary
3 Injunction be and the same hereby is denied.

4 2. That the Motion of plaintiffs for Summary Judgment
5 be and the same hereby is denied.

6 3. That the Motion of defendant Harvey's to Dismiss
7 the First and Second Claims for Relief be and the same hereby is
8 granted.

9 4. That the First and Second Claims for Relief are
10 dismissed with prejudice and judgment is entered in favor of
11 defendant Harvey's together with costs.

12 DATED this 51st day of October, 197-

13 
14 Bruce R. Shaw
15 U.S. DISTRICT JUDGE
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Glenbrook Properties

March 29, 1979

Assemblyman Joe Dini
Nevada Legislative Building
State of Nevada
Capitol Complex
Carson City, Nevada 89710

Dear Assemblyman Dini:

Thank you for allowing me to comment on your bill. It is already a great improvement over Garimendi's bill, however, I would like to suggest the committee consider the following suggestions:


1. The definition of "project: should specifically allow for construction of a single family house on every parcel of record which is properly zoned.
2. Article 5 - The language "single enforceable plan" should be deleted. There will not be a single enforceable plan unless Nevada acquiesces to the current CTRPA plan. Also, in paragraph five, specific language should be added guaranteeing that the existing plan will be the plan for Nevada until amended.
3. Limiting expansion of public facilities to current inhabitants in Douglas County will require removing people from existing homes under construction, or creating greater wastewater violations. There is no justification for restrictions on public services, unless the intent is to deny existing lot owners the rights to build their homes.
4. In Article 6 all projects already approved by TRPA and in compliance with their conditions of approval should specifically be grandfathered.

Assemblyman Joe Dini
March 29, 1979
Page 2

5. Also, in Article 6 there is no justification for requiring an applicant landowner or public agency to go to court to force a vote on a proposal. If for any reason a vote is not taken, the project should be approved. It is the only way to discipline the agency.
6. This compact should endorse the concept of a basin user fee to raise the hundreds of millions necessary to complete projects already proposed by the voluminous library of previous studies. California is proposing the fee to support their transportation plan. If Nevada does not support it, it could be inacted and controlled by someone over which Nevada has no control. The compact should endorse the concept, specify the intended use of the money, and establish a bi-state independent authority to administer it.

The time for berating the private landowner and adding to the hundreds of thousands of pages in the archives of existing studies is over. This compact should recognize the contribution of private landowners, and move rapidly to fulfill the public half of the bargain.

Cordially,



Ronald C. Nahas

RCN:sm

1 Senators, Representatives, and Interested Citizens,

2 I submit to you what my thoughts are when I read the
3 Findings and declarations of S.B. 250, A.B. 503 and S.B. 323,
4 the pride and joy of our great Nevada Governors, U.S. Senators,
5 and distinguished State Legislators.
6

7 TAHOE REGIONAL PLANNING COMPACT

8
9 ARTICLE I. FINDINGS AND DECLARATIONS OF POLICY
10

11
12 (a) It is found and declared that the 'COFFERS' of the
13 'Unrestricted Privileged Few' and other 'Recipients' of the
14 Lake Tahoe Region are threatened with "Competitive Generation
15 Probability", which may endanger the Natural "Pot of Gold" and
16 "Economic Monopoly" of the region.
17

18 (b) It is further declared that by virtue of the special
19 conditions and privileges of the 'Restricted Ones', developmental
20 pattern, population distribution and human needs in the
21 Lake Tahoe Region, the region is experiencing problems of
22 "Free Competition", and deficiencies of "Monopolistic Control".
23

24
25 (c) It is further found and declared that there is a need
26 to maintain an equilibrium between the region's 'Privileged
27 Few' and its manmade 'Restricted ones', to preserve the
28 "Special Trusts" and "Special control" of opportunities of the
29 'Unrestricted Ones', and it is recognized that for the purpose
30 of enhancing the efficiency and "Monopolistic Effectiveness"
31 for the 'Unrestricted Privileged Few', it is imperative that
32 there be established a "Red Line District", and an area wide

1 planning agency with power to adopt and enforce a regional plan
2 of resource conservation and orderly development, to exercise
3 effective environmental controls and perform other essential function
4 so as to ' Suppress ' and put down with 'lengthy litigation' any
5 " Silly Dreams " or exercises of ' vested Human Rights ' of the
6 'Restricted Ones', which might endanger even a little bit the
7 " MULT MILLION DOLLAR RAIN BOW ", of the ' UNRESTRICTED PRIVILEGED
8 FEW '.

9 Gentleman, that is how I interpret S.B. 250, A.B. 503 and
10 S.B. 323 ! I hope you can look beyond the 'Smoke Screens' and
11 through the numerous 'Cloaking Devices' and interpret it the same
12 way too!

13 Before closing there is one more point I would like to make.
14 This day not only up on the Mountain but throughout the country
15 there is much unrest, and that is putting it lightly. Government
16 is experiencing the shock of challenge and rebuff, and in most cases
17 discust! The sting of sharp questioning and rejection is heavy
18 with stench and reform is as heavy if not heavier, because of,
19 'Entrenched Politations', 'Fixtures in State Legislatures', and
20 business interests whose lobbyists affect and most of them control
21 legislative output and politicians are UNRESPONSIVE....TO THE PEOPLE,
22 TO THE CONSTITUTION, AND EVEN TO THEIR OWN DAM TRUE CONVICTIONS!!!
23 Gentlemen of the Halls of this legislature here in Carson City,
24 and our Congress in Washington are crowded with lobbyists, PROMOTING
25 THE DESIRES OF ORGANIZED INTEREST GROUPS AND IF SMALL INDEPENDENT
26 BUSINESS PEOPLE AND PRIVATE CITIZENS ARE UNREPRESENTED BECAUSE
27 THEY ARE UNORGANIZED... I ASK YOU

28 WHO IN THE HELL IS AT FAULT ?!!!!!!!!!!

29 CAVE ROCK MANNY & DAISY MAE

30 Cave Rock, Glenbrook, Nevada 89413

31 Telephone 702 588 5446

32 

MEMBERS PRESENT

Chairman Dini
Mr. Marvel
Mr. Fitzpatrick
Mrs. Westall
Mr. Harmon
Dr. Robinson
Mr. Craddock
Mr. Jeffrey
Mr. Getto
Mr. Bedrosian
Mr. Bergevin

GUESTS PRESENT

See Guest List attached

* * * *

Chairman Dini called the meeting to order at 9 A.M.

AB 570 - REMOVES EXEMPTION OF STATE AND POLITICAL
SUBDIVISIONS FROM PAYMENT OF BUILDING
PERMIT FEES

BILL HANCOCK Secretary-Manager, State Public Works Board

Mr. Hancock advised the Committee plan checking capital improvement projects with private practice engineers, as well as school projects, is not only a better way of checking buildings but more cost effective. He said he wasn't sure that if the Bill passed they would not continue to check capital improvement projects the way they have been doing, and there would be an extra cost unless N.R.S. 341 were modified to the point where the Board is not held responsible for it. He said that if the Bill is passed, the School Plan Checking law should also be modified so that they were not required to check schools.

RON JACK, City Manager, City of Las Vegas

Mr. Jack advised the Committee the Bill was brought about by the LPW projects Clark County had which were about \$13,000,000, as a result of which the city had to provide a significant amount of building inspection services. Mr. Jack stated they have talked with representatives from a number of counties, school districts, and requested the Bill not be processed.

COMMITTEE ACTION:

AB 570 - Mr. Fitzpatrick moved INDEFINITELY POSTPONE;
seconded by Mr. Getto, and unanimously carried.

AB 590 - Mr. Bergevin moved DO PASS; seconded by Mr.
Marvel, and unanimously carried.

Chairman Dini asked for Committee introduction of
BDR 221709 (enables local governments to purchase develop-
ment rights to land); BDR 541727 (abolishes requirement
for recording certain professional licenses with County
Clerk and County Recorder). Mr. Jeffrey so moved;
seconded by Mr. Craddock, and unanimously carried.

AB 503 - Mr. Getto moved to amend the motion that the
Committee not refer AB 503 to Committee to go on the
floor; seconded by Mr. Jeffrey, and unanimously carried.

There being no further business to come before the
meeting, the same was adjourned.

Respectfully submitted,

Sandra Shatzman
Assembly Attache

Assemblyman Getto moved that Assembly Bill No. 601 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 684.

Amend section 1, page 1, line 23, by deleting the open bracket.

Amend section 1, page 2, line 1, by deleting the closed bracket.

Amend section 1, page 2, by deleting lines 41 through 46 and inserting:

"[(h)] (g) 'Restricted gaming license' means a license to operate *not more than 15 slot machines on which a quarterly [tax is levied] fee is charged pursuant to NRS 463.373.*"

(h) *'Project' means an activity other than the construction or occupancy of a single-family dwelling undertaken by any person if the activity may have a substantial detrimental effect on the land, air, space or any other natural resources of the region.'*

Amend section 1, page 3, line 47, by deleting "One member" and inserting "Two members".

Amend section 1, page 4, line 17, by deleting "Two members" and inserting "One member".

Amend section 1, page 4, by inserting between lines 22 and 23:

"(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 30 days after the effective date of this amendatory act or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region within the State of Nevada."

Amend section 1, page 4, by deleting line 28 and inserting "The position of any member of the governing body".

Amend section 1, page 5, by deleting lines 18 through 26 and inserting:

"(g) A majority of the members of the governing body [from each state shall] constitute a quorum for the transaction of the business of the agency. [A majority vote of the members present representing each state shall be required] Except as otherwise provided in paragraph (o) of Article VI, the affirmative vote of a majority of the members of the governing body is sufficient to take action with respect to any matter. The vote of each member of the"

Amend section 1, page 7, line 42, by inserting open bracket before "Within".

Amend section 1, page 7, by deleting line 45 and inserting: "plan.] After adoption [,] of the regional plan, the planning commission and governing body".

Amend section 1, page 8, by deleting lines 26 and 27 and inserting:
"does not exceed those limits. Within 1 year after the effective date of this amendatory provision, the State of California undertakes to complete the Loop Road in the City of South Lake Tahoe."

Amend section 1, page 8, line 36 by deleting "marinas" and inserting "marinas, areas for skiing".

Amend section 1, page 9, line 1, after "passed," by inserting:
"and except as otherwise provided for completion of the Loop Road,".

Amend section 1, page 9, by deleting lines 9 through 12 and inserting:
"paragraph (g) of Article III. No provision of the regional plan, ordinances".

Amend section 1, page 9, line 28 by deleting "inhabitants," and inserting *"inhabitants or of projects approved affirmatively or by default before the effective date of this amendatory provision,"*.

Amend section 1, page 10, by deleting line 32 and inserting:
"tion of the agency and final regulations within".

Amend section 1, page 10, line 34 by deleting open bracket.

Amend section 1, page 10, line 49 by inserting after period
"The agency shall prescribe by ordinance:

(1) Those activities, structures or uses which require its review and approval; and

(2) The kind and form of information which must be included in an application for approval."

Amend section 1, page 11, by deleting lines 1 through 9 and inserting:

"(c) The agency shall develop in cooperation with the states of California and Nevada criteria of environmental quality for the region and limits of the capability of the ecological system to tolerate human activity. Within 18 months after the effective date of this amendatory provision, the agency shall adopt a comprehensive statement establishing for the region criteria of environmental quality and limits of the capability of the ecological system to tolerate human activity. Upon completion".

Amend section 1, page 11, by deleting line 17 and inserting:
"and the Nevada Tahoe regional planning agency must make prior to".

Amend section 1, page 11, line 19, after "record." by inserting:
"The agency shall adopt the revised regional plan within 12 months after the adoption of the comprehensive statement establishing criteria of environmental quality and limits of the capability of the ecological system to tolerate human activity."

Amend section 1, page 11, by deleting line 26 and inserting:
"and the Nevada Tahoe regional planning agency may approve a".

Amend section 1, page 11, by deleting line 30 and inserting:
"for the portion of the region in which the project is located relating to the protec-".

Amend section 1, pages 11 and 12, by deleting lines 33 through 50 on page 11 and lines 1 through 29 on page 12 and inserting:

“(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on January 1, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use and as not constituting a common-law nuisance:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on January 1, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or by default before that date. The agency shall not permit the construction of any structure to house gaming under a nonrestricted license not so existing or approved. The enlargement in cubic volume of any such existing or approved structure is subject to review and approval.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before January 1, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before January 1, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on the effective date of this amendatory provision. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume and land coverage existing or approved on the effective date of this amendatory provision.

(f) Gaming conducted pursuant to a restricted gaming license is exempt from the provisions of paragraphs (d) and (e) if it is incidental to the primary use of the premises.”.

Amend section 1, page 12, by deleting line 32 and inserting:
“counties [,] and cities [,], each within the limits of its territory. No private person or organization may bring any action to enforce them. The appropriate courts [of] within the respective states,”.

Amend section 1, page 12, line 33 by inserting open and closed brackets around “state”.

Amend section 1, page 12, line 34, by inserting an open bracket before “to”.

Amend section 1, page 12, by deleting 35 and inserting:
“is a party] arising under this compact and criminal actions for violations of [its] the agency’s ordinances. Each”.

Amend section 1, page 12, line 36 by deleting “of” and inserting:
“[of] sitting within”.

Amend section 1, page 12, line 37 by deleting comma and inserting:
“ . [,,”.

Amend section 1, page 12, by deleting lines 40 through 42 and inserting:

"California and the State of Nevada.

(c)] If the real property affected by a civil action is situated in more than one state, the action must be brought in a court sitting within the state where the defendant in the action resides or has his principal place of business.

Any person aggrieved by a final action of the agency is entitled to judicial review thereof. No action or proceeding may be commenced for the purpose of seeking judicial review after the expiration of 25 days from the date of notice of final action by the agency. Notice of final action by the agency must be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. An action seeking judicial review must be instituted in a court sitting within the state where the property affected is located, or if located in more than one state then in a court sitting within the state where the defendant resides or has his principal place of business. The review must be conducted by the court without a jury and must be confined to the record and to issues substantially raised before the agency. The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the decision is:

- (1) In violation of constitutional or statutory provisions;*
 - (2) In excess of the authority of the agency;*
 - (3) Made upon unlawful procedure;*
 - (4) Affected by other error of law;*
 - (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or*
 - (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.*
- (h) Except as otherwise provided in paragraph [(d),] (i), all public works projects shall be reviewed prior to construction".*

Amend section 1, page 13, line 1, by deleting open and closed brackets and "action".

Amend section 1, page 13, line 4, by deleting open bracket.

Amend section 1, page 13, line 5 by deleting "state" and inserting "state, or by a local government if the project does not enlarge a service area of that government,".

Amend section 1, page 13, line 7 by inserting an open bracket before "(e)".

Amend section 1, page 13, line 16 by deleting "\$100,000" and inserting "\$50,000".

Amend section 1, page 13, line 23 by inserting after period "Any action to impose such a fine must be brought in the county where the alleged violation occurred.".

Amend section 1, page 13, line 47 by deleting the open bracket.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 503

ASSEMBLY BILL NO. 503—ASSEMBLYMEN DINI,
MELLO, MAY, WAGNER AND WEISE

MARCH 5, 1979

Referred to Committee on Government Affairs

SUMMARY—Changes structure and substantive requirements of Tahoe
Regional Planning Agency. (BDR 22-1950)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the Tahoe Regional Planning Agency; changing the composition of its governing body and the requirements for making decisions; restricting certain gaming activities to certain places within the region; changing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

SECTION 1. NRS 277.200 is hereby amended to read as follows:
277.200 The Tahoe Regional Planning Compact is as follows:

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. Findings and Declarations of Policy

(a) It is found and declared that the waters of Lake Tahoe and other resources of the Lake Tahoe region are threatened with deterioration or degeneration, which may endanger the natural beauty and economic productivity of the region.

(b) It is further declared that by virtue of the special conditions and circumstances of the natural ecology, developmental pattern, population distribution and human needs in the Lake Tahoe region, the region is experiencing problems of resource use and deficiencies of environmental control.

(c) It is further found and declared that there is a need to maintain an equilibrium between the region's natural endowment and its man-made environment, to preserve the scenic beauty and recreational opportunities of the region, and it is recognized that for the purpose of enhancing the efficiency and governmental effectiveness of the region, it is imperative that there be established an areawide planning agency with power to adopt and enforce a regional plan, of resource conservation

1 and orderly development, to exercise effective environmental controls
2 and to perform other essential functions, as enumerated in this [title.]
3 compact.

ARTICLE II. Definitions

4 As used in this compact:

5 (a) "Region," includes Lake Tahoe, the adjacent parts of [the
6 Counties of Douglas, Ormsby, and Washoe] Douglas and Washoe
7 counties and Carson City, which for the purposes of this compact shall
8 be deemed a county, lying within the Tahoe Basin in the State of
9 Nevada, and the adjacent parts of the Counties of Placer and El Dorado
10 lying within the Tahoe Basin in the State of California, and that addi-
11 tional and adjacent part of the County of Placer outside of the Tahoe
12 Basin in the State of California which lies southward and eastward
13 of a line starting at the intersection of the basin crestline and the north
14 boundary of Section 1, thence west to the northwest corner of Section
15 3, thence south to the intersection of the basin crestline and the west
16 boundary of Section 10; all sections referring to Township 15 [.] North,
17 Range 16 East, M.D.B. & M. The region defined and described herein
18 shall be as precisely delineated on official maps of the agency.

19 (b) "Agency" means the Tahoe Regional Planning Agency.

20 (c) "Governing body" means the governing board of the Tahoe
21 Regional Planning Agency.

22 (d) "Regional plan" [shall mean] means the long-term general plan
23 for the development of the region.

24 (e) ["Interim plan" shall mean the interim regional plan adopted
25 pending the adoption of the regional plan.

26 (f) "Planning commission" means the advisory planning commis-
27 sion appointed pursuant to paragraph (h) of Article III.

28 [(g)] (f) "Gaming" means to deal, operate, carry on, conduct,
29 maintain or expose for play any banking or percentage game played
30 with cards, dice or any mechanical device or machine for money, prop-
31 erty, checks, credit or any representative of value, including, without
32 limiting the generality of the foregoing, faro, monte, roulette, keno,
33 bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klon-
34 dike, craps, stud poker, draw poker or slot machine, but does not
35 include social games played solely for drinks, or cigars or cigarettes
36 served individually, games played in private homes or residences for
37 prizes or games operated by charitable or educational organizations,
38 to the extent excluded by applicable state law.

39 [(h)] (g) "Restricted gaming license" means a license to operate
40 not more than 15 slot machines on which a quarterly [tax is levied] fee
41 is charged pursuant to NRS 463.373.

42 (h) "Project" means an activity other than the construction or occu-
43 pancy of a single-family dwelling undertaken by any person if the activity
44 may have a substantial detrimental effect on the land, air, space or any
45 other natural resources of the region.

46 (i) "Criterion of environmental quality" means a physically measur-
47 able standard for some element of the natural environment, such as
48 water purity or clarity, air pollution or noise.

ARTICLE III. Organization

3 (a) There is created the Tahoe Regional Planning Agency as a
4 separate legal entity.

5 The governing body of the agency [shall be constituted as follows:

6 One member appointed by each of the County Boards of Supervisors
7 of the Counties of El Dorado and Placer and one member appointed
8 by the City Council of the City of South Lake Tahoe. Each member
9 shall be a member of the city council or county board of supervisors
10 which he represents and, in the case of a supervisor, shall be a resident
11 of a county supervisorial district lying wholly or partly within the region.

12 One member appointed by each of the boards of county commis-
13 sioners of Douglas, Ormsby and Washoe counties. Any member so
14 appointed shall be a resident of the county from which he is appointed
15 and may be, but is not required to be:

16 (1) A member of the board which appoints him; and

17 (2) A resident of or the owner of real property in the region,
18 as each board of county commissioners may in its own discretion deter-
19 mine. The manner of selecting the person so to be appointed may be
20 further prescribed by county ordinance.

21 A person so appointed shall before taking his seat on the governing
22 body disclose all his economic interests in the region; and shall there-
23 after disclose any further economic interest which he acquires, as soon
24 as feasible after he acquires it. If any board of county commissioners
25 fails to make an appointment required by this paragraph within 30
26 days after the effective date of this act or the occurrence of a vacancy
27 on the governing body, the governor shall make such appointment. The
28 position of a member appointed by a board of county commissioners
29 shall be deemed vacant if such member is absent from three consecutive
30 meetings of the governing body in any calendar year.

31 One member appointed by the Governor of California and one mem-
32 ber appointed by the Governor of Nevada. The appointment of the Cali-
33 fornia member is subject to Senate confirmation, he shall not be a resident
34 of the region and shall represent the public at large. The member
35 appointed by the Governor of Nevada shall not be a resident of the
36 region and shall represent the public at large.

37 The Administrator of the California Resources Agency or his designee
38 and the Director of the Nevada Department of Conservation and Natural
39 Resources or his designee.] consists of the following delegations:

40 (1) California delegation:

41 (A) One member appointed by each of the County Boards of
42 Supervisors of the Counties of El Dorado and Placer and one member
43 appointed by the City Council of the City of South Lake Tahoe. Any
44 such member may be a member of the County Board of Supervisors or
45 City Council, respectively, and shall reside in the territorial jurisdiction
46 of the governmental body making the appointment.

47 (B) Two members appointed by the Governor of California, one
48 member appointed by the Speaker of the Assembly of California and one
49 member appointed by the Senate Rules Committee of the State of Cali-
50 fornia. The members appointed pursuant to this sub-subparagraph shall

1 not be residents of the region and shall represent the public at large
2 within the State of California.

3 (C) One member appointed for a 1-year term by the six other mem-
4 bers from the California delegation. If at least four members of the
5 California delegation are unable to agree upon the selection of a seventh
6 member within 30 days after the effective date of this act or the occur-
7 rence of a vacancy on the governing body for that state, the Governor
8 of the State of California shall make such appointment with the concu-
9 rence of the California Senate.

10 (2) Nevada delegation:

11 (A) One member appointed by each of the boards of county com-
12 missioners of Douglas and Washoe counties and one member appointed
13 by the board of supervisors of Carson City. Any such member may be a
14 member of the board of county commissioners or board of supervisors,
15 respectively, and shall reside in the territorial jurisdiction of the govern-
16 mental body making the appointment.

17 (B) One member appointed by the governor of Nevada, the secre-
18 tary of state of Nevada or his designee, and the director of the state
19 department of conservation and natural resources of Nevada or his
20 designee. The members appointed pursuant to this sub-subparagraph
21 shall not be residents of the region and shall represent the public at
22 large within the state of Nevada.

23 (C) One member appointed for a 1-year term by the six other mem-
24 bers of the Nevada delegation. If at least four members of the Nevada
25 delegation are unable to agree upon the selection of a seventh member
26 within 30 days after the effective date of this amendatory act or the
27 occurrence of a vacancy on the governing body for that state the Gov-
28 ernor of the State of Nevada shall make such appointment. The member
29 appointed pursuant to this paragraph may but is not required to be a
30 resident of the region within the State of Nevada.

31 If any appointing authority under subparagraph (1)(A), (1)(B), (2)(A)
32 or (2)(B) fails to make such an appointment within 30 days after the
33 effective date of this act or the occurrence of a vacancy on the governing
34 body, the Governor of the state in which the appointing authority is
35 located shall make the appointment.

36 The position of any member of the governing body shall be deemed
37 vacant if such member is absent from three consecutive meetings of the
38 governing body in any calendar year.

39 Each member shall before taking his seat on the governing body dis-
40 close all his economic interests in the region, and shall thereafter disclose
41 any further economic interest which he acquires, as soon as feasible
42 after he acquires it. Each state may provide by law for the manner of
43 disclosure and elimination of conflicts of interest on the part of members
44 of the governing body appointed from that state.

45 (h) The members of the agency shall serve without compensation, but
46 the expenses of each member shall be met by the body which he repre-
47 sents in accordance with the law of that body. All other expenses incurred
48 by the governing body in the course of exercising the powers conferred
49 upon it by this compact unless met in some other manner specifically
50 provided, shall be paid by the agency out of its own funds.

1 (c) [The] Except as provided in paragraph (a)(1)(C), the term of
2 office of the members of the governing body shall be at the pleasure of the
3 appointing authority in each case, but each appointment shall be reviewed
4 no less often than every 4 years. Members may be reappointed.

5 (d) The governing body of the agency shall meet at least monthly.
6 All meetings shall be open to the public to the extent required by the
7 law of the State of California or the State of Nevada, whichever imposes
8 the greater requirement, applicable to local governments at the time
9 such meeting is held. The governing body shall fix a date for its regular
10 monthly meeting in such terms as "the first Monday of each month,"
11 and shall not change such date oftener than once in any calendar year.
12 Notice of the date so fixed shall be given by publication at least once
13 in a newspaper or combination of newspapers whose circulation is
14 general throughout the region and in each county a portion of whose
15 territory lies within the region. Notice of any special meeting, except
16 an emergency meeting, shall be given by so publishing the date [] and
17 place and posting an agenda at least 5 days prior to the meeting.

18 (e) The position of a member of the governing body shall be con-
19 sidered vacated upon his loss of any of the qualifications required for
20 his appointment and in such event the appointing authority shall appoint
21 a successor.

22 (f) The governing body shall elect from its own members a chairman
23 and vice chairman, whose terms of office shall be two years, and who
24 may be reelected. If a vacancy occurs in either office, the governing
25 body may fill such vacancy for the unexpired term.

26 (g) A majority of the members of the governing body [from each
27 state shall] constitute a quorum for the transaction of the business of
28 the agency. [A majority vote of the members present representing each
29 state shall be required] Except as otherwise provided in paragraph (o) of
30 Article VI, the affirmative vote of a majority of the members of the gov-
31 erning body is sufficient to take action with respect to any matter. The
32 vote of each member of the governing body shall be individually recorded.
33 The governing body shall adopt its own rules, regulations and procedures.

34 (h) An advisory planning commission shall be appointed by the
35 agency, which [shall consist of an equal number of members from
36 each state. The commission] shall include: [but shall not be limited
37 to:] the chief planning officers of Placer County, El Dorado County,
38 and the City of South Lake Tahoe in California and of [the Counties
39 of] Douglas [], Ormsby, and] County, Washoe County and Carson City
40 in Nevada, [the Placer County Director of Sanitation, the El Dorado
41 County Director of Sanitation, the county health officer of Douglas
42 County or his designee, the county health officer of Washoe County or
43 his designee,] the Chief of the Bureau of Environmental Health of the
44 Health Division of the Department of [Health, Welfare and Rehabilita-
45 tion] Human Resources of the State of Nevada, [or his designee,] the
46 executive officer of the Lahontan Regional Water Quality Control Board
47 [or his designee,] of the State of California, the executive officer of the
48 [Tahoe Regional Planning Agency who shall act as chairman,] Air
49 Resources Board of the State of California, the director of the state
50 department of conservation and natural resources of the State of Nevada;

1 the administrator of the Lake Tahoe Management Unit of the United
2 States Forest Service, and at least four lay members with an equal num-
3 ber from each state, each of whom shall be a resident of the region. Any
4 official member may designate a substitute.

5 The term of office of each lay member of the advisory planning
6 commission shall be 2 years. Members may be reappointed.

7 The position of each member of the advisory planning commission
8 shall be considered vacated upon loss of any of the qualifications
9 required for appointment, and in such event the appointing authority
10 shall appoint a successor.

11 The advisory planning commission shall elect from its own members
12 a chairman and a vice chairman, whose terms of office shall be 2 years
13 and who may be reelected. If a vacancy occurs in either office, the
14 advisory planning commission shall fill such vacancy for the unexpired
15 term.

16 A majority of the members of the advisory planning commission shall
17 constitute a quorum for the transaction of the business of the commis-
18 sion. A majority vote of the quorum present shall be required to take
19 action with respect to any matter.

20 (i) The agency shall establish and maintain an office within the region
21 [The], and for this purpose the agency may rent or own property and
22 equipment. Every plan, ordinance and other record of the agency which
23 is of such nature as to constitute a public record under the law of either
24 the State of California or the State of Nevada shall be open to inspection
25 and copying during regular office hours.

26 (j) Each authority charged under this compact or by the law of either
27 state with the duty of appointing a member of the governing body of the
28 agency shall by certified copy of its resolution or other action notify the
29 Secretary of State of its own state of the action taken. [Upon receipt of
30 certified copies of the resolutions or notifications appointing the mem-
31 bers of the governing body, the Secretary of State of each respective
32 state shall notify the Governor of the state who shall, after consultation
33 with the Governor of the other state, issue a concurrent call for the
34 organization meeting of the governing body at a location determined
35 jointly by the two governors.

36 (k) Each state may provide by law for the disclosure or elimination
37 of conflicts of interest on the part of members of the governing body
38 appointed from that state.]

39 ARTICLE IV. Personnel

40 (a) The governing body shall determine the qualification of, and it
41 shall appoint and fix the salary of, the executive officer of the agency,
42 and shall employ such other staff and legal counsel as may be necessary
43 to execute the powers and functions provided for under this act or in
44 accordance with any intergovernmental contracts or agreements the
45 agency may be responsible for administering.

46 (b) Agency personnel standards and regulations shall conform insofar
47 as possible to the regulations and procedures of the civil service of the
48 State of California or the State of Nevada, as may be determined by the
49
50

1 governing body of the agency; and shall be regional and bistate in appli-
2 cation and effect; provided that the governing body may, for administra-
3 tive convenience and at its discretion, assign the administration of
4 designated personnel arrangements to an agency of either state, and
5 provided that administratively convenient adjustments be made in the
6 standards and regulations governing personnel assigned under inter-
7 governmental agreements.

8 (c) The agency may establish and maintain or participate in such
9 additional programs of employee benefits as may be appropriate to
10 afford employees of the agency terms and conditions of employment
11 similar to those enjoyed by employees of California and Nevada gen-
12 erally.

13 (d) No member of the governing body or planning commission or
14 employee of the agency shall be liable in damages for any decision in the
15 course of his official duties, unless that decision is malicious.

16 ARTICLE V. Planning

17 (a) In preparing each of the plans required by this article and each
18 amendment thereto, if any, subsequent to its adoption, the planning
19 commission after due notice shall hold at least one public hearing which
20 may be continued from time to time, and shall review the testimony and
21 any written recommendations presented at such hearing before recom-
22 mending the plan or amendment. The notice required by this paragraph
23 shall be given at least 20 days prior to the public hearing by publication
24 at least once in a newspaper or combination of newspapers whose circula-
25 tion is general throughout the region and in each county a portion of
26 whose territory lies within the region.

27 The planning commission shall then recommend such plan or amend-
28 ment to the governing body for adoption by ordinance. The governing
29 body may adopt, modify or reject the proposed plan or amendment, or
30 may initiate and adopt a plan or amendment without referring it to the
31 planning commission. If the governing body initiates or substantially
32 modifies a plan or amendment, it shall hold at least one public hearing
33 thereon after due notice as required in this paragraph.

34 If a request is made for the amendment of the regional plan by:

35 (1) A political subdivision a part of whose territory would be
36 affected by such amendment; or

37 (2) The owner or lessee of real property which would be affected
38 by such amendment,
39 the governing body shall complete its action on such amendment within
40 [60] 180 days after such request is [delivered to] accepted as com-
41 plete according to standards which must be prescribed by ordinance of
42 the agency.

43 [Tahoe Regional Plan]

44 (b) [Within 15 months after the formation of the agency, the planning
45 commission shall recommend a regional plan. Within 18 months after
46 the formation of the agency, the governing body shall adopt a regional
47 plan.] After adoption [of the regional plan], the planning commission
48 and governing body shall continuously review and maintain the regional
49
50

1. plan. The regional plan shall consist of a diagram, or diagrams, and text,
2. or texts setting forth the projects and proposals for implementation of the
3. regional plan, a description of the needs and goals of the region and a
4. statement of the policies, standards and elements of the regional plan.

5. *The regional plan must take into account applicable federal and
6. state air and water quality standards for the region, and may be
7. designed to bring about better quality. Each element of the regional
8. plan shall contain provisions and time schedules for its implementation
9. by ordinance.*

10. The regional plan shall be a single enforceable plan and include all of
11. the following correlated elements:

12. (1) A land-use plan for the integrated arrangement and general loca-
13. tion and extent of, and the criteria and standards for, the uses of land,
14. water, air, space and other natural resources within the region, includ-
15. ing but not limited to [.] an indication or allocation of maximum pop-
16. ulation densities [.] which will meet the criteria of environmental
17. quality and not exceed the limits of the capability of the ecological
18. system to tolerate human activity as specified pursuant to paragraph
19. (c) of Article VI.

20. (2) A transportation plan for the integrated development of a regional
21. system of transportation, including but not limited to, freeways, park-
22. ways, highways, transportation facilities, transit routes, waterways, navi-
23. gation and aviation aids and facilities, and appurtenant terminals and
24. facilities for the movement of people and goods within the region.

25. *Within 12 months after the completion of the comprehensive state-
26. ment establishing criteria of environmental quality and limits of the
27. capability of the ecological system to tolerate human activity pursuant
28. to paragraph (c) of Article VI, the agency shall develop a transportation
29. plan for the region that substantially complies with those criteria and
30. does not exceed those limits. Within 1 year after the effective date of this
31. amendatory provision, the State of California undertakes to complete the
32. Loop Road in the City of South Lake Tahoe.*

33. (3) A conservation plan for the preservation, development, utiliza-
34. tion, and management of the scenic and other natural resources within
35. the basin, including but not limited to, soils, shoreline and submerged
36. lands, scenic corridors along transportation routes, open spaces, recrea-
37. tional and historical facilities.

38. (4) A recreation plan for the development, utilization, and manage-
39. ment of the recreational resources of the region, including but not
40. limited to, wilderness and forested lands, parks and parkways, riding
41. and hiking trails, beaches and playgrounds, marinas, areas for skiing and
42. other recreational facilities.

43. (5) A public services and facilities plan for the general location,
44. scale and provision of public services and facilities, which, by the nature
45. of their function, size, extent and other characteristics are necessary
46. or appropriate for inclusion in the regional plan.

47. In formulating and maintaining the regional plan, the planning com-
48. mission and governing body shall take account of and shall seek to
49. harmonize the needs of the region as a whole, the plans of the counties

1. and cities within the region, the plans and planning activities of the
2. state, federal and other public agencies and nongovernmental agencies
3. and organizations which affect or are concerned with planning and
4. development within the region.

5. *Until the regional plan, ordinances and standards are respectively
6. revised or adopted pursuant to paragraph (c) of Article VI or the time
7. limited for such action has passed, and except as otherwise provided for
8. completion of the Loop Road, the regional plan, ordinances, rules
9. and regulations adopted by the California Tahoe Regional Planning
10. Agency and in effect on July 1, 1978, are part of the regional plan,
11. ordinances, rules and regulations of the Tahoe Regional Planning Agency
12. and apply to all activities subject to this compact in that portion of the
13. Tahoe Region located in the State of California. Any plan, ordinance,
14. rule or regulation adopted pursuant to this article may be amended by a
15. vote in favor of such amendment, pursuant to the procedure specified in
16. paragraph (g) of Article III. No provision of the regional plan, ordinances,
17. rules or regulations of the California Tahoe Regional Planning Agency
18. adopted pursuant to this paragraph applies to that portion of the region
19. within the State of Nevada, unless that provision is adopted for the
20. Nevada portion of the region by the governing body of the agency.*

21. Where necessary for the realization of the regional plan, the agency
22. may engage in collaborative planning with local governmental jurisdic-
23. tions located outside the region, but contiguous to its boundaries. In
24. formulating and implementing the regional plan, the agency shall seek
25. the cooperation and consider the recommendations of counties and
26. cities and other agencies of local government, of state and federal
27. agencies, of educational institutions and research organizations, whether
28. public or private, and of civic groups and private individuals.

29. (c) All provisions of the [Tahoe] regional [general] plan shall be
30. enforced by the agency and by the states, counties and cities in the
31. region. Expansion of public services and facilities, unless essential to
32. meet the needs of present inhabitants or of projects approved affirmatively
33. or by default before the effective date of this amendatory provision, shall
34. not precede the development or revision of the land-use plan pursuant
35. to paragraph (c) of Article VI.

36. [Tahoe Regional Interim Plan]

38. (d) Within 60 days after the formation of the agency, the planning
39. commission shall recommend a regional interim plan. Within 90 days
40. after the formation of the agency, the governing body shall adopt a
41. regional interim plan. The interim plan shall consist of statements of
42. development policies, criteria and standards for planning and develop-
43. ment, of plans or portions of plans, and projects and planning decisions,
44. which the agency finds it necessary to adopt and administer on an
45. interim basis in accordance with the substantive powers granted to it in
46. this agreement.

47. (e) (d) The agency shall maintain the data, maps and other infor-
48. mation developed in the course of formulating and administering the
49.

1 regional plan, [and interim plan,] in a form suitable to assure a con-
 2 sistent view of developmental trends and other relevant information for
 3 the availability of and use by other agencies of government and by pri-
 4 vate organizations and individuals concerned.

5 [(f) All provisions of the interim plan shall be enforced by the agency
 6 and by the states, the counties, and cities.]

7 ARTICLE VI. Agency's Powers

8
 9 (a) The governing body shall adopt all necessary ordinances, rules,
 10 regulations and policies to effectuate the adopted regional [and interim
 11 plans.] plan. Every such ordinance, rule or regulation shall establish a
 12 minimum standard applicable throughout the [basin,] region, and any
 13 political subdivision may adopt and enforce an equal or higher standard
 14 applicable to the same subject of regulation in its territory. The regula-
 15 tions of the agency shall contain general, regional standards including
 16 but not limited to the following: water purity and clarity; subdivision;
 17 zoning; tree removal; solid waste disposal; sewage disposal; land fills,
 18 excavations, cuts and grading; piers [;], harbors, breakwaters [;] or
 19 channels and other shoreline developments; waste disposal in shoreline
 20 areas; waste disposal from boats; mobile-home parks; house relocation;
 21 outdoor advertising; flood plain protection; soil and sedimentation con-
 22 trol; air pollution; and watershed protection. Whenever possible without
 23 diminishing the effectiveness of the [interim plan or the general] regional
 24 plan, the ordinances, rules, regulations and policies shall be confined to
 25 matters which are general and regional in application, leaving to the
 26 jurisdiction of the respective states, counties and cities the enactment of
 27 specific and local ordinances, rules, regulations and policies which con-
 28 form to the [interim or general] regional plan.

29 Every ordinance adopted by the agency shall be published at least
 30 once by title in a newspaper or combination of newspapers whose
 31 circulation is general throughout the region. Except an ordinance adopt-
 32 ing or amending the [interim plan or the] regional plan, no ordinance
 33 shall become effective until 60 days after its adoption. Immediately
 34 after its adoption, a copy of each ordinance shall be transmitted to the
 35 governing body of each political subdivision having territory within
 36 the region.

37 [Interim regulations shall be adopted within 90 days from the forma-
 38 tion of the agency and final regulations within 18 months after the
 39 formation of the agency.]

40 Every plan, ordinance, rule, regulation or policy adopted by the
 41 agency shall recognize as a permitted and conforming use any business
 42 or recreational establishment which is required by law of the state in
 43 which it is located to be individually licensed by the state, if such
 44 business or establishment:

45 (1) Was so licensed on February 5, 1968, or was licensed for a
 46 limited season during any part of the calendar year immediately pre-
 47 ceding February 5, 1968.

48 (2) Is to be constructed on land which was so zoned or designated

1 in a finally adopted master plan on February 5, 1968, as to permit the
 2 construction of such a business or establishment.]

3 (b) No project other than those to be reviewed and approved under
 4 the special provision of paragraphs (d), (e) and (f) may be developed
 5 in the region without obtaining the review and approval of the agency
 6 and no project may be approved, except in accordance with a regional
 7 plan and ordinances meeting the requirements of this compact. The
 8 agency shall prescribe by ordinance:

9 (1) Those activities, structures or uses which require its review and
 10 approval; and

11 (2) The kind and form of information which must be included in
 12 an application for approval.

13 (c) The agency shall develop in cooperation with the states of California
 14 and Nevada criteria of environmental quality for the region and limits of
 15 the capability of the ecological system to tolerate human activity. Within
 16 18 months after the effective date of this amendatory provision, the agency
 17 shall adopt a comprehensive statement establishing for the region criteria
 18 of environmental quality and limits of the capability of the ecological sys-
 19 tem to tolerate human activity. Upon completion of the statement, and
 20 after consultation with federal, state and local agencies and after notice
 21 and public hearing, the agency shall revise the regional plan and adopt or
 22 revise ordinances and standards for the preservation of environmental qual-
 23 ity in the region based upon these criteria and limits. The agency shall also
 24 adopt regulations defining specific written findings concerning environ-
 25 mental protection and the capability of the environment to tolerate human
 26 activity that the agency and the Nevada Tahoe regional planning agency
 27 must make prior to approving any project in the region. Such findings
 28 shall be based upon substantial evidence in the record. The agency shall
 29 adopt the revised regional plan within 12 months after the adoption of the
 30 comprehensive statement establishing criteria of environmental quality and
 31 limits of the capability of the ecological system to tolerate human activity.
 32 If the new ordinances, regulations and standards required by this para-
 33 graph are not adopted within 2 years after the effective date of this
 34 amendatory provision, the ordinances, regulations and standards in effect
 35 on that effective date are revived and continue until amended or repealed.

36 Until the findings are adopted or 2 years have elapsed from the effective
 37 date of this amendatory provision, whichever is sooner, the agency and the
 38 Nevada Tahoe regional planning agency may approve a project in the
 39 region only after making written findings on the basis of substantial evi-
 40 dence in the record that the project is consistent with the regional plan,
 41 ordinances, regulations and standards of the agency for the portion of the
 42 region in which the project is located relating to the protection, mainte-
 43 nance and enhancement of environmental quality in the region.

44 (d) Subject to the final order of any court of competent jurisdiction
 45 entered in litigation contesting the validity of an approval by the Tahoe
 46 Regional Planning Agency, whether that approval was affirmative or by
 47 default, if that litigation was pending on January 1, 1979, the agency
 48 and the states of California and Nevada shall recognize as a permitted
 49 and conforming use and as not constituting a common-law nuisance:

50 (1) Every structure housing gaming under a nonrestricted license

1 which existed as a licensed gaming establishment on January 1, 1979,
2 or whose construction was approved by the Tahoe Regional Planning
3 Agency affirmatively or by default before that date. The agency shall
4 not permit the construction of any structure to house gaming under a
5 nonrestricted license not so existing or approved. The enlargement in
6 cubic volume of any such existing or approved structure is subject to
7 review and approval.

8 (2) Every other nonrestricted gaming establishment whose use was
9 seasonal and whose license was issued before January 1, 1979, for the
10 same season and for the number and type of games and slot machines
11 for which taxes or fees were paid in the calendar year 1978.

12 (3) Gaming conducted pursuant to a restricted gaming license issued
13 before January 1, 1979, to the extent permitted by that license on that
14 date.

15 The area within any structure housing gaming under a nonrestricted
16 license which may be open to public use (as distinct from that devoted
17 to the private use of guests and exclusive of any parking area) is limited
18 to the area existing or approved for public use on the effective date of
19 this amendatory provision. Within these limits, any external modification
20 of the structure which requires a permit from a local government also
21 requires approval from the agency.

22 (e) Any structure housing licensed gaming may be rebuilt or replaced
23 to a size not to exceed the cubic volume and land coverage existing or
24 approved on the effective date of this amendatory provision.

25 (f) Gaming conducted pursuant to a restricted gaming license is exempt
26 from the provisions of paragraphs (d) and (e) if it is incidental to the
27 primary use of the premises.

28 (g) All ordinances, rules, regulations and policies adopted by the
29 agency shall be enforced by the agency and by the respective states,
30 counties [], and cities [], each within the limits of its territory. No
31 private person or organization may bring any action to enforce them.
32 The appropriate courts [of] within the respective states, each within its
33 limits of territory and subject matter provided by [state] law, are vested
34 with jurisdiction over civil actions [to which the agency is a party]
35 arising under this compact and criminal actions for violations of [its]
36 the agency's ordinances. Each such action shall be brought in a court
37 [of] sitting within the state where the violation is committed or where
38 the property affected by a civil action is situated. [], unless the action is
39 brought in a federal court. For this purpose, the agency shall be deemed a
40 political subdivision of both the State of California and the State of
41 Nevada.

42 (c) If the real property affected by a civil action is situated in more
43 than one state, the action must be brought in a court sitting within the
44 state where the defendant in the action resides or has his principal place of
45 business.

46 Any person aggrieved by a final action of the agency is entitled to judi-
47 cial review thereof. No action or proceeding may be commenced for the
48 purpose of seeking judicial review after the expiration of 25 days from
49 the date of notice of final action by the agency. Notice of final action by the

1 agency must be given by publication at least once in a newspaper or com-
2 bination of newspapers whose circulation is general throughout the region
3 and in each county a portion of whose territory lies within the region. An
4 action seeking judicial review must be instituted in a court sitting within
5 the state where the property affected is located, or if located in more than
6 one state then in a court sitting within the state where the defendant resides
7 or has his principal place of business. The review must be conducted by
8 the court without a jury and must be confined to the record and to issues
9 substantially raised before the agency. The court shall not substitute its
10 judgment for that of the agency as to the weight of the evidence on ques-
11 tions of fact. The court may affirm the decision of the agency or remand
12 the case for further proceedings. The court may reverse or modify the
13 decision if substantial rights of the appellant have been prejudiced because
14 the decision is:

- 15 (1) In violation of constitutional or statutory provisions;
- 16 (2) In excess of the authority of the agency;
- 17 (3) Made upon unlawful procedure;
- 18 (4) Affected by other error of law;
- 19 (5) Clearly erroneous in view of the reliable, probative and substan-
20 tial evidence on the whole record; or
- 21 (6) Arbitrary or capricious or characterized by abuse of discretion or
22 clearly unwarranted exercise of discretion.

23 (h) Except as otherwise provided in paragraph [(d)] (i), all public
24 works project shall be reviewed prior to construction and approved by
25 the agency as to the project's compliance with the [adopted] regional
26 [general] plan.

27 [(d)] (i) All plans, programs and proposals of the State of Cali-
28 fornia or Nevada, or of its executive or administrative agencies, which
29 may substantially affect [] or may specifically apply [] to the uses
30 of land, water, air, space and other natural resources in the region,
31 including but not limited to public works plans, programs and proposals
32 concerning highway routing, design and construction, shall be referred
33 to the agency for its review, as to conformity with the regional plan
34 or interim plan, and for report and recommendations by the agency
35 to the executive head of the state agency concerned and to the Governor.
36 A public works project which is initiated and is to be constructed by
37 a department of either state, or by a local government if the project does
38 not enlarge a service area of that government, shall be submitted to the
39 agency for review and recommendation; but may be constructed as
40 proposed.

41 [(e)] (j) The agency shall police the region to ensure compliance
42 with the [general] plan and adopted ordinances, rules, regulations and
43 policies. If it is found that the [general] regional plan, or ordinances,
44 rules, regulations and policies are not being enforced by a local juris-
45 diction, the agency may bring action in a court of competent jurisdiction
46 to ensure compliance.

47 [(f)] Violation of any ordinance of the agency is a misdemeanor.]

48 (k) Any person or governmental entity who willfully violates any pro-
49 vision of this compact is subject to the imposition by a court of compe-
50 tent jurisdiction of a civil fine not to exceed \$50,000 for each offense.

In addition, any person or governmental entity who willfully performs any development in violation of this compact, the regional plan or ordinances of the agency, or conditions of approval imposed by the agency is subject to the imposition by a court of competent jurisdiction of a civil fine not to exceed \$5,000 for each day in which such violation persists. The amount of any civil penalty imposed shall be deposited in the state general fund of the state in which the violation occurs. Any action to impose such a fine must be brought in the county where the alleged violation occurred.

[(g)] (l) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

[(h)] (m) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

[(i)] Whenever a new city is formed within the region, the membership of the governing body shall be increased by two additional members, one appointed by, and who shall be a member of, the legislative body of the new city, and one appointed by the Governor of the state in which the city is not located. A member appointed by the Governor of California is subject to Senate confirmation.

[(j)] (n) Every record of the agency, whether public or not, shall be open for examination to the [Legislative Analyst], Controller of the State of California and the [Fiscal Analyst] legislative auditor of the State of Nevada.

[(k)] (o) Whenever under the provisions of this article or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any proposal, public or private, the agency shall take final action [] by vote, whether to approve, to require modification or to reject such proposal, within [60] 90 days after such proposal is delivered to the agency. If the agency does not take final action within [60] 90 days, the proposal shall be deemed [approved.] rejected. Approval of a project requires the affirmative vote of a majority of the members of the governing body from the state in which the project is located and the affirmative vote of a majority of all the members of the governing body. Any person whose proposal is rejected is entitled to judicial review pursuant to paragraph (g).

(p) Approval by the agency or the state environmental commission of Nevada, as the case may be, of any project expires 3 years after the date of final action by the agency or commission or the effective date of this amendatory provision, whichever is later, unless construction is begun within that time, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this paragraph.

(q) The governing body shall maintain a current list of real property

known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Statements

(a) The Tahoe Regional Planning Agency shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in making decisions which may have an impact on man's environment;

(2) Develop methods for taking into account the relative economic costs and benefits of each proposed plan, standard or project;

(3) Include in every recommendation or report on any project the agency proposes to carry out or approve which may significantly affect the quality of the human environment, a detailed statement by the responsible agency official on:

(A) The environmental impact of the proposed action;

(B) Any adverse environmental effects which cannot be avoided should the proposal be put into effect;

(C) Alternatives to the proposed action;

(D) Mitigative measures which must be taken to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be taken; and

(G) The growth of population which would be induced by the proposed project;

(4) Study, develop and describe appropriate alternatives to recommended courses of action for any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(5) Make available to states, counties, municipalities, institutions and private persons advice and information useful in restoring, maintaining and enhancing the quality of the environment; and

(6) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing the statement, the responsible agency official shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the public and shall accompany the proposal through the review processes. The public shall be consulted while the statement is being prepared and its views shall be solicited during a period of at least 60 days.

(c) Any statement required under this article for any project carried out or approved by a state or local agency shall not be deemed to be

1. ~~legally insufficient solely by reason of having been prepared by a state or~~
 2. ~~local agency or official if:~~

3. (1) ~~The responsible agency official furnishes guidance and participates~~
 4. ~~in such preparation;~~

5. (2) ~~The responsible agency official independently evaluates such state-~~
 6. ~~ment prior to its approval and adoption; and~~

7. (3) ~~The responsible agency official provides early notification to and~~
 8. ~~solicits the views of any other state or local agency with jurisdiction by~~
 9. ~~law over any aspect of environmental quality in the region concerning~~
 10. ~~any action or any alternative thereto which may have significant environ-~~
 11. ~~mental impacts upon the region, and, if there is any disagreement on~~
 12. ~~such impacts, prepares a written assessment of such impacts and views~~
 13. ~~for incorporation into such detailed statements.~~

14. ~~The procedures in this subparagraph shall not relieve the agency offi-~~
 15. ~~cial of his responsibilities for the scope, objectivity and content of the~~
 16. ~~entire statement or of any other responsibility under this compact.~~

17. (d) ~~The agency may charge and collect a reasonable fee from any~~
 18. ~~person proposing a project subject to the provisions of this compact in~~
 19. ~~order to recover the estimated costs incurred by the agency in preparing~~
 20. ~~the detailed statement under this article.~~

21. (e) ~~The agency shall adopt by ordinance a list of classes of projects~~
 22. ~~which the agency has determined will not have a significant effect on the~~
 23. ~~environment and will therefore be exempt from the requirement for the~~
 24. ~~preparation of a statement under this article. Prior to adopting the list,~~
 25. ~~the agency shall make a written finding supported by substantial evi-~~
 26. ~~dence in the record that each class of projects will not have a significant~~
 27. ~~effect on the environment.~~

ARTICLE VIII. Finances

31. (a) ~~[Except as provided in paragraph (e), on] On or before [Dec-~~
 32. ~~ember] September 30 of each calendar year the agency shall establish~~
 33. ~~the amount of money necessary to support its activities for the next~~
 34. ~~succeeding fiscal year commencing July 1 of the following year. [The~~
 35. ~~agency shall apportion not more than \$150,000 of this amount among~~
 36. ~~the counties within the region on the same ratio to the total sum required~~
 37. ~~as the full cash valuation of taxable property within the region in each~~
 38. ~~county bears to the total full cash valuation of taxable property within~~
 39. ~~the region. [Each county in California shall pay the sum allotted to it~~
 40. ~~by the agency from any funds available therefor and may levy a tax on~~
 41. ~~any taxable property within its boundaries sufficient to pay the amount~~
 42. ~~so allocated to it. Each county in Nevada shall pay such sum from~~
 43. ~~its general fund or from any other moneys available therefor.] Each~~
 44. ~~county within the region in California shall pay \$18,750 to the agency~~
 45. ~~and each county within the region in Nevada, including Carson City,~~
 46. ~~shall pay \$12,500 to the agency, from any funds available therefor. The~~
 47. ~~State of California and the State of Nevada shall pay to the agency by~~
 48. ~~July 1 of each year \$200,000 and \$100,000, respectively to support the~~
 49. ~~activities of the agency pursuant to this compact.~~

1. (b) ~~The agency may fix and collect reasonable fees for any services~~
 2. ~~rendered by it.~~

3. (c) ~~The agency shall submit an itemized budget to the states; shall be~~
 4. ~~strictly accountable to any county in the region and the states for all~~
 5. ~~funds paid by [it] them to the agency and shall be strictly accountable~~
 6. ~~to all participating bodies for all receipts and disbursements.~~

7. (d) ~~The agency is authorized to receive gifts, donations, subventions,~~
 8. ~~grants, and other financial aids and funds [.] ; but the agency may not~~
 9. ~~own land except as provided in paragraph (i) of Article III.~~

10. (e) ~~[As soon as possible after the ratification of this compact, the~~
 11. ~~agency shall estimate the amount of money necessary to support its~~
 12. ~~activities:~~

13. (1) ~~For the remainder of the then-current fiscal year; and~~

14. (2) ~~If the first estimate is made between January 1 and June 30, for~~
 15. ~~the fiscal year beginning on July 1 of that calendar year.~~

16. ~~The agency shall then allot such amount among the several counties,~~
 17. ~~subject to the restriction and in the manner provided in paragraph (a),~~
 18. ~~and each county shall pay such amount.] If additional funds are required~~
 19. ~~the agency shall make a request, accompanied by an itemized budget,~~
 20. ~~to the States of California and Nevada. Any additional appropriations~~
 21. ~~may be paid by the States of California and Nevada.~~

22. (f) ~~The agency shall not obligate itself beyond the moneys due under~~
 23. ~~this article for its support from the several counties and the states for~~
 24. ~~the current fiscal year, plus any moneys on hand or irrevocably pledged~~
 25. ~~to its support from other sources. No obligation contracted by the~~
 26. ~~agency shall bind either of the party states or any political subdivision~~
 27. ~~thereof.~~

ARTICLE [VIII.] IX. Miscellaneous

31. (a) ~~It is intended that the provisions of this compact shall be reason-~~
 32. ~~ably and liberally construed to effectuate the purposes thereof. Except~~
 33. ~~as provided in paragraph (c), the provisions of this compact shall be~~
 34. ~~severable and if any phrase, clause, sentence or provision of this com-~~
 35. ~~pact is declared to be contrary to the constitution of any participating~~
 36. ~~state or of the United States or the applicability thereof to any govern-~~
 37. ~~ment, agency, person or circumstance is held invalid, the validity of the~~
 38. ~~remainder of this compact and the applicability thereof to any govern-~~
 39. ~~ment, agency, person or circumstance shall not be affected thereby. If~~
 40. ~~this compact shall be held contrary to the constitution of any state~~
 41. ~~participating therein, the compact shall remain in full force and effect~~
 42. ~~as to the remaining state and in full force and effect as to the state affected~~
 43. ~~as to all severable matters.~~

44. (b) ~~The agency shall have such additional powers and duties as may~~
 45. ~~hereafter be delegated or imposed upon it from time to time by the action~~
 46. ~~of the Legislature of either state concurred in by the Legislature of the~~
 47. ~~other.~~

48. (c) ~~A state party to this compact may withdraw therefrom by enact-~~
 49. ~~ing a statute repealing the compact. Notice of withdrawal shall be com-~~
 50. ~~municated officially and in writing to the Governor of the other state~~

1 and to the agency administrators. This provision is not severable, and
 2 if it is held to be unconstitutional or invalid, no other provision of this
 3 compact shall be binding upon the State of Nevada or the State of
 4 California.

5 (d) No provision of this compact shall have any effect upon the allo-
 6 cation; [or] distribution or storage of interstate waters or upon any
 7 appropriative water right.

8 SEC. 2. NRS 277.205 and 277.230 are hereby repealed.

9 SEC. 3. Chapter 518, Statutes of Nevada 1977, entitled "An Act
 10 relating to the Tahoe Regional Planning Agency; restricting certain
 11 gaming activities to certain places within the area under the control of
 12 the agency; providing changes in the composition of the agency's gov-
 13 erning body; providing certain civil penalties; and providing other matters
 14 properly relating thereto," approved May 13, 1977, is hereby repealed,
 15 and chapter 502, Statutes of Nevada 1975, is not thereby revived.

16 SEC. 4. The secretary of state shall transmit a certified copy of sec-
 17 tion 1 of this act to the governor of the State of California. The governor
 18 of this state, as soon as:

19 1. He is officially advised that the State of California has enacted
 20 the amendment to the Tahoe Regional Planning Compact set forth in
 21 section 1 of this act; and

22 2. The Congress of the United States has approved such amend-
 23 ment,
 24 shall proclaim that the compact has been so amended.

25 SEC. 5. 1. This section and sections 3 and 4 of this act shall become
 26 effective upon passage and approval.

27 2. Sections 1 and 2 of this act shall become effective upon proc-
 28 lamation by the governor of this state of the enactment of the amend-
 29 ments to the Tahoe Regional Planning Compact contained in section 1
 30 of this act by the State of California and their approval by the Congress
 31 of the United States.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 371.

Bill read third time.

Remarks by Assemblyman Wagner.

Roll call on Assembly Bill No. 371:

YEAS—39.

NAYS—Weise.

Assembly Bill No. 371 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 431.

Bill read third time.

Remarks by Assemblyman Mann.

Roll call on Assembly Bill No. 431:

YEAS—37.

NAYS—Glover, Webb, Weise—3.

Assembly Bill No. 431 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Dini moved that Assembly Bill No. 503 be placed at the top of the General File.

Remarks by Assemblyman Dini.

Motion carried.

Assemblyman Hickey moved that Assembly Bill No. 600 be taken from the Chief Clerk's desk and placed on the General File.

Remarks by Assemblyman Hickey.

Motion carried.

Assemblyman Hayes moved that Senate Bill No. 9 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Remarks by Assemblyman Hayes.

Motion carried.

Assemblyman Bergevin moved that Assembly Bill No. 572 be placed on the General File immediately following Assembly Bill No. 503.

Remarks by Assemblyman Bergevin.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 503.

Bill read third time.

Remarks by Assemblymen Dini, Wagner, Bedrosian, Weise, Craddock, Bergevin and FitzPatrick.

Assemblymen Getto, Bergevin and Horn moved the previous question.

Motion carried.

The question being on the passage of Assembly Bill No. 503.

Roll call on Assembly Bill No. 503:

YEAS—38.

NAYS—Bedrosian, Prengaman—2.

Assembly Bill No. 503 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 326, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN M. VERGILLS, *Chairman*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 480, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KAREN HAYES, *Chairman*

Mr. Speaker:

Your Committee on Judiciary, to which was re-referred Assembly Bill No. 584, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KAREN HAYES, *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 682, 704, 730, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH E. DINI, JR., *Chairman*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 346, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KAREN HAYES, *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 701, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Ways and Means.

JOSEPH E. DINI, JR., *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which was re-referred Assembly Bill No. 103, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH E. DINI, JR., *Chairman*

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Dini moved that the Assembly do not recede from its action on Senate Bill No. 323, that a conference be requested, and that Mr. Speaker appoint a first Committee on Conference consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Dini, Harmon and Weise as a first Committee on Conference to meet with a like committee of the Senate for the further consideration of Senate Bill No. 323.