

SENATE NATURAL RESOURCES COMMITTEE

MINUTES OF MEETING
Wednesday, March 30, 1977

The fifteenth meeting of the Natural Resources Committee was called to order on the above date at 1:42 p.m.

Senator Gary Sheerin was in the Chair.

PRESENT: Chairman Sheerin
Senator Dodge
Senator Echols
Senator Glaser
Senator Neal

ABSENT: Senator Lamb

OTHERS PRESENT: Fred Welden, Division State Lands
Bob Erickson, Division State Lands
Addison Millard, Division State Lands
Ernie Gregory, State Environment Protection Services
Paul Reimer, Committee for Clean Water
Arthur E. Molin, City of Reno
Garry D. Stone, Douglas County
Wm. Slocum, Douglas County
Kenneth C. Rollston, TRPA
John Meder, State Parks
Rowland Oakes, Associated General Contractors
Bruce Barnum, Harvey's Wagon Wheel
Donald E. Alford, Carpenters Local #971
Les J. Finson, Carpenters Local #971
Ken Boyer, Environment Commssion
John Madole, Associated General Contractors
Steven Elliott, Sparks
Doug Fletcher, Sierra Pacific Power Co.
Mike Sullivan, Sierra Pacific Power Co.
Dave Young, Operator Engineers #3
Paul W. Feiertag, attorney, City of Sparks
J. M. Milligan, City of Sparks
Paul B. Wise, Operator Engineers #3
D. Cameron, Walker Bandwin Construction Co.
Len Maine, Operator Engineers #3
Richard McClain, Krump Construction, Inc.
Wendell McCurry, Environmental Protection Service
John Welsh, Environmental Protection Service
Howard Gilbert, Union
Milton Manoukian, Hansen Estate, Harrah's Club
Blanch M. Gregory
S. Morrow, Nevada Appeal
Bob Stewart, Office of the Governor
Horst DeBaer, Teichert Construction
Matthew Feiertag, Environmental Protection Service

SB 212 Provides for local control of land use planning functions.

SENATOR DODGE, introducer of this bill, gave a brief explanation this bill had been before this Committee earlier in this Session.

ADDISON MILLARD, Division of Lands, Department of Conservation, Natural Resources, testified they had received information there was some consideration to empower the Administrator of Division of Lands with some rather forceful decision making processes which troubled the department. His department thinks there should be some additional consideration given by some other persons throughout Nevada in reaching final decisions in such matters. So in view of that, his staff recommends that from the State Land Use Planning Advisory Counsel there be four persons selected as an executive council with the administrator of the Division of Lands serving as chairman, to resolve problems that may occur between different political entities. In the event there is a conflict of interest between any of the four members because of local situations, there will also be four alternates from which a committee could be secured. Mr. Millard presented suggested recommendations, printed copy entered in record and attached, EXHIBIT "A".

Mr. Millard continued, stating the members of executive council should be authorized some reimbursement for travel. He said his department is involved in the critical area of environmental concern and the Governor is involved with Mr. Millard in reaching a final situation as relates to a critical area, and enforcing ordinances upon the area that has requested, or nominated or the adjoining county. Mr. Millard said his department is best served by having local people assist in the decision making process and assist in the enforcement, and that is why the executive council has been recommended. He said this bill is an improvement over the existing law.

BOB BROADBENT, Chairman, County Commissioners Association, took a position in favor of SB212.

BOB WARREN, Nevada League of Cities, stated his office is calling each city with the alternatives of the two proposed empass procedures. He hoped to have that information soon and will refer it to the Committee in writing.

CHAIRMAN SHEERIN reviewed the amendments.

Senator Dodge moved "DO PASS."
Senator Neal seconded the motion.
The motion passed unanimously.

SB 377; Empowers governor in emergency to reduce limitations on effluent into waters.

SENATOR WILLIAM RAGGIO, representing Senate District #1, Washoe County, introducer of this bill, explained the situation which is currently being dealt with in the Washoe County area and Reno/Sparks communities concerning waste water treatment. He said the present situation which has been dealt with not only on local government levels, but in the courts in Washoe County, probably ranks as one of the real crisis within the community's history. The cities of Reno and Sparks and Washoe County find themselves in a situation which relates to a high growth problem. The bill is designed to do several things: to provide a mechanism to alleviate the situation in which a municipality finds itself with extremely limited sewage treatment capacity; and to do so in a reasonable, responsible manner in which the Governor can determine the existence of the criteria which would trigger the method to alleviate the situation and to lessen the limitations and standards that are imposed. The main provision of the bill is that to qualify, the municipality must show the governing body is attempting to comply with the limitations either by adding to the capacity of existing treatment works, or has taken preliminary action with respect with such addition, or is in the process of utilizing acceptable methods of meeting these limitations. The purpose of the bill is not to allow the municipality to evade, without any responsibility, limitations which are imposed and which have real purpose, but to provide a mechanism under situations where the municipality has met these conditions or is attempting to meet them in a responsible manner.

ROWLAND OAKES, representing Associated General Contractors, testified in support of SB377. He said due to the sewer capacity in Reno there have been severe building restrictions since September, 1976, with no new building permits being issued, consequently affecting the construction industry. He outlined the history of the treatment plant saying plans and studies were made, but in 1975 the Environmental Protection Agency (EPA) advised the City of Reno they would require an environmental impact study on the addition of the new plant which was not mandated by federal laws. In inquiring as to why, it was noted "the Indians downstream had complained." Mr. Oakes said to his knowledge this was the only sewage treatment plant at that time in the U. S. asking for an addition to the plant, which required an environmental impact study for the plant of which Reno was notified of in 1975. The study was approved by EPA in November, 1975.

PAUL REIMER, representing Committee for Clean Water, testified in favor of SB377. He exhibited a chart to assist in showing why Bill SB377 is appropriate legislation.

GEORGE FOSTER, co-chairman of Committee for Clean Water, assisted with the exhibit.

ARTHUR MOLIN, city engineer, City of Reno, presented a written statement in support of SB377, including suggested changes to SB377. Entered in the record, attached, EXHIBIT "B".

PAUL FEIERTAG, city attorney, City of Sparks, testified in support of SB377. He said the state has issued Sparks a permit which expires July 1, 1977. If water quality standards are not met by then they will issue a permit that says Sparks is in violation which requires a water quality standard plan. A violation of these permits should be a serious thing. That is why we support SB377 giving the Governor the ability to modify permit requirements so municipalities will not be in violation.

DAVE YOUNG, operator engineer, local union #3, testified in support of SB377.

WENDELL McCURRY, Environmental Protection Services, said with respect to the environmental impact statement requirements, environmental assessment is required on any construction grant project. The state and EPA in 1973 got the cities started on environmental impact statement so that an early determination could be made as to a need for an environmental impact statement in order to save time at a later date for the community. So anywhere there is a significant controversy or environmental problem and the magnitude of the project is large, the environmental impact statement will be required. While the facility plan was being done, it was determined an environmental impact statement would be required from the start and it didn't necessarily reflect the desires of the Indians. Mr. McCurry pointed out this is a controversial project whether the Indians are involved or not as to growth, air pollution, etc.

CHAIRMAN SHEERIN asked who made the decision that an environmental impact statement would be required, and Mr. McCurry replied Region 9, EPA. And answered to Senator Dodge that an environmental impact statement is not mandated on every project, but an environmental assessment is.

MR. OAKES said environmental assessment is a routine thing and takes very little time and costs very little money. EIS is expensive and is time consuming and is not mandated. He said it is only used on a sewerage expansion program when substantial controversy is involved.

BRUNO MENICUCCI, city councilman, Reno, and chairman of Washoe Council of Governments, endorsed SB377. The impact statement was required after a letter went to Region 9, EPA, requesting that an impact statement be required. The letter was sent by a representative of the Pyramid Lake Indian Tribe.

ERNIE GREGORY, acting administrator, Environmental Protection Services, Department of Human Resources, testified in opposition to SB377. He read a prepared statement accompanied by visual aids projected on the wall. Statement entered in the record, attached as EXHIBIT "C". Mr. Gregory also presented a printed copy of a letter from Richard L. O'Connell, Director Enforcement Division, U. S. Environmental Protection Agency, entered in record, attached EXHIBIT "D".

Mr. Gregory continued, saying the state environmental commission did adopt provisions for a mixing zone as a condition of the permit. It is up to the applicant to show that they can use a mixing zone without violating the water quality standards which are the two pertinent sections out of the regulations which provide for the mixing zone.

Mr. Reimer asked Mr. Gregory, through the Chair, if there is any alternate interpretation other than under the provisions of the Act 92.500, that the Governor can in fact initiate review of the discharge standards and upon that review being brought up to EPA administrator, that the administrator can look at those standards in light of social and economic costs. Mr. Gregory referred to Sec. 208, a program to control nonpoint sources of pollution. The point sources are the treatment plant. The 208 plan itself which will be developed by Sept. 1, 1978, does have to take under consideration the receiving water quality as well as the effluent discharges from the treatment plant, however, the two programs are not related and are not administered that way in the Federal Water Pollution Control Administration. The Governor does have some say in the two way process. Today, under the existing administration of the act, the Governor has no authority in the permit program area.

ROBERT BROADBENT spoke for Mr. Parrot, head of sanitation district, Las Vegas, who would like to submit a written statement on SB377 and SB378.

ROWLAND OAKES submitted a copy of a newspaper article quoting Wendell McCurry, entered in the record, attached as EXHIBIT "E", and a copy of a letter addressed to Thomas J. Milligan, city manager, Sparks, from Ernie Gregory, entered in record, attached as EXHIBIT "F".

SENATOR GLASER said he felt SB377 was in flagrant violation of the Clean Water Act and would put the Governor in an untenable position.

Senate
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Senator Neal moved SB377 be indefinitely postponed.
Senator Glaser seconded the motion.
The motion passed unanimously.

SB 378 Adds variance and appeals procedures to Nevada Water
Pollution Control Law.

SENATOR WILLIAM RAGGIO, introducer of SB378, said this bill is needed apparently in some instances to provide those persons who are under the provisions of the Nevada Water Pollution Control Law, and who have been issued permits, some mechanism or some procedure for variance and for appeal from an adverse determination.

MICHAEL SULLIVAN, representing Sierra Pacific Power Co., serving as that company's environmental specialist, testified in support of SB378. He read a prepared statement entered in the record, attached EXHIBIT "G".

Chairman Sheerin inquired if Sierra Pacific was trying to put up a plant somewhere that they were having trouble with. To this, Mr. Sullivan replied, "No, we are not considering, no. The Valmy plant has no discharges to the Humboldt River which is the closest water body."

MATTHEW H. FEIERTAG, deputy attorney general, representing Environmental Protection Service, read a prepared statement in opposition to SB378, entered in the record, attached as EXHIBIT "H".

ERNIE GREGORY requested a fiscal note be attached to the bill as travel expenses are involved in hearings throughout the state on the permit program which has not been budgeted.

Senator Echols moved for indefinite postponement
Senator Neal seconded the motion.
The motion passed unanimously.

SB 108 Authorizes Tahoe regional planning agency to maintain
reserves of real property and to negotiate for exchanges.

KENNETH C. ROLLSTON, member of law firm Owen and Rollston, representing Tahoe Regional Planning Agency, testified in opposition to SB108. He said the language basically requires TRPA to 1) cooperate to help affecuate land exchanges between private owners and Federal Government, and 2) TRPA is to participate in negotiations of federal agencies to acquire private property and 3) TRPA is to maintain essentially a shopping list of property that is available for an exchange. TRPA, as the present Compact reads, is a planning and regulatory type agency dealing

with land use. There are several land swap cases that have been pending for a long period of time with federal agencies, Forest Service, etc., and there is a significant problem, but Mr. Rollston questioned whether TRPA is the vehicle to deal with it. He framed that question in three respects: 1) The lawsuits---if in fact this became a part of the Compact and a judgment were rendered against TRPA and Nevada, who is going to fund it. 2) Is it necessary to have this particular provision in the Compact. There presently are Forest Service, Bureau of Land Management, and state agencies who are empowered to talk about acquisitions. 3) If it is necessary, is TRPA the one to do it. Mr. Rollston mentioned legislation that has been adopted by California which is a proposed Compact with Nevada called the Tahoe Regional Conservancy which would be precisely the concerns SB108 deals with. It has been enacted, but is not in effect because it is a Compact with Nevada.

CHAIRMAN SHEERIN voiced his opinion the TRPA is the cause of inverse condemnation, nonetheless that what they have done is unfair to the landowners who live within the Basin. If TRPA has caused this unfairness why should it be someone else's responsibility to undo it, asked Chairman Sheerin.

Mr. Rollston recognized the regional planning and zoning activities that TRPA has undertaken have caused people a lot of problems. He said 1) TRPA has attempted, to the extent that is within their powers, to do everything possible to alleviate that situation, and 2) TRPA has attempted, to the degree that it can, within its limitations, deal with that situation.

Chairman Sheerin said he wants somebody to have the duty and responsibility of assisting with land exchanges.

Chairman Sheerin introduced an opinion from Legislative Counsel concerning immunity of state from liability for participation of TRPA in land exchanges, entered in record, attached EXHIBIT "I".

RAY KNISLEY, long-time resident in the Tahoe Basin, testified he is heartily in favor of the sentiment in back of SB108, but that he does not believe BLM is going to give up any land. Property can be exchanged with the Forest Service, but it cannot be done with multiple agencies. He said it is a hopeless task until such time as the jurisdiction is taken from the two federal agencies and placed in one federal agency.

JOHN MEDER, formerly with State Land Office, said he had tried to set up some procedures with the Forest Service and Bureau of Land Management and basically discovered it to be an extremely confusing and cumbersome process. The

conclusion they arrived at was the individual must negotiate exchanges on their own.

GARRY STONE, chairman Douglas County Commission, testified about the people in the Lake Tahoe Basin. He said TRPA said it is not their responsibility to take care of the people in the Basin; the Nevada officials say it is not their responsibility. When one deals with these people on a day to day basis and see what downzoning has done to them after they have invested their life savings in land up there, whose responsibility is it.

In reply to Senator Dodge's question if individuals on their own can seek land exchange, John Meder replied that is the procedure that is normally followed. A federal agency that is going to accept the land has to have some reason for accepting it and they are not going to pick up a single parcel surrounded by development. It normally has to be contiguous with other federal land which is a limiting factor. He said the only way to solve the Lake Tahoe problem is to provide some money some place and buy these people out.

KENNETH ROLLSTON, addressing the letter dated October 27, 1976 written by Legislative Counsel (EXHIBIT "I") concerning liability for inverse condemnation, stated if SB108 becomes a part of the Compact, he will argue that does not constitute inverse condemnation. He said this is an area of the law that is fluid and once the requirements are combined (acquisition and zoning) it is much more logical to say it was zoned so it could be acquired. Referring specifically to the letter, it says TRPA might not be liable, but the state will be. TRPA does not have any funding, then the state will have to pick up the tabs for any judgments.

Senator Neal moved for indefinite postponement.

Senator Echols seconded the motion.

Aye: Senator Echols
Senator Neal
Senator Glaser
Senator Dodge

Nay: Senator Sheerin

Motion carried.

SB 326 Provides additional energy conservation standards for buildings and allows delegation of certain enforcement powers.

This bill was heard by the Committee Monday, March 28, 1977.
Chairman Sheerin reviewed the amendments.

Senator Glaser moved amend and "DO PASS."

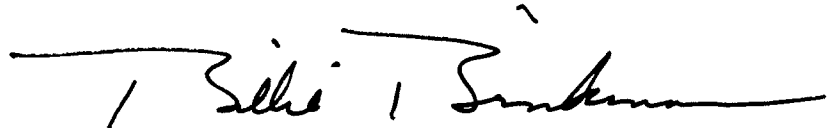
Senator Dodge seconded the motion.

The motion passed unanimously.

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There being no further business, the meeting was adjourned at 6 p.m.

Respectfully submitted,



Committee Secretary

APPROVED:



Gary A. Sheerin, Chairman

GUEST REGISTER

SENATE NATURAL RESOURCES COMMITTEE

Those wishing to testify should identify themselves before giving testimony.....

DATE: March 30, 1977

NAME	Do you wish to testify	Bill No.	REPRESENTING
Fred Welden	YES	212	Div. State Lands
Bob Erickson	YES	212	- - -
ADD MILLARD	YES	212	- - -
Ernie Gregory	Yes	377 378	state Envr. Prot. Services
PAUL REIMER	YES	SB 377	COMM. FOR CLEAN WATER.
Arthur E Molin	Yes	377	City of Reno
GARRY D. STONE	NO	108	Douglas County
Wm. Shocum	NO	108	" "
Kenneth C. Pollster	yes	108	T R P A
JOHN MEDER	NO	SB 266 267 108	STATE PARKS
ROSLAND OAKES	YES	377	ASSOC GEN CONTRACTORS
Bruce Bannum	NO	SB 377	Harvey's wagon wheel
Donald E. Coffey	NO	SB 377	CARPENTERS LOCAL #971
Leo J. Union	NO	SB 377	Carpenter Local #971
Ken Boyer	NO		ENVIR. COUNCIL
JOHN MADOLE	NO	SB 377	ASSOC. GEN. CONTR. 187

GUEST REGISTER

SENATE NATURAL RESOURCES COMMITTEE

Those wishing to testify should identify themselves before giving testimony.....

DATE: March 30, 1977

NAME	Do you wish to testify	Bill No.	REPRESENTING
Stuart Elliott			Sparks
Doug Fletcher			Sierra Pacific Power Co.
Mike Sullivan	Yes	SB 378	✓ ✓ ✓ ✓
Dave Young	Yes	377	OPER. ENG. #3
Paul W. Frenton			
JAN MILLIGAN	No	377	City of Sparks
Paul B. Wise	No	377	Oper. Engr #3
Derek Cameron	no	377	Walker-Baudwin Const Co. Inc.
Lou Mair	no		Oper. Engr. #3
Richard McCrain	No	377	Krump Construction, Inc.
Wendell McCurry	No	377	EPS
John Welsh	NO	377	EPS
HOWARD GILBERT	No		UNION
Walter Mersutian	2	S. B. 245-267	Hansen Estate Hansen's Club
Blanche M. Gregory			

*Address
Miller*

Exhibit "A"

SUGGESTIONS CONCERNING
LAND USE CONFLICT RESOLUTION - SB 212

If a land use planning conflict between two or more local governments cannot be resolved at the local level, one or more of the involved governments may request that the State Land Use Planning Agency study and assist in resolving the conflict. The Administrator shall, upon receiving such a request, convene a meeting of all affected entities and provide technical assistance and advice in resolving the conflict. If, after subsequent meetings and a reasonable amount of time, the affected local governments cannot resolve the conflict, the matter shall be referred to the State Land Use Planning Advisory Council for a decision.

State Land Use Planning Advisory Council - Executive Council

The State Land Use Planning Advisory Council shall, from among its members, appoint four members to an Executive Council. The Administrator shall serve as the fifth and final voting member of the Executive Council. The State Land Use Planning Advisory Council shall select, from its own members, alternates to the Executive Council to serve in the event of absences or when the local government represented by an Executive Council member is a party in a land use planning conflict under deliberation. The purpose of the Executive Council shall be to decide land use planning conflicts between local governments.

The Executive Council may direct the staff of the State Land Use Planning Agency to assemble information and prepare studies, including alternate courses of action, as may be necessary. The Executive Council, after conducting public hearings in the affected areas, shall prescribe the land use plan and land use regulations to be used in the area of conflict. All such plans and regulations shall supercede and replace conflicting local plans and regulations. Implementation and enforcement of prescribed land use plans and land use regulations shall be by the involved local governments. In the case of noncompliance with the plan or regulations in the area of land use conflict, any affected local government may bring action in a court of competent jurisdiction to insure compliance or to obtain injunctive relief from noncompliance.

FISCAL NOTE: One additional staff person for State Land Use Planning Agency.
Travel expenses for members of the Executive Council and staff.

Prepared by: Nevada State Land Use Planning Agency
Date: March 30, 1977

Arthur Mulford

Exhibit "B"

TESTIMONY BY CITY OF RENO TO
SENATE COMMITTEE ON
NATURAL RESOURCES
REGARDING SB 377

MARCH 30, 1977

I wish to speak in support of Senate Bill No. 377. Actually, I wish to speak in support of what I believe is intended in Senate Bill No. 377. I believe the intent is to allow a continuation of an existing National Pollutant Discharge Elimination System (NPDES) permit for a period of three years without an increase in effluent limitation stringency or capacity restriction if (1) the discharger has been meeting requirements but will shortly not be meeting requirements, due to population growth and resultant increase in flow and (2) the discharger has attempted to expand the treatment capacity but has been unable to, because of Federal or State requirements.

I believe there is some support for this action in the Federal Water Pollution Control Act Amendments of 1972 - Public Law 92-500. Specifically, in Section 306 (d), the Federal law prohibits the imposition of more stringent regulations until a certain period of time has passed. The Reno-Sparks plant construction did not occur in the required time for this particular section to apply, but I do believe it expresses the intent of the United States Congress in this matter.

I would also like to refer to Section 301 (b)(2)(B) of the same Federal law, which requires that by July 1, 1983, the effluent limitations shall be the application of the best practicable waste treatment technology.

At the present time, the Environmental Protection Agency is performing a study of the effect of our discharge on the Truckee River.

Very shortly, the consultants for the Cities of Reno and

Sparks will begin a Water Quality Study of the effluent and the Truckee River which is to result in the determination of the dimensions for a proper Zone of Mixing and water quality parameters to adequately protect the down-stream beneficial uses.

From these studies we will be able to determine what are reasonable effluent limitations that can be met by the application of the best, most practicable waste treatment technology. There is time available for the study, resultant design, and construction to meet the July 1, 1983, date specified in the Federal law.

The problem we presently face, however, is that over two years ago we started on the long road toward capacity increase which would have provided adequate capacity when required. we were "tripped up," however by the process known as the Environmental Impact Statement. Now, by the time we complete our Water Quality Studies, update the Facilities Plan, and complete the Environmental Impact Statement process, our plant will be overloaded and in violation.

It seems fair and reasonable to continue the present Discharge Permit, which was originally issued by the EPA, with allowance provided for reasonable growth. To establish a new Permit at this time with more stringent discharge requirements and no Zone of Mixing has the potential danger of locking us into effluent limitation requirements that are not based upon scientific fact, thus forcing us to request a lowering of the standard, which we all know is so difficult to obtain.

I would suggest that with the existing Permit extended, there would then be the justification to proceed with design and construction of required increase in capacity to the 40 million gallons per day specified in the existing Discharge Permit issued by the EPA and recommended by the planning prepared for the Washoe Council of Governments. Then, upon completion of the Water Quality Study, the advanced treatment required could proceed. Thus we solve the dual problem of needed capacity immediately and best practicable treatment in 1983.

I would like to state that I worked for ten years with the EPA and its predecessor agencies in the same Construction Grant program that we are concerned with today. I became very familiar with the workings of the EPA and also became well acquainted with the State of Nevada officials in the program. It is my opinion it is vitally important to the State of Nevada to maintain a strong EPS. If the EPS is not a strong agency, the EPA may take over. It is far more desirable to deal with Carson City than San Francisco. One of my duties at the EPA was to begin the development of a nationwide program to transfer the responsibilities of the grant program from the Federal level to the State level, and I am convinced the program is far better when administered at the State level.

I have developed a program for the upgrading and expansion of the Reno-Sparks Joint Water Pollution Control Plant which I feel is reasonable, and which should be acceptable to both EPS and EPA. I feel a cooperative approach to our common problem is the most desirable.

Toward this end, I suggest Senate Bill 377 be rewritten

Delete Line 1 - Substitute:

Section 1, NRS 445.227 is hereby amended to
add the following at the end of the Section:

Delete Lines 2 through 8

(Make changes)

provided;

1. The permit holder has satisfied the permit requirements in the past.
2. The permit holder has made efforts to upgrade and increase the treatment capability
3. The permit holder is being delayed by State and/or Federal requirements
4. The permit holder does have a construction program and time schedule acceptable to the Director which will satisfy the time requirements of Section 301 (b)(2)(B) of Public Law 92-500

Page two of SB 377 should be deleted or rewritten as required.

(Reread the suggested SB 377)

SENATE BILL NO. 377—SENATOR RAGGIO

MARCH 22, 1977

Referred to Committee on Natural Resources

SUMMARY—Empowers governor in emergency to reduce limitations on effluent into waters. (BDR 40-1833)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to water pollution control; empowering the governor in emergencies to reduce or waive limitations on effluent; 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 445.251 is hereby amended to read as follows:

- 1 445.251 [IF] 1. Except as otherwise provided in subsection 2, if
2 more stringent limitations are needed, including those necessary to meet
3 water quality standards, treatment standards or schedules of compliance
4 established pursuant to the laws of this state or any other federal law
5 or regulation, or are required to implement any applicable water quality
6 standard established by the commission pursuant to NRS 445.131 to
7 445.354, inclusive, such limitations shall be established and enforced.
8
9 2. When the governor finds that the health, welfare and safety of
10 the citizens of a municipality are impaired because the governing body
11 of the municipality has encountered difficulties in meeting the effluent
12 limitations established pursuant to the provisions of subsection 1 because
13 of delays caused by action or lack of action by the state or the Federal
14 Government or the inadequacy of existing treatment works, and the
15 governing body is attempting to comply with the limitations either by
16 adding to the capacity of existing treatment works or has taken prelimi-
17 nary action with respect to such addition or is in the process of utilizing
18 acceptable methods of meeting the effluent limitations established pur-
19 suant to the provisions of subsection 1, he may by emergency executive
20 order to be effective for a period not longer than 3 years modify the
21 effluent limitations established pursuant to the provisions of subsection
22 1 by:

1 (a) Declaring that the effluent limitations established by the Environ-
2 mental Protection Agency shall be the effluent limitations for such treat-
3 ment works;

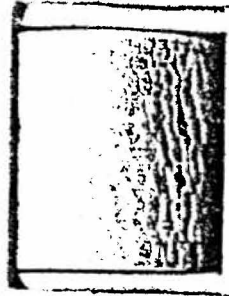
4 (b) If the treatment works discharges into a stream of water, waiving
5 effluent limitations from the requirement to measure at the point of dis-
6 charge from the treatment works to a mixing zone not to exceed a dis-
7 tance of 5 miles downstream from the treatment works; or

8 (c) Reducing the limitations as provided in paragraph (a) and changing
9 the place of measurement as provided in paragraph (b).

10 SEC. 2. NRS 445.344 is hereby amended to read as follows:

11 445.344 [The] Except as the governor is empowered to act in cer-
12 tain emergencies, the department has the final authority in the administra-
13 tion of water pollution prevention, abatement and control. No other
14 department or agency of the state and no municipal corporation, county or
15 other political subdivision having jurisdiction over water pollution preven-
16 tion, abatement and control may permit, under authority of such jurisdic-
17 tion, the discharge of wastes into the waters of the state which would result
18 in the pollution of any of such waters in excess of any water quality stand-
19 ard promulgated by the commission.

20 SEC. 3. This act shall become effective upon passage and approval.



Ernie Gregory

Exhibit "C"

DEPARTMENT OF HUMAN RESOURCES
ENVIRONMENTAL PROTECTION SERVICES

TESTIMONY ON S.B. 377
MARCH 30, 1977

MY NAME IS ERNIE GREGORY, ACTING ADMINISTRATOR, ENVIRONMENTAL PROTECTION SERVICES, DEPARTMENT OF HUMAN RESOURCES, 201 SOUTH FALL STREET, CARSON CITY, NEVADA.

I BELIEVE THIS PROPOSED LEGISLATION PLACES THE GOVERNOR IN AN UNTENABLE POSITION, AND JEOPARDIZES STATE ADMINISTRATION OF THE WATER POLLUTION PROGRAM.

WHILE THE BILL WOULD SEEM TO CONSIDER A STATE AND LOCAL ISSUE, WITH THE CHAIRMAN'S PERMISSION I WOULD LIKE TO PRESENT BACKGROUND INFORMATION ON THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS RELATIONSHIP TO S.B. 377 AS THE ISSUE IS OF LOCAL, STATE, AND FEDERAL IMPORTANCE. ALSO, THE STATE IS CONCERNED OVER ACCUSATIONS THAT WE HAVE MISREPRESENTED THE PROVISIONS OF THE FEDERAL ACT.

THE BASIC FWPCA WAS ENACTED IN 1956, EXHIBITS I AND II. THE MOST SIGNIFICANT FEATURE OF THAT ACT WAS THE ESTABLISHMENT OF A GRANT PROGRAM FOR THE CONSTRUCTION OF SEWAGE TREATMENT WORKS. THE BASIC ACT WAS AMENDED FROM TIME TO TIME WITH ONE OF THE MORE PERTINENT AMENDMENTS BEING IN 1965 WHEN A PROVISION REQUIRING THE STATES TO SET INTERSTATE WATER QUALITY STANDARDS AND TO ADOPT A PLAN OF IMPLEMENTATION WAS ADDED, EXHIBIT III.

NEVADA DID, AFTER EXTENSIVE PUBLIC HEARINGS, ADOPT WATER QUALITY STANDARDS ON ALL MAJOR INTERSTATE STREAMS AND A PLAN OF IMPLEMENTATION TO ACHIEVE THE GOAL OF THE ACT, "TO ENHANCE THE QUALITY AND VALUE OF OUR WATER RESOURCES." THE PROCESS INVOLVED A DETERMINATION

OF THE THEN PRESENT AND POTENTIAL FUTURE USES OF THE STREAMS, EXHIBIT IV. A REVIEW OF ALL AVAILABLE WATER QUALITY INFORMATION ON THESE STREAMS AND SELECTION OF NUMERICAL WATER QUALITY STANDARDS BASED ON THE HISTORICAL DATA. A TYPICAL SET OF WATER QUALITY STANDARDS IS SHOWN IN EXHIBIT V (EAST FORK OWYHEE).

ON EACH STREAM FOR WHICH WATER QUALITY STANDARDS WERE ESTABLISHED, THERE WERE ALSO SELECTED CONTROL POINTS ABOVE AND BELOW EXISTING AND POTENTIAL SOURCES OF POLLUTION TO ENABLE US TO DETERMINE TO WHAT EXTENT THE WATER WAS BEING DEGRADED AS A RESULT OF LAND AND COMMERCIAL DEVELOPMENT AND OTHER ACTIVITIES ABOVE THESE CONTROL POINTS, WITH THE OBJECTIVE BEING TO IMPLEMENT CONTROL OF POLLUTION SOURCES TO PROTECT DOWNSTREAM BENEFICIAL USES.

EXHIBIT VI SHOWS THE CONTROL POINTS FOR THE TRUCKEE RIVER, WITH SOME SELECTED PARAMETERS. THE STANDARDS AT THE STATE LINE (FARAD) ARE IDENTICAL TO THOSE ADOPTED BY THE STATE OF CALIFORNIA AND CONTROL POLLUTION IN CALIFORNIA. THE CONTROL POINT ABOVE RENO AT IDLEWILD WILL SHOW ANY DEGRADATION RESULTING FROM DEVELOPMENT UPSTREAM FROM RENO AND THE CONTROL POINT AT BOYNTON WILL SHOW DEGRADATION OF THE STREAM THROUGH RENO AND SPARKS. THE CONTROL POINT AT LAGOMARSINO WILL INDICATE THE EFFECTS OF THE RENO-SPARKS SEWAGE TREATMENT PLANT AND IRRIGATION RETURNS FROM TRUCKEE MEADOWS WHILE THE CERESOLA STATION GIVES AN INDICATION OF THE STREAM'S ABILITY TO RECOVER AND IDENTIFIES OTHER DOWNSTREAM SOURCES OF POLLUTION.

AS A POINT OF INFORMATION, WE WERE ALSO REQUIRED TO INDICATE THOSE SEWAGE TREATMENT PROJECTS BELIEVED NECESSARY TO MAINTAIN THE WATER QUALITY STANDARDS AND A TIME SCHEDULE FOR THESE PROJECTS, EXHIBIT VII.

THIS SCHEDULE BECAME A PORTION OF THE IMPLEMENTATION PLAN.

THE INTERSTATE WATER QUALITY STANDARDS AND PLAN OF IMPLEMENTATION WERE APPROVED BY THE FEDERAL GOVERNMENT WHICH, IN EFFECT, MAKES THEM FEDERAL STANDARDS AND PLAN.

THE 1976 WATER QUALITY STANDARDS WERE BASED ON HISTORICAL DATA AND A MINIMUM OF OUR OWN MONITORING INFORMATION.

SINCE THE WATER QUALITY STANDARDS WERE ESTABLISHED WE HAVE MAINTAINED A CONTINUOUS MONITORING PROGRAM AT THE CONTROL POINTS TO DETERMINE THE VALIDITY OF THE ORIGINAL NUMERIC CRITERIA AND MAKE ADJUSTMENTS AS REQUIRED BY THE FWPCA.

THE TEN YEARS OF MONITORING AT THE CONTROL POINTS ON THE STREAMS HAS SHOWN THAT THE 1967 STANDARDS ARE WITHIN THE BALL PARK AND NOT UNREASONABLE. EXHIBITS VIII, IX AND X SHOW THE DATA RESULTING FROM THE MONITORING PROGRAM FOR CERTAIN WATER QUALITY PARAMETERS AND THE WATER QUALITY STANDARD SET FOR THAT PARAMETER.

IN 1972, DURING THE PERIOD OF ULTRACONSERVATIONISM, THERE WERE SIGNIFICANT AMENDMENTS TO THE FWPCA IF YOU CAN CALL A COMPLETE REWRITE AMENDMENTS, EXHIBIT I. BECAUSE IT WAS BELIEVED THE STATES HAD NOT IMPLEMENTED THE PREVIOUS ACT IN GOOD FAITH, THE NEW AMENDMENTS MORE CLEARLY DEFINED THE GOALS AND OBJECTIVES OF THE WATER POLLUTION CONTROL PROGRAM, EXHIBIT XI, REITERATING THE ROLES OF THE STATES.

SECTION 303(a) (1), OF THE 1972 AMENDMENTS TO THE FWPCA REAFFIRMED THE VALIDITY OF THE WATER QUALITY STANDARDS PREVIOUSLY ADOPTED BY THE STATE AND APPROVED BY THE FEDERAL GOVERNMENT, EXHIBIT XII.

THERE ARE SEVERAL SIGNIFICANT PROVISIONS IN THE 1972 FWPCA, BUT THE TWO GERMANE TO THE ISSUE BEFORE YOU ARE SECTIONS 402 AND 301.

SECTION 402(a) (1), EXHIBIT XIII, REFERRED TO AS THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES), REQUIRES A PERMIT FOR A WASTE DISCHARGE TO ANY NAVIGABLE WATER. A PERMIT ESTABLISHES

STANDARDS OR THE EFFLUENT LIMITATIONS FOR A DISCHARGE. THIS SECTION FURTHER PROVIDES FOR ADMINISTRATION OF THE PERMIT PROGRAM BY A STATE WHERE THERE IS ADEQUATE AUTHORITY TO IMPLEMENT THE PROGRAM. NEVADA RECEIVED THE PERMIT AUTHORITY IN SEPTEMBER OF 1975. HOWEVER, ANY PERMIT ISSUED BY THE STATE MUST BE REVIEWED AND APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

IGNORING FOR THE PRESENT THE 1985 GOAL OF ACHIEVING NO DISCHARGE OF POLLUTANTS, SECTION 301(b) (1) (B), EXHIBIT XIV, REQUIRES THE DISCHARGES FROM ALL TREATMENT PLANTS NATIONWIDE MEET SECONDARY TREATMENT BASED ON STANDARDS DEFINED BY THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY (EPA). IT IS IMPORTANT HERE TO NOTICE THE WORD OR AT THE END OF THIS SECTION AS IT APPEARS TO BE THE CRUX OF S.B. 377. EXHIBIT XV SHOWS THE EFFLUENT LIMITATIONS DEFINED BY THE ADMINISTRATOR AS SECONDARY TREATMENT AND ALSO SHOWS THE EFFLUENT LIMITATIONS SET FOR THE RENO-SPARKS SEWAGE TREATMENT PLANT BY THE 1975 U.S. EPA ISSUED PERMIT REQUIRED UNDER SECTION 402 OF THE ACT. /

THE STATE ENVIRONMENTAL PROTECTION SERVICES HAS BEEN ACCUSED OR REQUIRING MORE STRINGENT EFFLUENT LIMITATIONS ON THE RENO-SPARKS PLANT THAN IS REQUIRED BY THE U.S. EPA. THIS IS REFLECTED IN S.B. 377 ON PAGE 2, line 1, FOR IT PROVIDES THAT THE GOVERNOR MAY BY EXECUTIVE ORDER MODIFY THE EFFLUENT LIMITATIONS ESTABLISHED BY THE STATE ENVIRONMENTAL PROTECTION SERVICES BY:

"(a) DECLARING THAT THE EFFLUENT LIMITATIONS ESTABLISHED BY THE ENVIRONMENTAL PROTECTION AGENCY SHALL BE THE EFFLUENT LIMITATIONS FOR SUCH TREATMENT WORKS."

WHILE THERE IS SOME CONFUSION IN THE TERMINOLOGY IN THE BILL, THE INTENT IS FAIRLY CLEAR. A TREATMENT PLANT, OR THE RENO-SPARKS PLANT SPECIFICALLY, ONLY HAS TO COMPLY IWTH THE PROVISIONS OF

SECTION 301 (b) (1) (B) OF THE FEDERAL WATER POLLUTION CONTROL ACT, OR MEET SECONDARY TREATMENT STANDARDS, 85% REMOVAL.

THIS PROVISION IS IN CONFLICT WITH THE FWPCA. SECTION 301(b)(1)(C) OF THE ACT, EXHIBIT XIV, WHICH REQUIRES IMPOSITION OF ANY MORE STRINGENT LIMITATIONS REQUIRED TO IMPLEMENT ANY APPLICABLE WATER QUALITY STANDARD BY JULY 1, 1977.

IT IS EVIDENT FROM PREVIOUS STATE AND FEDERAL ACTIONS IN ESTABLISHING WATER QUALITY STANDARDS FOR THE TRUCKEE RIVER THAT THE SECOND PROVISION, SECTION 301(b)(1)(C) OF THE FWPCA, IS APPLICABLE TO THE DISCHARGE FROM THE RENO-SPARKS TREATMENT PLANT.

EXHIBIT XV SHOWS THE PERMIT PARAMETERS OR EFFLUENT LIMITATIONS ESTABLISHED FOR THE RENO-SPARKS PLANT AND FOR COMPARATIVE PURPOSES THE WATER QUALITY STANDARDS AT THE LAGOMARSINO CONTROL POINT. WE BELIEVE THE EFFLUENT LIMITATIONS MEET THE REQUIREMENTS OF SECTION 301(b)(1)(C) AND ARE AS SUCH THE EFFLUENT LIMITATIONS ESTABLISHED BY THE ENVIRONMENTAL PROTECTION AGENCY FOR THE RENO-SPARKS PLANT.

IT SHOULD BE EMPHASIZED HERE, REGARDLESS OF WHO ISSUES THE NEW PERMIT, THE STATE ENVIRONMENTAL SERVICES OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, THESE EFFLUENT LIMITATIONS IN THE NEW PERMIT WILL BE THE SAME.

ON PAGE 2, LINE 4, S.B. 377 GIVES THE GOVERNOR FURTHER AUTHORITY BY EXECUTIVE ORDER TO EASE EFFLUENT LIMITATIONS BY:

"(b) IF THE TREATMENT WORKS DISCHARGES INTO A STREAM OF WATER, WAIVING EFFLUENT LIMITATIONS FROM THE REQUIREMENT TO MEASURE AT THE POINT OF DISCHARGE FROM THE TREATMENT WORKS TO A MIXING ZONE NOT TO EXCEED A DISTANCE OF 5 MILES DOWNSTREAM FROM THE TREATMENT WORKS; OR"

THIS PARTICULAR PROVISION IS IN DIRECT CONFLICT WITH SECTION 402 OF FWPCA, THE PERMIT SECTION, AS THE PERMIT CONDITIONS ARE ONLY

APPLICABLE AT THE END OF THE PIPE, AND IS ALSO IN CONFLICT WITH SECTION 303 AND SECTION 301(b)(1) ^C ~~(D)~~ BECAUSE, AS STATED BEFORE, THE STATE STANDARDS AT THE CONTROL POINTS BECAME FEDERAL STANDARDS ON THEIR ACCEPTANCE AND CANNOT BE CHANGED BY A UNILATERAL ACTION OF THE GOVERNOR, AN UNILATERAL ACTION BY THE GOVERNOR WOULD PLACE THE DISCHARGER IN VIOLATION OF THE FWPCA.

ON PAGE 2, LINE 8, S.B. 377 THE PROVISION, BY:

"(c) REDUCING THE LIMITATIONS AS PROVIDED IN PARAGRAPH (a) AND CHANGING THE PLACE OF MEASUREMENT AS PROVIDED IN PARAGRAPH (b)."

WOULD INDICATE THE GOVERNOR CAN THROW THE WHOLE FEDERAL ACT OUT THE WINDOW.

I BELIEVE THE INTENTIONS OF THE BILL ARE GOOD, BUT I WOULD SUBMIT THAT CONTRARY TO THE DECLARATION STARTING ON PAGE 1 AT LINE 14 OF S.B. 377, THE GOVERNING BODY FOR WHOM THE BILL IS DRAFTED HAS NOT ATTEMPTED TO COMPLY WITH THE EFFLUENT LIMITATIONS EITHER BY ADDING CAPACITY OR BEING IN THE PROCESS OF UTILIZING ACCEPTABLE METHODS TO MEET ESTABLISHED EFFLUENT LIMITATIONS.

I BELIEVE RATHER, THE TRACK RECORD OF THE GOVERNING BODY HAS BEEN ONE OF FOOT DRAGGING SINCE 1968 UNTIL THEY HAVE FOUND THEMSELVES IN A POSITION WHERE THE RULES OF THE GAME HAVE CHANGED BEFORE THEY REACHED THE FINISH LINE, AS WELL AS BEING IN A POSITION WHERE GROWTH IN THE RENO-SPARKS AREAS IS THREATENED BECAUSE OF THEIR INACTION.

IT HAS BEEN REPEATEDLY STATED BY THE LEGISLATORS DURING THIS SESSION THAT PROPOSED LEGISLATION SHOULD PUT THE DECISION MAKING AND CONTROLS AT THE LOCAL LEVEL BECAUSE LOCAL GOVERNMENT KNOWS WHAT THE PROBLEMS ARE. S.B. 377 CERTAINLY IS CONTRARY TO THIS POSTURE AND PROVIDES A COP-OUT FOR LOCAL GOVERNMENT TO RESOLVE A LOCAL ISSUE BY PUTTING THE ONUS ON THE STATE'S BACK.

THERE IS A SOLUTION TO THE DILEMMA IN WHICH THE RENO-SPARKS AREA FINDS ITSELF. WE HAVE INFORMED THEM OF THIS LEGAL MANEUVER ON SEVERAL OCCASIONS, BOTH VERBALLY AND IN WRITING. IT IS SIMILAR TO THE THREE YEAR STAY PROVISION OF S.B. 377 ON PAGE 1, LINE 20, THE DIFFERENCE BEING THEY WOULD BE UNDER LEGAL "ORDER" WHICH WOULD PROVIDE FOR AN IMPLEMENTATION SCHEDULE TO MEET THE REQUIREMENTS OF THE FEDERAL ACT. THE PART OF THIS PROCEDURE THAT WOULD PROBABLY BE UNPALATABLE TO THEM IS THAT THE IMPLEMENTATION SCHEDULE THEN BECOMES AN ENFORCEMENT TOOL. FAILURE TO COMPLY WITH THE IMPLEMENTATION SCHEDULE AT ANY POINT OR DATE ESTABLISHED TO ACHIEVE CERTAIN OBJECTIVES COULD RESULT IN LEGAL ACTION BY THE STATE OR THE U.S.E.P.A. THE U.S.E.P.A. HAS AGREED TO OUR SUGGESTED PROCEDURE.

THIS MAY BE AN EXTREME MEASURE, BUT ONE THAT IN THIS INSTANCE APPEARS TO BE WARRANTED.

WE BELIEVE S.B. 377 IS IN DIRECT CONFLICT WITH THE FWPCA AND UNENFORCEABLE.

I WOULD STATE AGAIN, ANY ACTION IN THE ADMINISTRATION OF THE FWPCA MUST MEET WITH THE APPROVAL OF THE U.S.E.P.A. AND ANY INTERPRETATION OF THE ACT MUST BE CONCURRED WITH BY THE FEDS.

S.B. 377 IS 180° OUT OF PHASE WITH THE PROPOSED INTENT AS, AT THIS TIME, THERE ARE NO PROVISIONS IN THE FEDERAL ACT FOR VARIANCES OR TIME EXTENSIONS.

FURTHER IF THIS BILL IS ENACTED YOU CAN BE ASSURED THE STATE WILL LOSE ADMINISTRATION OF THE NPDES PERMIT PROGRAM AND ALL FUTURE PERMITS WOULD BE ADMINISTERED BY THE U.S.E.P.A.

WE RECOMMEND S.B. 377 BE TABLED INDEFINITELY.

WATER POLLUTION CONTROL LEGISLATION

BASIC FEDERAL ACT	PL	84-660	1956
STATE WATER POLLUTION CONTROL REGULATIONS ADOPTED			1957
AMENDMENTS TO ACT	PL	87-88	1961
	PL	89-234	1965
	PL	91-224	1970
MAJOR AMENDMENTS	PL	92-500	1972
STATE DELEGATED NPDES PROGRAM			1975

"DECLARATION OF POLICY

"Section 1. (a) The purpose of this Act is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution.

"(b).....

"(c) Nothing in this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States."

Section 10 (c) (1) of Public Law 89-234 provided:

"(c) (1) If the Governor of a State or a State water pollution control agency, files, within one year after the date of enactment of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate waters or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Secretary determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof."

TABLE 2

EXISTING AND POTENTIAL WATER USES

INTERSTATE WATERS	USES							
	Municipal Water	Industrial Water Processing & Cooling	Recreation Body Contact	Fish and Wildlife	Esthetics	Wastewater Assimilation	Irrigation & Stock Watering	Power Generation
Lake Lahontan			P	P	P	P	P	P
Carson River (incl. both branches)	F	F		P	P	P	P	
Walker River (incl. both branches)	F		F	P	P	P	P	
Chiatovich Creek				P	P		P	
Leidy Creek				P	P		P	P
Colorado River and Lake Mead	P	P	P	P	P	P	P	P
Virgin River				P	P	P	P	
Snake Creek	F			P	P		P	
Beaver Dam Wash			P	P	P		P	
Big Goose Creek				P	P		P	
Salmon Falls Creek				P	P		P	
Jarbidge River				P	P			
East Fork Jarbidge River				P	P			
West Fork Bruneau River				P	P		P	
East Fork Owyhee River				P	P	P	P	
South Fork Owyhee River				P	P		P	
Smoke Creek					P		P	
Truckee River	P	P		P	P	P	P	P
Lake Tahoe	P		P	P	P		P	P
Leviathan Creek (Bryant Creek)				P	P		P	
Bronco Creek	P			P	P			
Gray Creek	P			P	P			
Desert Creek				P	P		P	
Sweetwater Creek				P	P		P	
Indian Creek				P	P		P	
Shoshone Creek				P	P			

PRESENT USE - P
 FUTURE USE - F

WATER QUALITY STANDARDS
South Fork Owyhee River

Control Point
At Petan Access Road

Temperature °C
May to October Single Value Not more than 23
November to April Single Value Not more than 14
Allowable temperature increase above ambient receiving water temperature:
May to October, none when water temperature is not less than 23°;
1° when water temperature is not more than 22°.
November to April, none when water temperature is not less than 14°;
1° when water temperature is not more than 13°.

pH Units
Annual Average Within range 7.8 - 8.5
Single Value Within range 7.5 - 8.7
ΔpH. ±0.5

Dissolved Oxygen - mg/l
Average (May through October). Not less than 9.0
Single Value Not less than 7.7

BOD - mg/l
Annual Average Not more than 3
Single Value Not more than 4

Chlorides - mg/l
Annual Average Not more than 10
Single Value Not more than 15

Phosphates (PO₄) - mg/l
Annual Average Not more than 0.20
Single Value Not more than 0.30

Nitrates (NO₃) - mg/l
Annual Average Not more than 1.0
Single Value Not more than 1.5

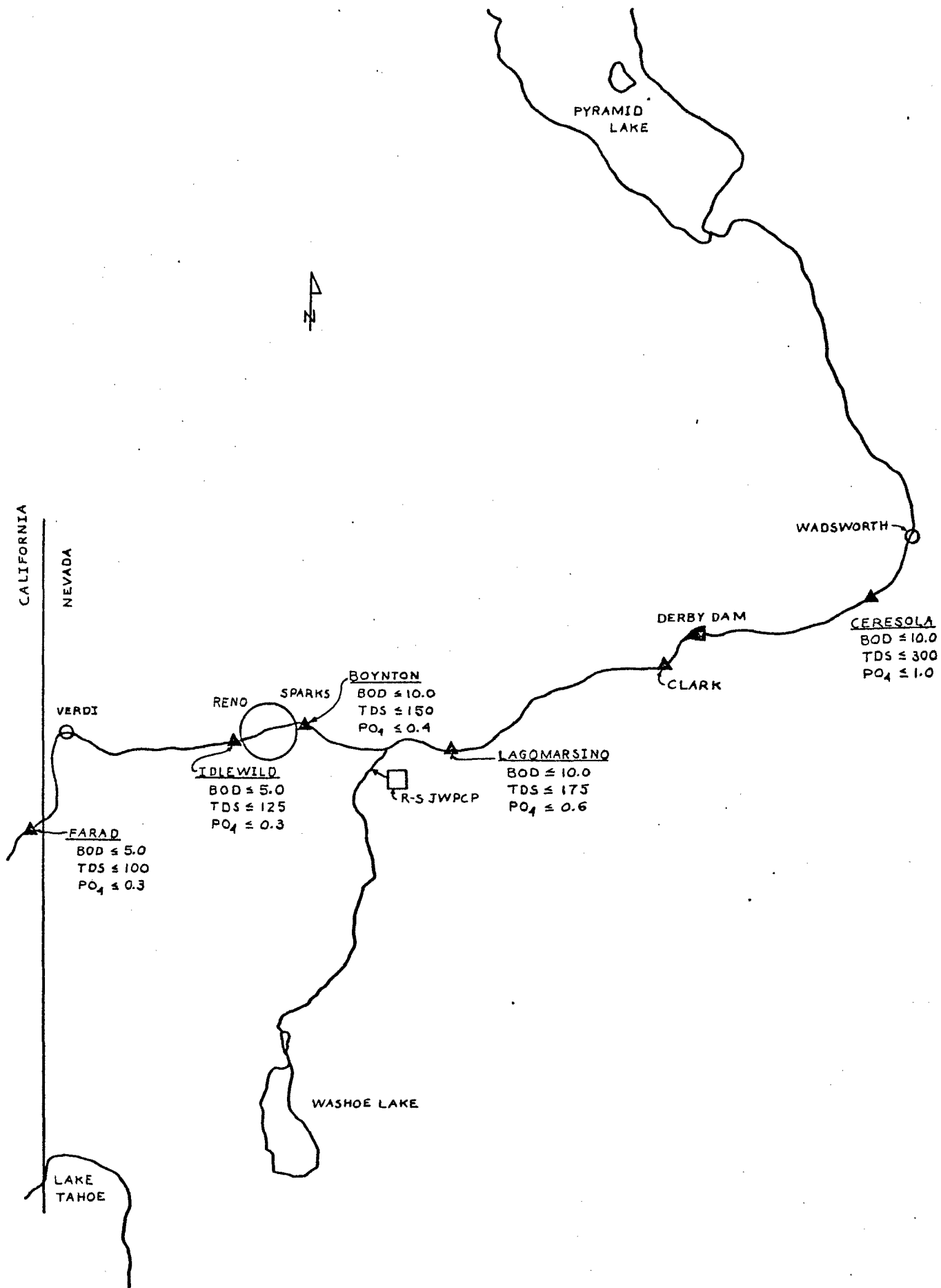
Total Dissolved Solids - mg/l
Annual Average Not more than 240
Single Value Not more than 280

Color - PT-CO
Annual Average Not more than 30
Single Value Not more than 45

Turbidity - JTU
Annual Average Not more than 10
Single Value Not more than 15

Fecal Coliform - The annual geometric mean shall not exceed 200 per 100 milliliters
nor shall the number of fecal coliform in a single sample exceed 400 per 100
milliliters.

Suspended Solids - mg/l
Single Value Not more than 25



IMPLEMENTATION PLAN
CONSTRUCTION SCHEDULE

Exhibit VII
-14-

ANTICIPATED FUTURE PROJECTS REQUIRED TO MAINTAIN WATER QUALITY

<u>Project</u>	<u>Starting Date*</u>	<u>Date in Operation</u>	<u>Status</u>
Douglas Co. Plant and Export System (Tahoe)	C FY 1967	FY 1968	F
Douglas County Collection System (Tahoe)	P FY 1968	FY 1970	F
Douglas County Plant Expansion (Tahoe)	D FY 1969	FY 1971	Not Needed
Incline Village Plant Expansion	P FY 1969	FY 1970	F
Incline Village Export System	P FY 1968	FY 1970	F
Carson City Plant Expansion	P FY 1968	FY 1970	F
Carson City South Interceptor	P FY 1971	FY 1974	D
Reno-Sparks Plant Expansion	D FY 1969	FY 1972	
Hill Street Interceptor	C FY 1969	FY 1969	F
North Truckee Interceptor	P FY 1974	FY 1976	Partial
Steamboat Interceptor	P FY 1969	FY 1973	Partial
South Truckee Interceptor	C FY 1968	FY 1968	F
Dickerson Road Interceptor	C FY 1969	FY 1969	P
Merdi to Dickerson Road Interceptor	P FY 1969	FY 1974	P
Bernley Treatment Plant and Collection System	P FY 1968	FY 1970	F
Clark County Sanitation District Plant Expansion	P FY 1968	FY 1971	F
Southern Clark County Plant and Collection System	P FY 1968	FY 1972	F
Merlington Treatment Plant	P FY 1969	FY 1971	F

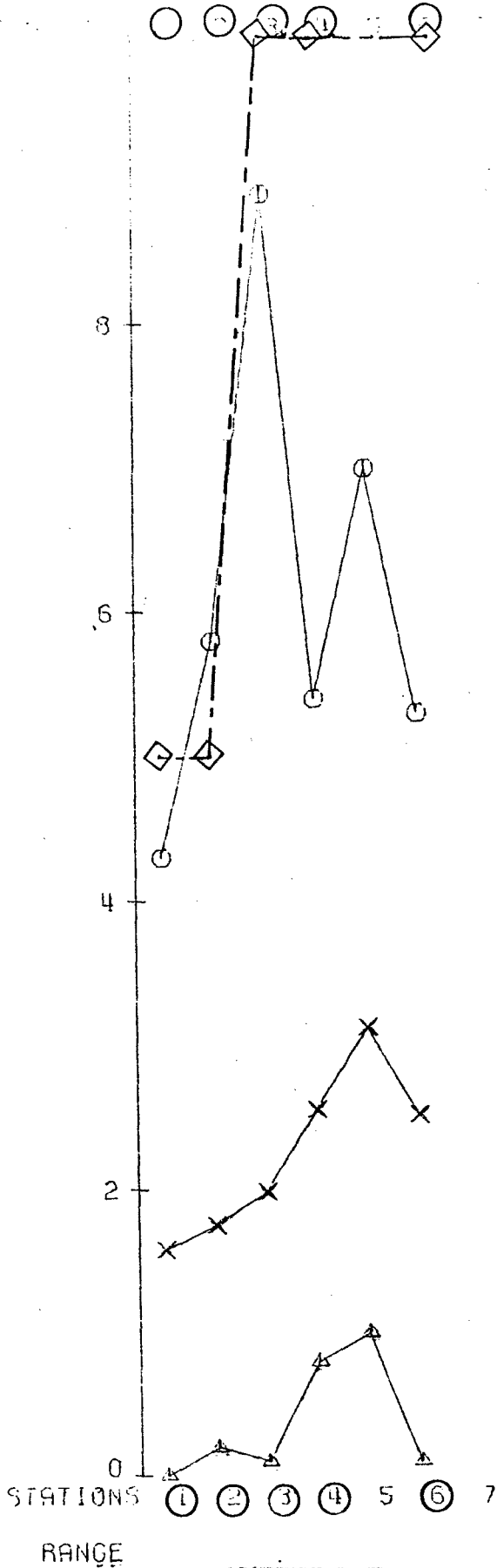
In general, the priority is according to the dates.

P - Planning
D - Design
C - Construction

F - Completed

Exhibit VIII

M G / L
S O D Y
M G / L



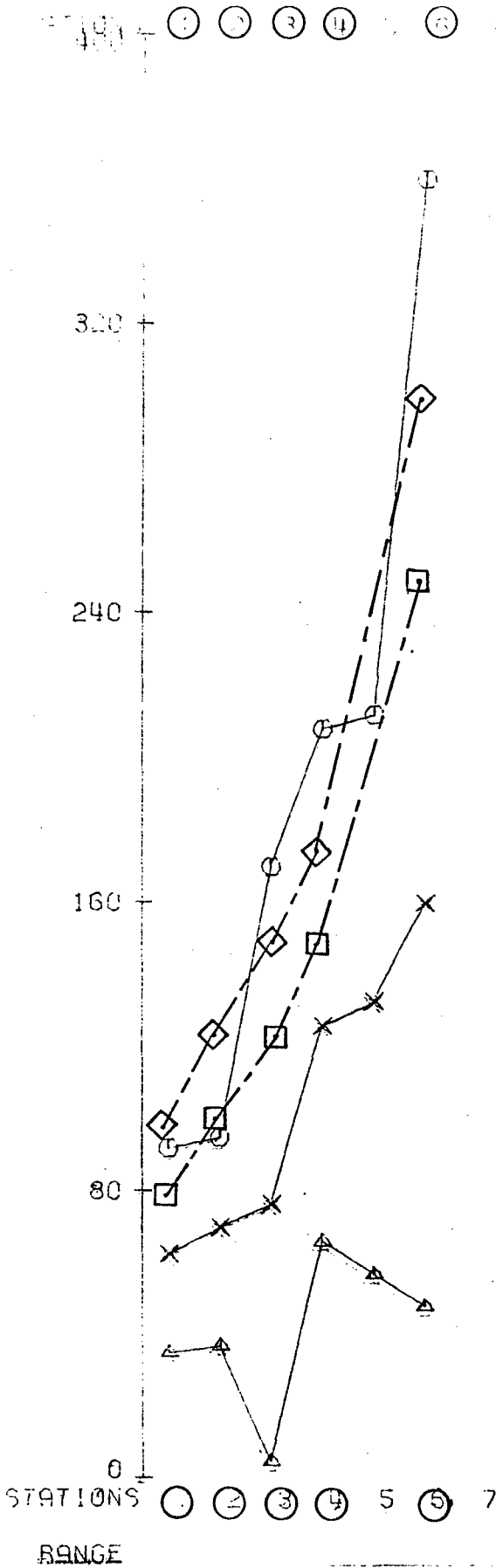
- - MAXIMUM
- × - AVERAGE
- △ - MINIMUM
- ◇ - SINGLE VALUE STANDARD

BIOCHEMICAL OXYGEN DEMAND
BOD

NOTES

Exhibit IX

STATION NUMBER



- - MAXIMUM
- × - AVERAGE
- △ - MINIMUM
- ◇ - SINGLE VALUE STANDARD
- - ANNUAL AVERAGE STANDARD

TOTAL DISSOLVED SOLIDS
TDS

RANGE

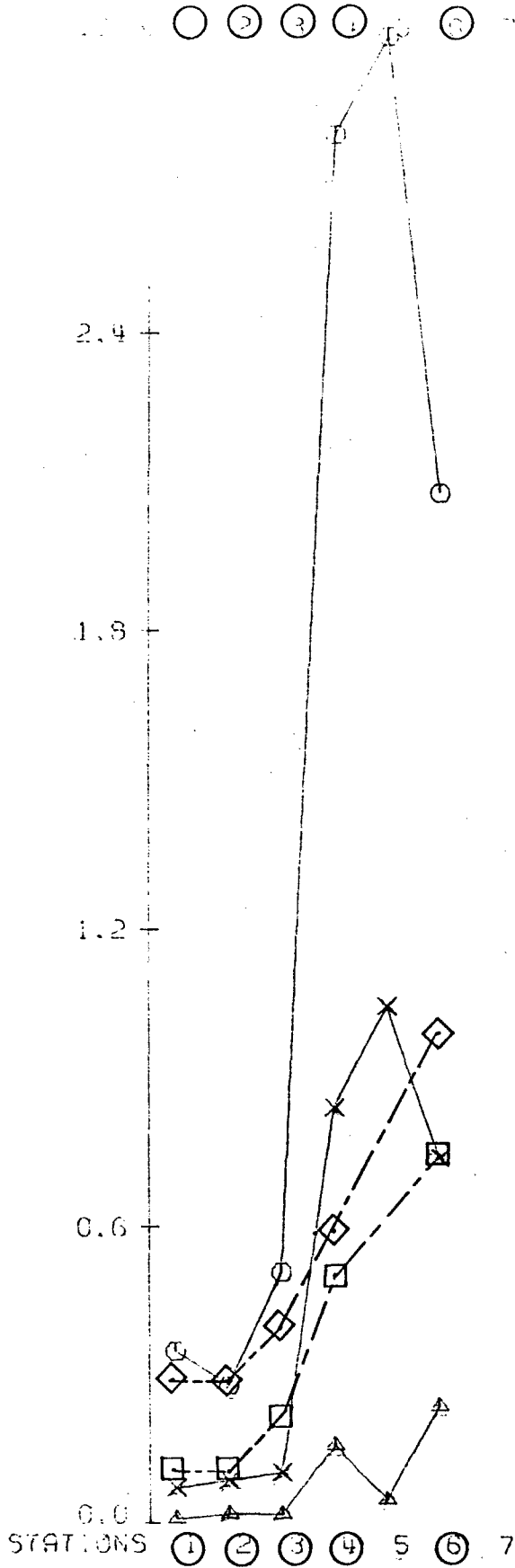
NOTES

11-75

MULTIPLE STATION PLOT (MSP)
FROM 570502 TO 750505

Exhibit X

1000
400
400
1000



PHOSPHATE - PO₄

NOTES

"DECLARATION OF GOALS AND POLICY

"Sec. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act -

"(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

"(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

"(4).....

"(5).....

"(6).....

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution."

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"Sec. 303. (a) (1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"Sec. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act."

"(b).....The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which -

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;"

"EFFLUENT LIMITATIONS

"Sec. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the objective of this Act there shall be achieved -

"(1) (A).....

"(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

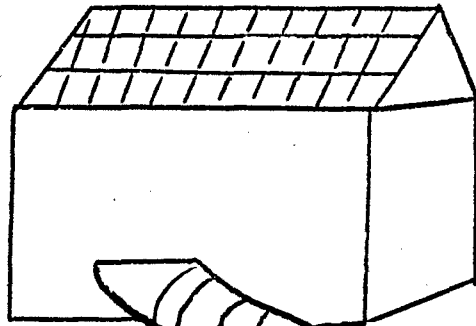
(Interpretation - By July 1, 1977 no sewage treatment plant in the United States may discharge a sewage effluent which does not meet at least secondary treatment standards. Secondary treatment is 85% removal of the pollutants.)

"(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 510) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

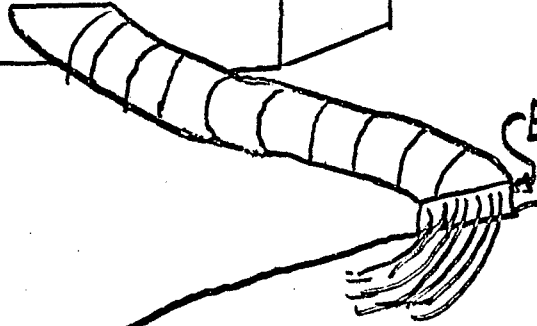
(Interpretation - By July 1, 1977 no sewage treatment plant may discharge a sewage effluent to a receiving stream on which water quality standards have been set, unless the quality of the discharge is the same as the quality of the water in the receiving stream. The numbers at the end of the pipe must be the same as those in the stream.)

COMPARISON OF STANDARDS WITH PERMIT LIMITATIONS

	<u>30-DAY AVERAGE</u>		<u>DAILY MAXIMUM</u>		<u>T-TSA EFFLUENT</u>
	<u>SECONDARY STANDARDS</u>	<u>EPA PERMIT LIMITATIONS</u>	<u>WATER QUALITY STANDARDS</u>	<u>STATE PERMIT LIMITATIONS</u>	
BOD ₅ , MG/L	30	10	10	10	<2
SUSPENDED SOLIDS, MG/L	30	20	10	10	<1
FECAL COLIFORM BACTERIA	200/100 ML	200/100 ML	2000/100 ML	2000/100 ML	--
PH	6-9	6.5 - 8.5	6.5 - 8.5	6.5 - 8.5	--
DISSOLVED OXYGEN, MG/L	NONE	>6	>6	>6	--
TOTAL DISSOLVED SOLIDS, MG/L	NONE	NONE	175	175	--
PHOSPHATES, MG/L	NONE	NONE	0.6	0.6	<0.3
NITRATES, MG/L	NONE	NONE	5	5	--
AMMONIA NITROGEN, MG/L	NONE	NONE	NONE	--	--
UNIONIZED AMMONIA, MG/L	NONE	NONE	NONE	0.03	--
TOTAL RESIDUAL CHLORINE, MG/L	NONE	NONE	NONE	0.01	--
TEMPERATURE °C	NONE	NONE	14-22	14-22	--



Sewage Treatment Plant



Effluent Limitations (End of pipe)

← Flow

Water Quality Stds.
(Applies in river)

Ernest Gregory

Exhibit "D"



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
100 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111

In Reply E-5-2
Refer to: 5-1-1

Mr. Ernest Gregory, Acting Administrator
for Environmental Protection Services
Nevada Department of Human Resources
Environmental Protection Services
Capitol Complex
Carson City, NV 89701

RECEIVED

MAR 21 1977

MAR 18 1977

Environmental Protection

Dear Mr. Gregory:

This is in response to Mr. Vanica's letter of January 10, 1977, which indicated that you have chosen not to implement the Enforcement Compliance Schedule Letter (ECSL) policy for dischargers who, despite reasonable good faith efforts, will be unable to achieve compliance with applicable standards by July 1, 1977.

We have no objection to your stated policy of issuing orders upon evidence of noncompliance with final limits rather than issuing ECSL's. These orders should contain either a firm schedule of compliance or a requirement for the permittee to submit a plan and detailed schedule to achieve the final limits. We ask that such a submittal be subject to review and comment by this office, and upon your finding, with our concurrence, that the plan and schedule are acceptable, a second order, containing the schedule as approved, be issued.

Our comments on the draft permits forwarded by your letter are contained in our March 1, 1977 letter to you.

If you wish to discuss this matter further or have any questions, please contact Mr. Peter King, of the Water Branch, at (415) 556-7841.

Sincerely,

Richard L. O'Connell
Director, Enforcement Division

ms. Dakes

Exhibit "E"

EVENING GAZETTE

Reno, Nevada, Wednesday, Oct. 20, 1976

Twenty-three

State official warns

Indians could thwart water plans

By BILL PHILLIPS

A state official said today steps to improve water quality in the Truckee River will never be realized if cooperation from the Pyramid Lake Indians Reservation is not secured.

Wendell McCurry of the Nevada Environmental Protection Services told the Washoe Council of Government that pollution problems exist on the reservation, "but we have no jurisdiction to clean up the situation."

McCurry appeared before the

council to inform it of a series of public hearings scheduled in order to obtain input from citizens on what they feel needs to be done to improve water quality of the Truckee River.

"We can take all the steps in the world to improve the quality but never deliver quality water into Pyramid Lake if the Indians choose not to participate," McCurry said.

County Commissioner Gerry Grow expressed concern that an elaborate plan would be put together and then

the Indians would reject it. He urged the state to contact federal agencies that deal with Indian affairs in an attempt to obtain the reservation's participation.

Frank Freeman, council director, said attempts have been made locally to work with the Indians on a water quality program, "but the Indian tribe considers itself to be a nation and it takes some one like Mr. (Henry) Kissinger to negotiate with other nations."



Exhibit "F"

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
ENVIRONMENTAL PROTECTION SERVICES
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

February 25, 1977

Mr. Thomas J. Milligan
City Manager
City Hall
431 Prater Way
Sparks, Nevada 89431

Dear Mr. Milligan:

I will apologize, but I thought we had covered all pertinent points concerning the proposed effluent standards for the Reno-Sparks Joint Water Pollution Control Plant in the NPDES Permit transmittal letter from Mr. Vanica to Mr. Churn, I will attempt to clarify, the earlier letter.

To begin, and to clarify one requirement of the Federal Water Pollution Control Act which has been consistently misrepresented as being applicable to the Reno-Sparks plant, Sections 301 (b) and 301 (b) (1) (B) provide:

"(b) In order to carry out the objective of this Act there shall be achieved _____"

"(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304(d) (1) of this Act; or,"

The effluent limitations based upon secondary treatment as defined by the Administrator, and those which I believe you refer to in the last paragraph of the first page of your letter as the EPA minimum standards, are set forth in 40 CFR 133 and state:

"§133.102 Secondary treatment.

The following paragraphs describe the minimum level of effluent quality attainable by secondary treatment in terms of the parameters biochemical oxygen demand, suspended solids, fecal coliform bacteria and pH. All requirements for each parameter shall be achieved except as provided for in §133.103.

(a) Biochemical oxygen demand (five-day). (1) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 30 milligrams per liter.

(2) The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 45 milligrams per liter.

(3) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

(b) Suspended solids. (1) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 30 milligrams per liter.

(2) The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 45 milligrams per liter.

(3) The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

(c) Fecal coliform bacteria. (1) The geometric mean of the value for effluent samples collected in a period of 30 consecutive days shall not exceed 200 per 100 milliliters. (2) The geometric mean of the values for effluent samples collected in a period of seven consecutive days shall not exceed 400 per 100 milliliters.

(d) pH. The effluent values for pH shall remain within the limits of 6.0 to 9.0.

The above cited standards are intended to apply, as a minimum, to all treatment plants nationwide and are to be achieved by July of 1977. The goal, of course, will not be met because of financing and other problems, but those plants not meeting the standards will be placed on implementation schedules. The only controversy over the question of meeting the goal is whether the deadline in the Act should be moved ahead or the implementation schedules developed on a case by case basis.

The Reno-Sparks plant readily meets these minimum requirements as do all the major Nevada plants.

There are however, other provisions of the act that require a higher degree of treatment or more stringent effluent limitations of some plants. There are no national standard or effluent limitations established for these plants as the discharge requirements are based on the water quality in the receiving streams.

As background, Section 10 (c) (1) of Public Law 89-234 provided:

"(c) (1) If the Governor of a State or a State water pollution control agency files, within one year after the date of enactment of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate waters or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Secretary determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof."

Nevada, after extensive public hearings in 1967, did adopt water quality standard for the interstate waters of Nevada, of which the Truckee River is one, and a plan of implementation. The standards and plan were subsequently approved by the Secretary.

The standards for the Truckee River were developed in concert with the State of California and are comparable at the state line. As a point of information, the water quality standards at the state line govern the effluent limitations for the Tahoe-Truckee plant under construction at Truckee.

Section 303 (a) (1) of Public Law 92-500, the current Federal Water Pollution Control Act, further provides:

"WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

"Sec. 303. (a) (1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section."

The Administrator has determined the 1967 Nevada interstate water quality standards, as amended, are consistent with the intent of the 1972 Act and has approved them.

Section 301 (b) (1) (c) of Public Law 92-500 then further provides:

"EFFLUENT LIMITATIONS

"Sec. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved --

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 510) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act."

The water quality standards for the Truckee River, as adopted under the provisions of Public Law 89-234 and later approved as required under Public Law 92-500, which determine the 1977 effluent limitations for the Reno-Sparks plant or the NPDES permit requirements, are as follows:

TABLE 42
WATER QUALITY STANDARDS
Truckee River

Control Point
Lagomarsino Bridge

Temperature °C

Average (June through September)	Not more than 17
Summer Single Value	Not more than 22
Winter Single Value	Not more than 14
Allowable temperature increase above natural receiving water temperatures.	Not more than 3

pH Units

Annual Median	Within range 7.4 - 7.9
Single Value.	Within range 6.5 - 8.5

Dissolved Oxygen - mg/l

Average (June through September)	Not less than 6.5
Single Value.	Not less than 6.0

BOD - mg/l

Single Value.	Not more than 10
-----------------------	------------------

Chlorides - mg/l

Single Value.	Not more than 10
-----------------------	------------------

Phosphates (PO₄) - mg/l

Annual Average.	Not more than 0.5
Single Value.	Not more than 0.6

Nitrates (NO₃) - mg/l

Single Value.	Not more than 5
-----------------------	-----------------

Total Dissolved Solids - mg/l

Annual Average.	Not more than 150
Single Value.	Not more than 175

Color - Shall not exceed that characteristic of natural conditions by more than 10 units Platinum Cobalt Scale.

Turbidity - Shall not exceed that characteristic of natural conditions by more than 10 Jackson Units.

Fecal Coliform - The more stringent of the following apply:

The fecal coliform concentration shall not exceed a geometric mean of 1000 per 100 milliliters nor shall more than 20% of total samples exceed 2400 per 100 milliliters.

The annual geometric mean of fecal coliform concentration shall not exceed that characteristic of natural conditions by more than 200 per

100 Milliliters nor shall the number of fecal coliform in a single sample exceed that characteristic of natural conditions by more than 400 per 100 milliliters.

The permit conditions forwarded to Mr. Churn in draft NPDES permit No. NV0020150 are:

<u>Constituents</u>	<u>Discharge Concentration Limits</u>		
	<u>30-day Average</u>	<u>7-day Average</u>	<u>Daily Max.</u>
Flow	1.06 m ³ /s (24 mgd)	---	---
Suspended Solids	---	---	.10 mg/l
BOD (5-day, 20°C)	---	---	10 mg/l
Total Phosphates (PO ₄)	0.5 mg/l	---	0.6 mg/l
Total Dissolved Solids	150 mg/l	---	175 mg/l
Ammonia Nitrogen (NH ₃ -N)	---	---	---
Nitrates (NO ₃)	---	---	5 mg/l
Settleable Solids	0.1 ml/l	---	0.2 ml/l
Fecal Coliform Bacteria	200/ 100 ml	400/ 100 ml	2000/ 100 ml
Chlorine Residual	---	---	0.01 mg/l
Dissolved Oxygen	Not less than 6.5 mg/l for the months of June through September, nor less than 6 mg/l for any single sample.		
Temperature	Allowable temperature increase above natural receiving water conditions shall not exceed 3°C(5.4°F).		
June-September	Shall not exceed 17°C(63°F) on a 30 day average and shall not exceed 22°C(72°F) on a daily maximum.		
October-May	Shall not exceed 14°C(57°F).		
pH	Not less than 6.5 Standard Units nor greater than 8.5 Standard Units.		
Unionized Ammonia	Not to exceed 0.02 mg/l on a 30 day average and not to exceed 0.03 mg/l on a daily maximum.		

You will note the BOD (5-day, 20°C), total Phosphates (PO₄), Total Dissolved Solids, Nitrates (NO₃), Fecal Coliform Bacteria, Dissolved Oxygen, Temperature, and pH units as required in Section 301 (b) (1) (c) are identical to those of the Truckee River at Lagomarsino Bridge, the control point, which establishes the parameters for the effluent limitations.

By letter dated September 8, 1976 to Mayor Lillard from R.L. O'Connell, Director, Enforcement Division, EPA there was forwarded a "Finding of Violation" Docket No. 1x-Fy 76-91 which found in part reads:

*FINDING OF VIOLATION

I. This Finding is made on the basis of the following facts, to wit:

- A. The Environmental Protection Agency, under the authority of Section 402(a) of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter the Act) [33 USC 1342 (a)], issued NPDES Permit No. NV0020150 to the City of Sparks, Nevada, on January 10, 1975, to

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become effective on February 10, 1975 and to expire on May 1, 1977. The permit authorizes the discharge of pollutants from the Reno-Sparks Joint Water Pollution Control Plant to Steamboat Creek, a water of the United States.

- B. Said permit contains certain general and specific conditions, including:"

- - - - -

2. Condition I.A.1.b. also requires, in part, that there shall be no discharge of toxic substances that cause violation of the provisions of Water Quality Standards of the State of Nevada.

- a. Applicable Water Quality Standards, included in the Water Pollution Control Regulations, adopted by the State Environmental Commission on October 24, 1973, and amended May 13, 1974 and January 25, 1975, include Section 4.1.2.d., which states, in part, that all waters of the State shall be "free from... deleterious substances attributable to domestic or industrial waste... at levels or combinations sufficient to be toxic to... aquatic life..."

- "2. During the period August 10 to 14, 1976, the permittee discharged effluent which contained deleterious substances at levels sufficient to be toxic to aquatic life, as measured by State of Nevada personnel by appropriate tests, in that all test fish in the receiving water downstream of the effluent discharge point died within 96 hours of initial exposure, while all test fish in the waters upstream of the discharge point survived for the duration of the test."

based upon such findings the following Order, in part, was issued:

"ORDER

The following Order is issued this date pursuant to Section 309 (a) (3) and (a) (4) of the Federal Water Pollution Control Act Amendments of 1972 [33 USC 1319 (a) (3) and (a) (4)] (hereinafter referred to as the Act). On the basis of the Finding of Violation attached hereto and made a part of this Order, the Director, Enforcement Division, Environmental Protection Agency (EPA), Region IX, pursuant to authority delegated to him by the Administrator and the Regional Administrator, has determined that the City of Sparks, Nevada is in violation of NPDES Permit No. NV0020150 as outlined in the Finding of Violation.

Taking these findings into consideration, and in consideration of the seriousness of the violation and any good faith efforts to comply, it has been determined that compliance in accordance with the schedule hereinafter set forth is reasonable."

-
- "2. No later than 30 days from the receipt of this Order, submit a plan of study to investigate means of compliance with that portion of Condition I.A.1.b. relating to the discharge of toxic substances that violate Water Quality Standards."

The tests referred to in the "Order", copies of which were made available to the City of Sparks, indicated the presence of Chlorine Residual and Unionized Ammonia in concentrations or combination of concentrations to be toxic to aquatic life.

Since we have received no further information from the study by the City of Sparks or any other source to refute the findings of the Environmental Protection Services's stream study we assume our findings of toxic materials are valid and have included in proposed NPDES Permit NV0020150 effluent limitation for Chlorine Residual and Unionized Ammonia.

The basis for these limitations as indicated in Mr. Vanica's letter "are based on biological data gathered over the years by many different investigators. These data are presented in Quality Criteria for Water (EPA-440/9-76-023) dated July 26, 1976."

Mr. Vanica further stated in his letter of transmittal:

"The effluent limitations contained in both parts I.A.1 and I.A.6 are measured at the outfall prior to mixing with the receiving water. However, as we have indicated to you and the Consultant on the plant expansion and upgrading, you do have the choice of applying for a zone of mixing which, if granted, would permit a relaxation of all constituents except the concentrations for toxic parameters at the outfall."

and:

"The State recognizes that the City of Sparks cannot achieve water quality standards by July 1, 1977. However, both the Act and NRS prohibit the issuance of permits that extend the July 1, 1977, deadline. Therefore, it is our intent to reissue your permit with the requirement to achieve water quality standards by July 1, 1977. If you fail to meet this schedule, an administrative order will be issued requiring the City to prepare a schedule showing how the end result will be accomplished and by what date it will be accomplished. When approved by the State, this would then become a condition of your permit and subject to enforcement by the State." (underlining added)

We believe the Proposed Action on NPDES Permit NV0020150 to be within the requirements of PL 92-500, and also the administrative procedure to afford the City of Sparks a reasonable opportunity and time to perform the necessary studies to bring the plant into compliance with effluent limitations or gather sufficient information to challenge and request appropriate changes in the water quality standards or effluent limitations.

Mr. Milligan
February 25, 1977
Page 8

Should you have further questions or if I can provide further clarification please call on me.

Sincerely,

Mr. E. G. Gregory
Acting Administrator

xc: Governor O'Callaghan
Mr. Roger Trounday
Mr. Peter King, E.P.A.
State Senator Cliff Young
State Senator Bill Raggio
State Senator Mary Gojack
Mr. Bob Sanford
Mr. Web Brown
Mr. Larry Peirano
Mr. Jim Arden
City of Reno Council Members
City of Sparks Council Members

js

Mike Sullivan

Ephubut "G"

BEFORE THE COMMITTEE ON NATURAL RESOURCES

In the matter of the proposed
SENATE BILL No. 378
noticed for hearing March 30, 1977

STATEMENT

1. For the record, my name is Michael P. Sullivan, I represent Sierra Pacific Power Company, serving as the Company's Environmental Specialist, and I reside at 21010 Ames Lane in Reno, Nevada.

2. The purpose of this testimony is to express our support of S.B. 378 and to present two (2) recommended changes for clarification which should dispel any concerns the U.S. Environmental Protection Agency might have concerning the sanctity of federal regulations.

3. Presently, neither statute nor regulations provide for appeal to the Commission. It is the statutory duty of the Commission to "Develop, propose, promulgate, and amend---" rules and regulations governing standards of water quality and waste discharges (NRS 445.201.1(a)). It is entirely necessary that an aggrieved party be allowed the opportunity to appeal a decision of the administrative staff to the rule making body---that being the Commission. The implementation and enforcement of administrative regulations cannot help but result in conflicts between private parties and the administrative staff from time to time.

The Commission, by reviewing the administrative decisions of staff, will thus serve as a judicial body with the best possible qualifications. Who could possibly know better the intent of the Commission in promulgating regulations than the Commission itself.

4. Regarding the portion of this bill dealing with appeals, it is suggested that the words "operating permit" found on lines 4 and 5 of page 1 be changed to read "NPDES discharge permit" in conformance with standard language and terminology.

5. The portion of this bill dealing with variance procedures is also entirely appropriate. When numerical standards and conditions are established, it is the hope of the rulemaking body that their best judgment will be in the future universally applicable. In reality, this cannot possibly be the case as conditions invariably will arise making compliance with regulations a severe hardship or impossibility for the individual. In these instances, the Commission must be allowed the flexibility to allow temporary deviations from its regulations. If regulations are to be effective, they must be enforceable and if justice is to be served, they must likewise not be impossible to meet. Thus, when such conditions exist the Commission must be able to grant temporary variances so that the individual may continue operations, under applicable rules and regulations, without undue hardship.

6. In order that this provision does not conflict with Federal regulations, it is suggested that the words "provided, however, that the Commission shall not grant variances from effluent limitations promulgated by the U.S. Environmental Protection Agency, pursuant to Section 301 of the Federal Water Pollution Control, as amended." be inserted after the word "regulations" found on line 2 of page 2.

7. On behalf of Sierra Pacific Power Company, I urge the committee to consider the suggested changes and to act favorably on this much needed piece of fundamental legislation.

SIERRA PACIFIC POWER COMPANY

By *Michael P. Sullivan*
MICHAEL P. SULLIVAN
Environmental Specialist

Matthew H. Feiertag, Deputy Attorney General
Representing Environmental Protection Services

S.B. 378

As you are aware, the State of Nevada is administering the National Pollutant Discharge Elimination System (NPDES) permit program subject to the requirements of the Federal Water Pollution Control Act (PL 92-500) and Federal Regulations adopted pursuant to the Act. We will be allowed to administer the program only as long as our statutes and regulations remain in accordance with the Federal directives. (Exhibit I)

The provisions of S.B. 378 operate very well in the State air pollution program from which they are directly copied, but the air program operates under the requirements of the Clean Air Act, the provisions of which are totally different than the Federal Water Pollution Control Act (FWPCA). Simply stated, if S.B. 378 is enacted, the State will lose any control it has over the NPDES permit program, and all our dischargers will be dealing directly with the U. S. Environmental Protection Agency (EPA).

Before going into the specifics, I would like to briefly illustrate the process of issuing a permit. (Exhibit II) As you can see, simultaneously with the public notice of the final proposed permit, it is also sent to the EPA for approval. The state determines the permit conditions, but EPA must give its approval, or the permit must be rewritten to gain this approval.

Getting to the specifics of the bill, the most objectionable parts are Sections 4 through 7, the variance procedures. Having a State variance procedure would conflict with the Federal requirements which mandate meeting of water quality standards, in

addition to effluent standards in issued permits. In addition, it is presently possible for a discharger to request that the Commission modify a water quality standard, which if modified would then have to be approved by the EPA. If the modification were approved, in appropriate cases, the discharge permit could then be modified accordingly.

The first half of the bill, Sections 2 and 3, are not necessary and would create an administrative nightmare. Appeals are already provided for in cases of revocation, modification or suspension of a permit, NRS 445.271 through 445.277, inclusive and Water Pollution Control Regulations 2.8.3 through 2.8.3.6, inclusive. In addition, provisions presently exist for the discharger to request a public hearing on the issuance of a permit, NRS 445.267 and regulation 2.3.2. The one permittee that had a public hearing on its permit received the requested relief in its permit.

Again, we feel the provisions of S.B. 378 are either unacceptable or unnecessary and request it be tabled.

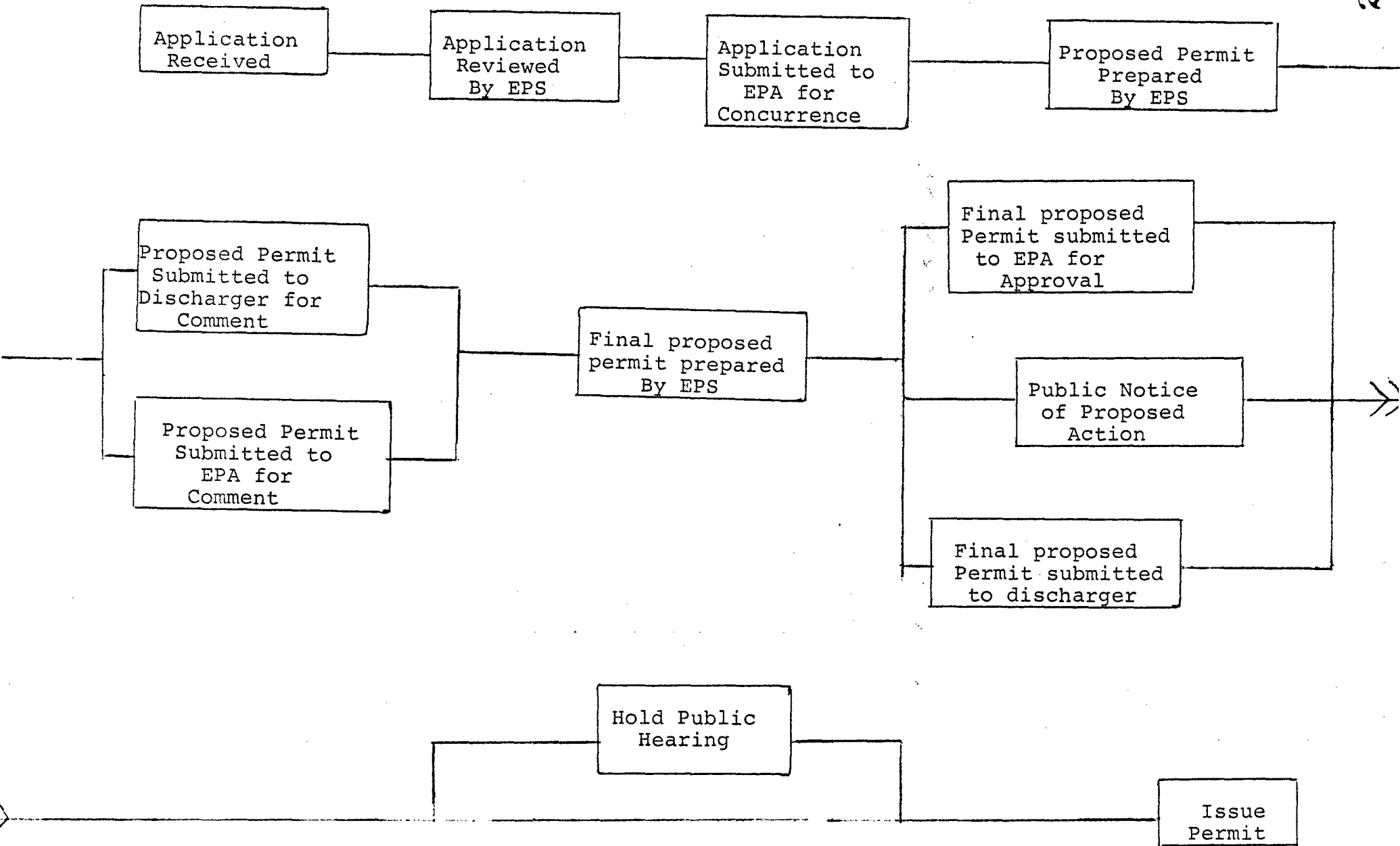
40 CFR Part 124

124.2

(a)....

(b)....

(c) Any State program ... shall at all times be in accordance with section 402 and the guidelines contained in this part.



STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627

JAMES I. GIBSON, *Senator, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640

DONALD R. MELLO, *Assemblyman, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
John F. Dolan, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
EARL T. OLIVER, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

October 27, 1976

Senator Gary A. Sheerin
P. O. Box 606
Carson City, Nevada 89701

LCO 35

Immunity of state from liability for participation of TRPA in land exchanges

Dear Senator Sheerin:

You have requested the opinion of the legislative counsel upon the question whether enactment of a measure such as your Senate Bill No. 326 of the 1975 session, which would have required the Tahoe Regional Planning Agency to undertake to assist owners of real property in the basin to negotiate for the exchange of such property for property outside the basin now in public ownership, would expose the State of Nevada to liability to such an owner in the nature of inverse condemnation. Since the agency is a separate legal entity, by virtue of paragraph (a) of Article III of the compact, and the party states have shown by paragraph (f) of Article VII their intent not to be bound by any obligation of the agency, it is doubtful whether any liability incurred by the agency for whatever reason could give rise to liability on the part of the State of Nevada, but the converse is quite clear: there could be no liability on the part of the State of Nevada unless the agency were first held liable.

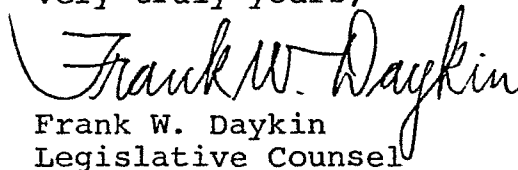
Actions in inverse condemnation brought by property owners against governmental bodies, and based upon a diminution of property value because of regulations promulgated by the governmental body, have been successful only when the governmental body was found to have been acting outside its police power. Thus, zoning ordinances have not given rise to successful actions, except where the ordinance is found to be

Senator Gary A. Sheerin
October 27, 1976
Page 2

patently unreasonable when viewed against the consideration of the welfare of the community, or where it is found to have been adopted in bad faith. In such a case, the relief is invalidation of the ordinance as applied, rather than a money judgment against the governmental body.

The possibility of liability for the agency is even more remote for its activities under your proposal, as distinct from its existing regulatory power, for it would merely participate in a voluntary program, and act to assist property owners in the Tahoe Basin who wish to come forward and take part in land exchanges. It is therefore the opinion of the legislative counsel that there is little possibility of any property owner in the Tahoe Basin pursuing a successful action against the agency by reason of the participation of the agency in land exchange programs, and still less of any such action against the State of Nevada.

Very truly yours,


Frank W. Daykin
Legislative Counsel

FWD:jll

SENATE BILL NO. 326—SENATORS SHEERIN AND GOJACK

MARCH 9, 1977

Referred to Committee on Government Affairs

SUMMARY—Provides additional energy conservation standards for buildings and allows delegation of certain enforcement powers. (BDR 28-1087)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to conservation of energy; providing additional standards for construction of buildings; allowing delegation of certain enforcement powers; 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 341.260 is hereby amended to read as follows:
2 341.260 1. The board, in conjunction with the public service com-
3 mission of Nevada, shall establish [insulation] standards *for the conserva-*
4 *tion of energy* by January 1, [1976,] 1978, for all buildings, public and
5 private, constructed in the State of Nevada. *Such standards shall apply to:*
6 (a) *Construction of floors, walls, ceilings and roofs;*
7 (b) *Heating, ventilating and air-conditioning equipment and systems;*
8 (c) *Electric systems;*
9 (d) *Water heating equipment and systems; and*
10 (e) *Insulation, including audits of the energy efficiency of buildings*
11 *before and after installation of insulation.*
12 2. The [insulation] standards established pursuant to this section
13 shall be adopted and modified in the manner prescribed in chapter 233B
14 of NRS. Modifications may be made to coincide with applicable federal
15 requirements or for any other purpose in the public interest, but only
16 upon the approval of both the board and the public service commission
17 of Nevada.
18 3. [Insulation] *The standards established pursuant to subsection 1*
19 *[are intended to] establish minimum [insulation] requirements [and*
20 *shall not supersede] which shall be included in the building codes of every*
21 *city and county, except that the requirements may be superseded by more*
22 *stringent requirements imposed by the building codes of any city or*
23 *county. The sufficiency of city and county [insulation] standards shall be*
24 *determined by the board.*

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

S. B. 108

SENATE BILL NO. 108—SENATOR SHEERIN

JANUARY 20, 1977

Referred to Committee on Environment, Public Resources
and Agriculture

SUMMARY—Authorizes Tahoe regional planning agency to maintain reserves of
real property and to negotiate for exchanges. (BDR 22-282)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to the Tahoe Regional Planning Compact; authorizing the agency
to maintain reserves of real property and to negotiate exchanges of real prop-
erty with owners; 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 Tahoe Regional Planning Compact
4

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 or
9 degeneration, which may endanger the natural beauty and economic prod-
10 uctivity 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 (c) It is further found and declared that there is a need to maintain an
17 equilibrium between the region's natural endowment and its manmade
18 environment, to preserve the scenic beauty and recreational opportunities
19 of the region, and it is recognized that for the purpose of enhancing the
20 efficiency and governmental effectiveness of the region, it is imperative
21 that there be established an areawide planning agency with power to adopt
22 and enforce a regional plan of resource conservation and orderly develop-
23 ment, to exercise effective environmental controls and to perform other
24 essential functions, as enumerated in this title.

Original bill is 10 pages long.
Contact the Research Library for
a copy of the complete bill.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 212

SENATE BILL NO. 212—SENATOR DODGE

FEBRUARY 10, 1977

Referred to Committee on Environment, Public Resources
and Agriculture

SUMMARY—Provides for local control of land use planning
functions. (BDR 26-344)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Yes.

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

AN ACT relating to land use planning; limiting the powers of the division of state lands of the state department of conservation and natural resources; 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 321.640 is hereby amended to read as follows:
2 321.640 The legislature hereby finds and declares that:
3 1. [There is a statewide public interest in a more efficient system of
4 land use planning and decisionmaking.
5 2. The rapid and continued growth of the state's population, expanding
6 urban development, increasing pressures upon natural resources, conflicts in patterns of land use, a lack of state land use policy and planning
7 and the increased size, scale and impact of private actions have created a
8 situation in which land use management decisions of wide public concern
9 often are being made on the basis of expediency, tradition, short-term
10 economic considerations and other factors which too frequently are unre-
11 lated or contradictory to sound environmental, economic and social land
12 use considerations.
13 3. The task of land use planning and management is made more diffi-
14 cult by the lack of understanding of, and the failure to assess, the land use
15 impact of federal, regional, state and local programs and private endeavors which do not possess, or are not subject to, readily discernible land
16 management goals or guidelines, and that a state land use policy is needed
17 to develop a state and local awareness of, and ability to measure, the land
18 use impacts inherent in most public and private programs and activities.
19 4. Adequate data and information on land use and systematic meth-
20 ods of collection, classification and utilization thereof are either lacking or
21
22

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a copy of the complete bill.

SENATE BILL NO. 377—SENATOR RAGGIO

MARCH 22, 1977

Referred to Committee on Natural Resources

SUMMARY—Empowers governor in emergency to reduce limitations on effluent into waters. (BDR 40-1833)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to water pollution control; empowering the governor in emergencies to reduce or waive limitations on effluent; 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 445.251 is hereby amended to read as follows:
2 445.251 **[If]** 1. *Except as otherwise provided in subsection 2, if*
3 *more stringent limitations are needed, including those necessary to meet*
4 *water quality standards, treatment standards or schedules of compliance*
5 *established pursuant to the laws of this state or any other federal law*
6 *or regulation, or are required to implement any applicable water quality*
7 *standard established by the commission pursuant to NRS 445.131 to*
8 *445.354, inclusive, such limitations shall be established and enforced.*
9 2. *When the governor finds that the health, welfare and safety of*
10 *the citizens of a municipality are impaired because the governing body*
11 *of the municipality has encountered difficulties in meeting the effluent*
12 *limitations established pursuant to the provisions of subsection 1 because*
13 *of delays caused by action or lack of action by the state or the Federal*
14 *Government or the inadequacy of existing treatment works, and the*
15 *governing body is attempting to comply with the limitations either by*
16 *adding to the capacity of existing treatment works or has taken prelimi-*
17 *nary action with respect to such addition or is in the process of utilizing*
18 *acceptable methods of meeting the effluent limitations established pur-*
19 *suant to the provisions of subsection 1, he may by emergency executive*
20 *order to be effective for a period not longer than 3 years modify the*
21 *effluent limitations established pursuant to the provisions of subsection*
22 *1 by:*

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SENATE BILL NO. 378—SENATOR RAGGIO

MARCH 22, 1977

Referred to Committee on Natural Resources

SUMMARY—Adds variance and appeals procedures to Nevada Water Pollution Control Law. (BDR 40-1546)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.



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

AN ACT relating to water pollution control; creating variance and appeals procedures in the Nevada Water Pollution Control Law; 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. Chapter 445 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this act.
3 SEC. 2. 1. *Any person aggrieved by:*
4 *(a) The issuance, denial, renewal, suspension or revocation of an oper-*
5 *ating permit; or*
6 *(b) The issuance, modification or rescission of any other order,*
7 *by the director may appeal to the commission.*
8 2. *The commission shall affirm, modify or reverse any action taken*
9 *by the director which is the subject of the appeal.*
10 3. *The commission shall provide by rule for the time and manner*
11 *in which appeals are to be taken to the commission.*
12 SEC. 3. 1. *Within 20 days after receipt of the notice of appeal, the*
13 *commission shall hold a hearing.*
14 2. *Notice of the hearing shall be given to all affected parties no less*
15 *than 5 days prior to the date set for the hearing.*
16 3. *The commission may sit en banc or in panels of three or more to*
17 *conduct hearings.*
18 4. *The commission may subpoena the attendance of witnesses and the*
19 *production of documents at the request of any party. Witnesses are*
20 *entitled to the fees and mileage provided by law for civil cases. The*
21 *cost of subpoenaing witnesses and documents shall be taxed against the*
22 *requesting party.*
23 5. *All testimony shall be recorded verbatim by human or electronic*
24 *means.*
25 6. *Costs of transcribing proceedings of the commission shall be*
26 *taxed against the requesting party.*
27 SEC. 4. 1. *The owner or operator of a source of water pollutant or a*

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