

**TRPA
APC
PACKETS**

**NOVEMBER
1983**

Long Range

NOTICE OF MEETING OF THE
ADVISORY PLANNING COMMISSION OF THE
TAHOE REGIONAL PLANNING AGENCY

NOTICE IS HEREBY GIVEN that on November 9, 1983 at
9:30 a.m. at the hearing room of the Tahoe
Regional Planning Agency, located at 2155 South Avenue, South
Lake Tahoe, California, the Advisory Planning Commission of
said agency will conduct its regular meeting. The agenda for
said meeting is attached to and made a part of this notice.

Dated: November 1, 1983

By: *Gary D. Midkiff*
Gary D. Midkiff
Acting Executive Director
Tahoe Regional Planning Agency

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

November 9, 1983 9:30 a.m.

PRELIMINARY AGENDA

- I CALL TO ORDER AND DETERMINATION OF QUORUM
- II APPROVAL OF AGENDA
- III DISPOSITION OF MINUTES
- IV PLANNING MATTERS
 - A. Regional Plan Update and Matters Relating Thereto
 - 1. Schedules, Milestones
 - 2. Adopting Ordinance
 - 3. Single-family Residence Evaluation System
 - 4. Planning Area Statements Issues
 - 5. Transfer of Development Rights Policies
 - 6. Implementing Ordinances
 - 7. Other
- V ADMINISTRATIVE MATTERS
- VI REPORTS
 - A. Staff Reports
 - B. Public Interest Comments
 - C. APC Members
- VII RESOLUTIONS
- VIII CORRESPONDENCE
- IX PENDING MATTERS
- X ADJOURNMENT

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 8896
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2155 South Avenue

(916) 541-0246

MEMORANDUM

November 1, 1983

TO: TRPA Advisory Planning Commission

FROM: Mary Dailey

SUBJECT: APC Minutes

Enclosed are the minutes for August 17, and September 8, 1983 APC meetings for your review.

At the October 12, 1983 APC meeting the minutes for July 13-14, August 4-5, and August 10-11, 1983 were included in your packets, but were deferred due to time constraints. If you still have your copies of these minutes please include them with your packet for the November 9, 1983 meeting. If you did not keep them please let me know prior to the meeting so that copies will be available for you.

/md

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

TRPA Office, 2155 South Avenue
South Lake Tahoe, California

August 17, 1983 9:00 a.m.

Chairman Mike Harper called the meeting of the Advisory Planning Commission to order at 9:35 a.m.

I CALL TO ORDER AND DETERMINATION OF QUORUM

APC Members Present: Mr. Renz, Mr. Combs, Mr. Randolph (arrived at 9:40 a.m.), Mr. Hoefler, Mr. Sawyer, Mr. Dodgion, Mr. Pyle, Ms. McMorris, Mr. Curtis (arrived 10:30 a.m.), Mr. Poppoff, Ms. Bogush, Mr. Harper

APC Members Absent: Mr. Milam, Mr. Sullivan, Mr. McMullen, Ms. Sparbel, Mr. Hansen, Ms. Michael

Mr. Harper noted that the Land Use Subcommittee had met earlier, consequently the APC meeting commenced late.

The APC members received copies of the minutes from Urban Land Institute (ULI) meeting held on August 5, 1983. Ms. Bogush attended the meeting and presented a summary report of that meeting with staff and the Governing Board. Ms. Bogush explained that the ULI panel was invited to do a critique on the feasibility of the concepts of the Regional Plan. The panel was composed of two developers, one planner, one engineer, one economist, and one attorney. They spent one day touring the Tahoe area and gave a presentation to the Governing Board of their findings and recommendations:

Evaluation of Transfer of Development Rights (TDR) - TDR's were useful in encouraging single family development in more desirable areas under the system that is being used on the California side of the Basin. To an extent the TDR system does address the equity issue, but it does not totally compensate the owner of a high hazard lot for the value of their lot. However, TDR's will not be overly effective for encouraging multi-family residential development through the density bonus system, and it probably will not be overly effective achieving redirection or redevelopment goals due to a marginal economic situation in the Basin. TDR could be a powerful tool if it was used for new development, but not necessarily for the in-fill sort of situation presently used; in-fill for residential and commercial development. If the TDR system is used for new development there would be a much higher incentive to the developer. TDR's will not create a market. If there is not a market now for good development TDR's will not create that market; it will allow the transfers to happen but it will not create a good market.

Evaluation of Performance Zoning - Performance zoning could be used to create good commercial development and to encourage low level development. However, if performance zoning was tied to development levels then it would become an allocation device that would become very rigid zoning system, which would discourage development and competition. Because of the Tahoe market performance zoning is not likely to encourage redirection.

Evaluation of the Point Priority System - The panel noted that in their experience there was no system developed that was a long term solution to growth management. This type of system did not work or survive even though the implementing agency had implementing authority. The TRPA does not have the implementing authority and would have to rely on local agencies to implement the point priority system. The panel recommended that the TRPA consider a role establishing general performance guidelines such as: Best Management Practices (BMP's); land capability studies and further definition of capability boundaries based on more accurate surveys; limitations on development based on public service levels; determine whether development could occur according to those criteria; and to continue monitoring the actions of the local agencies who are implementing the system. The point priority system could become very burdensome from an administrative standpoint pulling staff time away from regional environmental goals. The panel did not support the idea of buying a permit; the more it costs for off-site mitigation then, eventually, just the people who have a lot of money would be able to build, which would not be equitable. The panel suggested that if the Agency is committed to a point priority system then it should be used on an interim basis until the land acquisition program retires a large portion of the lots. The system should not be incorporated into the mandate of the Agency when it is unnecessary.

The ULI panel also defined the monitoring role of the TRPA and suggested that if there were any deficiencies on the part of local government, the development allocation should be altered, but TRPA should not assume the local governmental function. TRPA should fulfill it's own broad environmental protection through regional planning types of issues.

Recommended Strategies - TRPA should consider transferring publicly owned property that is available for high hazard sites instead of buying them out in trade. The Bailey land capability maps should be refined; create a useable scale and useable contour levels; clarify the role of TRPA; declare an intent to deal with only substantial projects; day to day projects should be dealt with at the local level; in the Regional Plan it should be clearly stated of how the equity issue will be dealt with; to create a system that will encourage a market that will solve the problems instead of creating pressure because of regulatory restrictions.

Regarding the allocation system, the panel said there seemed to be a perception of a great deal of demand and people rushing to build, but they did not think the demand was there with the low inflation rates, which are low on real estate investments because there will not be appreciation on a second home, the high interest rates for borrowing, high construction costs, plus the environmental mitigation fees, and all of these factors combined to make the market demand not as extensive as is perceived. The ULI panel did not feel that a building allocation system was necessary because the culmination of these factors would keep the building rates low enough to meet the Agency's goals; building limitations would not address the equity issue, but would complicate it; the allocation system would add to the burden of the Agency, create artificial limits, and precipitate premature building plans.

The panel addressed new development and new subdivisions. They recommended that the Governing Board consider new development in subdivisions with regard to re-development.

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The attorney addressed the importance of their recommendation to integrate the land acquisition program in a cooperative effort with the Forest Service into the Regional Plan and felt that ignoring the existence of land acquisition system as a solution to the environmental problem made the Regional Plan legally defensible, but did not necessarily solve problems. The panel recommended that the Agency meet the issue of being sued squarely.

The panel felt that the planning area statements should be done at the local level, and the TRPA should concentrate on policies, threshold studies, establishing BMP's, and monitoring programs.

Ms. Bogush added that the overall theme of the ULI's recommendations was to simplify the process, don't add a lot of questions in the process - either yes a person can build according to the standards or no they cannot build.

Jim Bruner, Executive Director of the League to Save Lake Tahoe, stated that with regard to the scope of the acquisition programs, the California Bond Act was written by the legislature and thereafter passed by the voters with the idea that all lots with 1, 2, and 3 capabilities which were being affected by the State of California and TRPA Water Quality Management Plan would be purchased. The voters were faced with the issue of the fact that there was a prohibition of construction on those lots. The Santini-Burton Act was also written and passed by Congress with that idea in mind, but with the added geographical area of Nevada to deal with 1, 2 and 3 lots. There are some that are not eligible in the current program for purchase because of the low risk nature that they will ever be developed for any purpose. Whether ULI discussed what happens, the voters in California, Congress and the Appropriations Committee believe that they are making progress and that every lot will be purchased, and hopefully the TRPA's Regional Plan will take that into account. As ULI indicated, if there is an acquisition program ongoing, then TRPA should let the acquisition program work and the Agency should concentrate their efforts on the 4 through 7 land capabilities. The League is hopeful that the Agency can do this and avoid further controversy. Some people may have to wait as long as five to seven years, but there are funds and will be funds in the amount of \$85 million dollars for purchase of those lots.

Executive Director, Phil Overeynder, clarified the staff's viewpoint on the point priority system as opposed to a more simplified system. Staff received advice from the Agency's legal counsel on the relationship between the acquisition program and the Agency's program. Mr. Overeynder stated that Mr. Schnidman, who participated on the ULI panel, suggested that the risks are not that great; that the risks are worth taking; rather than having our legal counsel dictate what the Regional Plan should look like; the Agency should be taking the opposite viewpoints; and, as planners, indicate this is what we would like to accomplish, then tell legal counsel to fashion a defense against those actions. Mr. Overeynder stated that the one approach is risk taking and the other approach is avoiding risk. Mr. Overeynder reminded the APC to keep both approaches in mind during their deliberations. Mr. Overeynder emphasized that staff responded to Gary Owen's advice by trying to structure both a workable and legally defensible Regional Plan.

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Gordon Barrett, Principal Planner, explained that the TDR's are only a small part in the Regional Plan. TDR's were included in the plan to offer as an option for owners with low priority lots and to assist the Agency in dealing with some of the existing problems. The goals of the TDR program are: (1) to retire high hazard and stream environment zone lots; (2) to provide alternative development options; (3) to provide opportunity for multi-family residential; and (4) encourage more efficient use of the land. Mr. Barrett used a display chart to further explain the TDR concept, permitted land coverages, mitigation points, and allocations to build. He also explained the options within the system, and clarified the options are not mutually exclusive.

The APC members suggested: that the TDR system and administrative process should be unencumbered and before retiring any lots they should be clear from bonded indebtedness. The APC were also concerned that there may be fiscal impacts; that having to restore a parcel before retiring it may offer a disincentive; that there was a need for clear definitions between low priority and low capability in order to eliminate confusion; and that TDR's should have an economic incentive in order to make the system function.

Mr. Combs pointed out that the Land Use Subcommittee was not comfortable with recommending transfers between political jurisdictions because, if there is an allocation system in Placer County and permits have been allocated, the County would either have to say no or hold some in reserve for these transfers, and this would cause administrative problems. Mr. Barrett explained that staff is recommending this measure because the TDR system has a better chance of success with a wider range of jurisdictions.

Ms. Bogush explained that TDR is an implementation mechanism to help achieve the goals of the Regional Plan. All of the information and financial analysis has not been completed, but she felt that the recommendation of the Land Use Subcommittee would be to endorse the concept and then utilize the information to refine it further.

Mr. Sawyer stated that in his opinion there could be advantages to the TDR system by allowing TDR's between local jurisdictions, such as the ability to retire lots in the South Tahoe Public Utility District service area during the period it takes to expand the plant. However, it would be difficult to make a transfer system work in Douglas County, based on the California model, unless interjurisdictional transfers are allowed. Mr. Sawyer suggested that the APC should be looking at ways to solve several issues raised by an interjurisdictional process, such as the possibility of local entities using up their allocations. He suggested that a transfer unit should be considered part of the allocation process counted against the donating zone and not the receiving zone. Mr. Sawyer pointed out if a local jurisdiction gets more transfers than it can handle then there is a need to make some reasonable assumptions/projections as to the amount of transfers and to make sure that the total allocation will not create too much demand on the area and the sewer capacities.

Lawrence Hoffman, Tahoe Sierra Preservation Council, stated that he did not feel that this discussion should be bogged down and he asked if the entire TDR concept was needed or would there be substantial modification to the Regional Plan if all of these issues could not be resolved at this time? David Ziegler, Acting Chief of Long Range Planning stated that the TDR system was proposed as

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an option in response to the demands from the public hearings for people with low priority lots. Mr. Overeynder clarified that the TDR system was considered to be a desirable element which complimented the Regional Plan and established values, but that the entire Plan would not be weakened significantly if these issues were not resolved at this time. Mr. Overeynder stated that the discussion of the TDR system could be continued since more specific issues needed to be resolved which were key elements to the Regional Plan, including land use issues, the allocation system, and the point priority system, and he suggested that the APC members could try to resolve the questions raised with the TDR system through the implementing ordinances. Mr. Overeynder further clarified that if the TDR system was found to be completely infeasible that a substitute measure to the TDR system would be needed which directly references an acquisition program.

Mr. Sawyer commented that the California Water Resources Control Board adopted a plan which has the affect of forcing people to comply with no development on land capabilities 1, 2, and 3. Mr. Sawyer pointed out that in a preliminary ruling in Placer County Superior Court, the court issued a ruling which said in effect there can be a ban of development on land capabilities 1, 2, and 3, even if the effect is to render the property valueless, and he explained which is another way of saying you can ban development on 1's, 2's and 3's whether or not there is a transfer system or other mechanism to insure property values. Mr. Sawyer stated that since lot owner equity was one of the major issues, he thought that it was essential to do whatever we can to provide equity through a strong transfer development system and that there should be a system that is at least as effective as the one on the California side. Mr. Sawyer suggested that a sixth transfer alternative should be proposed that would be effective in the absence of an allocation system.

The APC returned their discussion the Subcommittee Reports on the Regional Plan which was continued from the August 10 and 11, 1983 agenda. The APC received revised copies of the Land Use Element. The APC 's proposed changes are combined with the subcommittee's, and the revised language is underlined.

1. Land Use Element

Ann Bogush, Chair for the Land Use Subcommittee, reported on the subcommittee's recommended revisions to the Goals and Policies of the Land Use Element.

Goal #1 no change.

Policy 1 no change.

Policy 2 no change.

Goal #2, amend: Regulate the amount, location and timing of new land uses in conformance with the environmental threshold carrying capacities and the other goals of the Tahoe Regional Planning Compact.

Policy 1, amend first sentence of the discussion: Population growth in the Region will be guided by the limitations on land use set forth in the Plan.

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Mr. Sawyer suggested that sometime after the Environmental Impact Statement is completed the Agency should do a computer run to determine the actual population projections for the Plan which were adopted. This would provide help for the Forest Service and the California Water Resources Control Board.

Policy 2, amend: Specific land use policies shall be implemented through the use of Planning Area Statements for each of the planning areas identified in the map included in this Plan (See Attachment A). Specific land use plans may be established at the local level. Areas of similar use and character have been mapped and categorized within one or more of the following five land use classifications: Conservation, Recreation, Residential, Commercial and Public Service, and Tourist. These land use classifications shall dictate allowable land uses.

Ms. Bogush explained that the subcommittee supported the use of the Planning Area Statements but felt that most of the detailed planning in those area statements should be done at the local level and that local government should have the option to expand on what the TRPA has done. Also, within the planning areas there may be more than one land use classification and it may be necessary to be more specific about land use especially in the case of high density residential (HDR) receiving zones for TDR's. Ms. Bogush clarified that the support of the Planning Area Statements policy did not necessarily mean that the subcommittee approved of all of the individual Planning Area Statements. The subcommittee did not propose any changes to the definitions of the Land Use Element.

Policy 3, amend definition of redirection of development: designation is designed to improve environmental quality and community character by changing the direction or density of development through relocation of facilities and redevelopment of existing structures and uses.

Policy 4, amend second sentence of the discussion: Each planning area statement describes the area, its existing uses and environments, its special problems, its minimum and maximum intensity of use, its high and low residential density zones, and special policy direction.

Add to Policy 4 discussion: Each planning area may vary in detail or specificity depending on the nature of the area or the detail or specificity of local jurisdictions plans. It is the intent of the planning area concept to permit local specific plans consistent with the direction of this plan to be substituted for plan area statements. However, the TRPA plan area statements will be in effect until such specific plans are presented and approved by the TRPA Governing Board. If no specific plans are submitted within two years from the adoption of this plan, the Agency will prepare more detailed plan area statements where they are needed. This does not preclude a local government or the Agency from approving a specific plan at any time. All plans prepared by the Agency would be coordinated with affected jurisdictions.

Policy 5, no change.

Delete first sentence of the discussion under Policy 5. Amend second sentence: This policy does not consider divisions of land as "new" divisions in such instances as:

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- a. Division of land for purposes of conveyance of a portion thereof to a governmental agency, public entity or public utility.
- b. Division of land for purposes of creation of cemetery lots.
- c. Division of land ordered by a federal or state court of competent jurisdiction as a result of bona fide, adversary legal proceedings.
- d. A modification to an existing subdivision or a lot-line adjustment or lot consolidation, which does not result in any increase in development potential or in present or potential land coverage or density, and will not have an adverse impact upon the health, safety, general welfare or environment of the region.
- e. Conversion of an existing structure or structures to a stock cooperative, community apartment, condominium, parcel or any other form of divided interest, which conversion does not result in any increase in development potential or in present or potential land coverage or density, and will not have an adverse impact upon the health, safety, general welfare or environment of the region.

MOTION by Mr. Sawyer to amend f: Division of land within an existing urban boundaries in association with approved redevelopment plans that does not increase development potential. Delete g. There was no second to Mr. Sawyer's motion.

In order to resolve the APC's concerns relating to items f and g, Mr. Combs proposed the following language:

- f. Division of land within an existing urban area in association with approved redevelopment plan that does not increase development potential basinwide. Delete the last part of the sentence that read: unless there is an approved transfer of development rights.
- g. Division of land within an existing urban area associated with an approved transfer of development in accordance with the provision of this plan.

Policy 6, amend the first sentence: All existing legal uses shall be considered conforming as to land use, unless otherwise specified in the planning area statements.

Ms. Bogush stated that the subcommittee also recommended that the planning area statements specify which uses are nonconforming.

Policy 7, amend: Uses of the bodies of water within the region shall be limited to water dependent uses required to satisfy the goals and policies of this plan.

Ms. Bogush stated that the subcommittee had also recommended that planning area statements for Lake Tahoe should be developed which specify the different uses and the area below high water of Lake Tahoe that are not covered in the ordinances.

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Add a sentence to the discussion under Policy 7: Plan area statements detail the specific policies.

- Goal #3, amend: Direct all development first to those areas most suitable for development in accordance with the Environmental Threshold Carrying Capacities and other considerations. Use a development management system (See Implementation Element) to accomplish this goal and to control the rate, location, and phasing of development.

Goal #3, add to the second sentence under the discussion: Consequently, the Plan directs new development to the best available sites through the use of the policies below and limits the maximum density to one dwelling unit per lot or parcel of record except as otherwise noted in this plan.

Mr. Overeynder clarified that the question of limiting the maximum density to one dwelling unit per lot or parcel of record was a fundamental part of the Plan which got obscured in the Planning Area Statements as opposed to being a clear policy statement. Staff looked at the ability to meet the environmental thresholds within the existing zoning plan and determined that if buildout occurred at the maximum permitted densities under the CTRPA plan or the TRPA plan that there would be a large quantity of unsubdividable property both inside and outside of the existing urban boundaries which in either case would prohibit the threshold from being met. Mr. Overeynder explained that there were no practical solutions to deal with the additional problems, such as, the costs for the transportation system, trying to meet the 10% reduction for VMT, and the 25% rollback on the nitrogen loading to the Lake.

Mr. Harper suggested that a clear statement should be added to the policy plan that clearly discloses to the property owner that whatever the zoning category is on their property as of this time is essentially not the guideline to be used for development potential on their property, that the present zoning is being abolished, and that the zoning category is substituted with the plan area statements.

Mr. Combs agreed with Mr. Harper's statement pertaining to public disclosure, and he stated that if there is any question at all on the part of anyone serving on the APC or the members of the Governing Board that a planning agency doesn't have the jurisdiction to affect zoning changes which may reduce density, then they should be made aware that this is our function as mandated by the Compact, which does allow implementation of zoning that may affect someone's density that was formerly held, and having had a specific zoning on a parcel in 1973 is no God given right or guarantee that zoning and density would remain in effect forever. The TRPA has every power to reduce density as long as the process is fair, reasonable and there is open disclosure.

The APC agreed that Goal #3 and Policies 1 through 3 would be addressed at a later time because more in-depth discussion was required.

2. Transportation Element

The APC received revised copies of the Transportation Element.

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Mr. Randolph reported that the Advisory Committee of the Tahoe Transportation District (TTD) unanimously agreed to ask the District to seek funds and to go ahead with the concept of the revised Transportation Element, and recommending that the District so state that at the Governing Board meeting on August 19, 1983. Mr. Randolph noted there were still some blanks in the Transportation Element that needed to be filled in which pertained to terminology, and referred to the first 5 year phase for construction of a two lane bypass at Tahoe City (Highway 28) and SR 89 realignment. The APC agreed that the last sentence should read: In conformance with the concepts of the Tahoe City Urban Design Study with final adopted design specifications submitted by Placer County. Also referring to the fifth paragraph on page 45 Mr. Randolph suggested that the language be changed: In order to meet the threshold standard of 6 ppm, will need to reduce traffic volumes on the U.S. 50 corridor up to 35% during the winter from the 1981 base year.

3. Conservation Element

The APC members received copies of the revised Conservation Element. There was no discussion pertaining to the revisions.

The APC returned their discussion to the Land Use Element, Bailey coefficients, coverage limits and the point priority system but deferred action on Goals 3, and 4 because they felt that these goals was such an integral part of the Regional Plan that needed to be linked with the Implementation Element, and that a great deal more work and technical discussion were required.

The APC agreed that there were no changes to Goal #5, or Policies 1 and 2. They also agreed that Goal #6 would need further discussion.

Housing Subelement

The APC agreed that Goal #1 was acceptable, but that further discussion would be required on the subcommittee's recommendations and revisions.

Noise Subelement

Mr. Randolph stated that the subcommittee would have no further revisions, and the APC had no changes to Goal #1, Policies 1 through 6, Goal #2, Policies 1 and 2.

Natural Hazards Subelement

Goal #1, no change.

Policy 1, no change.

Policy 2, amend second sentence: Require all public utilities, transportation facilities, and other necessary public uses located in the 100 year flood plan and area of wave runoff to be constructed or maintained to prevent damage from flooding and to not cause flooding.

Policy 3, no change.

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Air Quality Subelement

Mr. Randolph stated that the subcommittee had made some recent changes to the Air Quality Subelement, which were briefly covered as follows:

Page 24, under B., discussion, second paragraph, amend second sentence: The California Air Resources Board (CARB) is expected to be currently reevaluating the state standard which currently serves as the threshold standard.

Page 27, Policy 4, first paragraph, amend last sentence: The local building code should be amended accordingly to enforce the emission standards.

Page 27, Policy 6, amend second sentence: Therefore, alternative fuels which would reduce in lower NO_x emissions should be used in the Basin where practical.

The APC agreed that further discussion on the Land Use Subelements of Housing, Noise, Air Quality, Water Quality, Community Design and Implementation would be deferred. The APC agreed to meet again on September 8, and at their next regularly scheduled meeting on September 14 and the 15th if necessary. Ms. Bogush agreed that she would attend the Governing Board meeting at Valhalla on August 19 to represent the APC.

It was noted that Mr. Hoefler had distributed copies on the Determination of Fair Market Value of Land Acquired through Public Law 96-586 dated 12/23/80 for the APC to review. Mr. Sawyer also distributed copies of the Burton-Santini Appropriations report for approved funding for federal fiscal year 1984, as requested by Ms. Michael at the last meeting. The report included the names of Senator Paul Laxalt (R-Nevada) and Senate Appropriations Subcommittee Chairman James McClure (R-Idaho) to contact enlisting their support for a \$10 million appropriation to purchase environmentally sensitive lands under the Burton-Santini Act.

The APC meeting recessed at 5:45 p.m and continued to September 8, 1983.

This meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (916) 541-0246.

Respectfully submitted,


Mary Dailey
Secretary II